Electronic Communications and Sex Offenders

This Act:
- requires a registered sex offender to provide their online identifier and the name of any website or Internet communication service where they use the identifier to a sheriff;
- requires an offender to confirm the identifier each year and to notify a sheriff in person or electronically of any changes to the identifier;
- mandates that a sheriff must forward any changes of an offender’s required online identifier to the state department of public safety (DPS);
- requires the DPS must to update the offender’s identifier in the DPS database and requires the sheriff and the DPS to complete their requirements within 3 days;
- directs the DPS to maintain a separate database and search function on the DPS sex offender website that contains the required online identifiers of any Level 2 or Level 3 sex offenders and the name of any website or Internet communication service where the required online identifiers are being used;
- allows the DPS to disseminate an offender’s required online identifier and name of any corresponding website or Internet communication service to a business/organization that offers electronic communication services;
- enables a business/organization to use the identifier to compare with its information;
- requires the business/organization to notify the DPS when a comparison shows that the offender’s required online identifier is being used on the business’s/organization’s system;
- prohibits the business/organization from further disseminating the information that the person is a registered sex offender; and
- defines an online identifier as any electronic email address information or instant message, chat, social networking or other similar Internet communication name that the sex offender uses, but does not include the sex offender's social security number, date of birth or PIN number.

Submitted as:
Arizona
Chapter 84 of 2007
Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act shall be cited as “An Act Relating to Sex Offenders and Electronic Communication.”

Section 2. [People Required To Register; Procedure; Identification Card; Definitions.]
A. A person who has been convicted of a violation or attempted violation of any of the following offenses or who has been convicted of an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses or an offense that was in effect before [September 1, 1978] and that, if committed on or after [September 1, 1978], has the same elements of an offense listed in this section or who is required to register by the convicting jurisdiction, within [ten days] after the conviction or within
[ten days] after entering and remaining in any county of this state, shall register with the sheriff of that county:

1. unlawful imprisonment pursuant to [insert citation] if the victim is under [eighteen] years of age and the unlawful imprisonment was not committed by the child’s parent.

2. kidnapping pursuant to [insert citation] if the victim is under [eighteen] years of age and the kidnapping was not committed by the child’s parent.

3. sexual abuse pursuant to [insert citation] if the victim is under [eighteen] years of age.

4. sexual conduct with a minor pursuant to [insert citation].

5. sexual assault pursuant to [insert citation].

6. sexual assault of a spouse if the offense was committed before [August 12, 2005].

7. molestation of a child pursuant to [insert citation].

8. continuous sexual abuse of a child pursuant to [insert citation].

9. taking a child for the purpose of prostitution pursuant to [insert citation].

10. child prostitution pursuant to [insert citation].

11. commercial sexual exploitation of a minor pursuant to [insert citation].

12. sexual exploitation of a minor pursuant to [insert citation].

13. luring a minor for sexual exploitation pursuant to [insert citation].

14. sex trafficking of a minor pursuant to [insert citation].

15. a second or subsequent violation of indecent exposure to a person under [fifteen] years of age pursuant to [insert citation].

16. a second or subsequent violation of public sexual indecency to a minor under the age of [fifteen] years pursuant to [insert citation].

17. a third or subsequent violation of indecent exposure pursuant to [insert citation].

18. a third or subsequent violation of public sexual indecency pursuant to [insert citation].

19. a violation of [insert citation].

B. Before the person is released from confinement the [state department of corrections] in conjunction with the [department of public safety] and each county sheriff shall complete the registration of any person who was convicted of a violation of any offense listed under subsection A of this section. Within [three] days after the person’s release from confinement, the [state department of corrections] shall forward the registered person’s records to the [department of public safety] and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.

C. Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of [insert citation] or for an offense for which there was a finding of sexual motivation pursuant to [insert citation] may require the person who committed the offense to register pursuant to this section.

D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches [twenty-five] years of age.

E. A person who has been convicted of or adjudicated delinquent and who is required to register in the convicting state for an act that would constitute an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:
1. employed full-time or part-time in this state, with or without compensation, for more than [fourteen] consecutive days or for an aggregate period of more than [thirty] days in a calendar year.

2. enrolled as a full-time or part-time student in any school in this state for more than [fourteen] consecutive days or for an aggregate period of more than [thirty] days in a calendar year. For the purposes of this paragraph, “school” means an educational institution of any description, public or private, wherever located in this state.

F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches [twenty-five] years of age.

G. The court may order the termination of any duty to register under this section on successful completion of probation if the person was under [eighteen] years of age when the offense for which the person was convicted was committed.

H. At the time of registering, the person shall sign or affix an electronic fingerprint to a statement giving such information as required by the [director of the department of public safety], including all names by which the person is known, any required online identifier and the name of any website or Internet communication service where the identifier is being used. The sheriff shall fingerprint and photograph the person and within [three] days thereafter shall send copies of the statement, fingerprints and photographs to the [department of public safety] and the chief of police, if any, of the place where the person resides. The information that is required by this subsection shall include the physical location of the person’s residence and the person’s address. If the person has a place of residence that is different from the person’s address, the person shall provide the person’s address, the physical location of the person’s residence and the name of the owner of the residence if the residence is privately owned and not offered for rent or lease. If the person receives mail at a post office box, the person shall provide the location and number of the post office box. If the person does not have an address or a permanent place of residence, the person shall provide a description and physical location of any temporary residence and shall register as a transient not less than every [ninety] days with the sheriff in whose jurisdiction the transient is physically present.

I. On the person’s initial registration and every year after the person’s initial registration, the person shall confirm any required online identifier and the name of any website or Internet communication service where the identifier is being used. The person shall obtain a new non-operating identification license or a driver license from the [motor vehicle division in the department of transportation] and shall carry a valid non-operating identification license or a driver license. Notwithstanding [insert citation], the license is valid for [one] year from the date of issuance, and the person shall submit to the [department of transportation] proof of the person’s address and place of residence. The [motor vehicle division] shall annually update the person’s address and photograph and shall make a copy of the photograph available to the [department of public safety] or to any law enforcement agency. The [motor vehicle division] shall provide to the [department of public safety] daily address updates for people required to register pursuant to this section.

J. Except as provided in subsection E or K of this section, the [clerk of the superior court] in the county in which a person has been convicted of a violation of any offense listed under subsection A of this section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction within [ten] days after entry of the judgment.

K. Within [ten] days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of a violation of [insert citation]. Within [ten] days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the
offender is required to register, the law enforcement agency shall provide the information required by [insert citation] to the [department of public safety] and shall make community notification as required by law.

L. A person who is required to register pursuant to this section because of a conviction for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions, for a period of [ten] years from the date that the person is released from prison, jail, probation, community supervision or parole and the person has fulfilled all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction for an offense for which registration is required pursuant to this section is required to register for life.

M. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or who is employed, with or without compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

N. At the time of registering, the sheriff shall secure a sufficient sample of blood or other bodily substances for Deoxyribonucleic Acid testing and extraction from a person who has been convicted of an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the offenses listed in subsection A of this section or an offense that was in effect before [September 1, 1978] and that, if committed on or after [September 1, 1978], has the same elements of an offense listed in subsection A of this section or who is required to register by the convicting jurisdiction. The sheriff shall transmit the sample to the [department of public safety].

O. Any person required to register under subsection A of this section shall register their required online identifier and the name of any website or Internet communication service where the identifier is being used or intends to use the identifier with the sheriff from and after [December 31, 2007], regardless of whether the person was required to register an identifier at the time of their initial registration under this section.

P. For the purposes of this section:

1. “address” means the location at which the person receives mail.
2. “required online identifier” means any electronic email address information or instant message, chat, social networking or other similar internet communication name, but does not include Social Security Number, date of birth, or PIN number.
3. “residence” means the person's dwelling place, whether permanent or temporary.

Section 3. [Notice of Moving from Place of Residence or Change of Name or Electronic Information; Forwarding of Information; Definitions.]

A. Within [seventy-two] hours, excluding weekends and legal holidays, after moving from the person’s residence within a county or after changing the person’s name, a person who is required to register under this Act shall inform the sheriff in person and in writing of the person's new residence, address or new name. If the person moves to a location that is not a residence and the person receives mail anywhere, including a post office box, the person shall notify the sheriff of the person's address. If the person does not have an address or a permanent place of residence, the person shall register as a transient not less than every [ninety] days with the sheriff in whose jurisdiction the transient is physically present. Within [three] days after receipt of such information, the sheriff shall forward it to the [department of public safety] and the chief of police, if any, of the place from which the person moves, and shall forward a copy of the statement,
fingerprints and photograph of the person to the chief of police, if any, of the place to which the
person has moved.

B. Within [seventy-two] hours after a person moves from a county in which the person is
registered, the person shall notify in writing the sheriff of the county from which the person
moves. If the person is subject to community notification requirements, the sheriff of the county
from which the person moves shall advise the local law enforcement agency of the county to
which the person moves of the move. If the person moves out of this state, the sheriff of the
county from which the person moves shall advise the local law enforcement agency in the
jurisdiction to which the person moves. The local law enforcement agency shall contact the
[department of public safety] following [ten] days after being notified to determine if the person
has reregistered. If the person has not reregistered, the local law enforcement agency shall notify
the local law enforcement agency in the county in which the person last resided. Any law
enforcement agency in the county in which the person last resided shall conduct an investigation
and shall submit a report to the appropriate county attorney.

C. A person who is required to register pursuant to this Act shall notify the sheriff either in
person or electronically within [seventy-two] hours, excluding weekends and legal holidays, after
a person makes any change to any required online identifier, and before any use of a changed or
new required online identifier to communicate on the internet. Within [three] days after receipt of
the information, the sheriff shall forward the information to the [department of public safety].
Within [three] days after receipt of the information from the sheriff, the [department of public
safety] shall update the person’s information in the [department of public safety database].

D. For the purposes of this section:
1. “address” means the location at which the person receives mail.
2. “required online identifier” means any electronic email address information or
instant message, chat, social networking or other similar internet communication name, but does
not include Social Security Number, date of birth, or PIN number.
3. “residence” means the person’s dwelling place, whether permanent or temporary.

Section 4. [Internet Sex Offender Website; Investigation of Records; Immunity.]
A. The [department of public safety] shall establish and maintain an Internet Sex Offender
Website for offenders whose risk assessment has been determined to be a [level two or level
three]. The purpose of the Internet Sex Offender Website is to provide sex offender information to
the public.

B. The Internet Sex Offender Website shall include the following information for each
convicted sex offender in this state who is required to register pursuant to section 1 of this Act:
1. the offender’s name, address and age.
2. a current photograph.
3. the offense committed and notification level pursuant to [insert citation], if a risk
assessment has been completed pursuant to [insert citation].

C. The [department of public safety] shall [annually] update on the Website the name,
address and photograph of each sex offender.

D. The [department of public safety] shall maintain a separate database and search function
on the Website that contains any required online identifier of sex offenders whose risk
assessments have been determined to be a [level two or level three] and the name of any website
or Internet communication service where the required online identifier is being used. This
information shall not be publicly connected to the name, address and photograph of a registered
sex offender on the Website.

E. The [department of public safety] may disseminate a registered sex offender’s required
online identifier and the name of any corresponding website or Internet communication service to
a business or organization that offers electronic communication services for comparison with
information that is held by the requesting business or organization. The requesting business or
organization shall notify the [department of public safety] when a comparison of the information
indicates that a registered sex offender’s required online identifier is being used on the business's
or organization's system. The requesting business or organization shall not further disseminate that
the person is a registered sex offender.

F. The [motor vehicle division of the department of transportation] shall send copies of
each sex offender’s non-operating identification license or driver license photograph to the
[department of public safety] for inclusion on the Internet Sex Offender Website.

G. The [department of public safety] shall [annually] verify the addresses of all sex
offender registration records contained within the state [criminal justice information system].
Before including the address of a sex offender on the Website, the [department of public safety]
shall confirm that the address is correct. To confirm a sex offender’s address, the [department]
shall conduct a search of the state [criminal justice information system]. If this search does not
provide the necessary confirmation, the [department] shall use alternative public and private sector
resources that are currently used for criminal investigation purposes to confirm the address. The
[department of public safety] is prohibited from using or releasing the information from the
alternative public and private sector resources except pursuant to this section. A custodian or
public or private sector resource that releases information pursuant to this subsection is not civilly
or criminally liable in any action alleging a violation of confidentiality.

H. The [department of public safety] may petition the [superior court] for enforcement of
subsection G of this section if a public or private sector resource refuses to comply. The court shall
grant enforcement if the [department] has reasonable grounds to believe the records sought to be
inspected are relevant to confirming the identity and address of a sex offender.

I. A person who provides or fails to provide information required by this section is not
civilly or criminally liable unless the act or omission is wanton or willful.

J. For the purpose of this section “required online identifier” means any electronic email
address information or instant message, chat, social networking or other similar Internet
communication name, but does not include Social Security Number, date of birth, or PIN number.

Section 5. [Implementation.] The [department of public safety] shall begin collection of
online identifier information no later than [ninety] days after this Act is enacted. Penalties will not
be imposed until [January 1, 2008], but sex offender registrants are encouraged to submit current
online identity information before this date.

Section 6. [Severability.] [Insert severability clause.]

Section 7. [Repealer.] [Insert repealer clause.]

Section 8. [Effective Date.] [Insert effective date.]