



**RESOLUTION OF THE GOVERNING BODY OF THE  
THREE AFFILIATED TRIBES OF THE  
FORT BERTHOLD INDIAN RESERVATION**

***A Resolution Entitled: "Adoption of Amended Sex Offenders Registration and Notification Act"***

**WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-Laws pursuant to said Act; and

**WHEREAS,** The Constitution of the Three Affiliated Tribe generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

**WHEREAS,** Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

**WHEREAS,** Article VI, Section 5 (l) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies; and

**WHEREAS,** The increase in sexual offenses in the United States and Indian Country by repeat sexual offenders has prompted the United States Congress and the States to enact sex offender registration and notification laws with stricter criminal penalties for violations; and

**WHEREAS,** In 2006 the United States Congress enacted into law Public Law 109-248, the Adam Walsh Child Protection and Safety Act, also entitled the Sex Offender Registration and Notification Act (SORNA) which comprehensively revises the national standards for sex offender registration and notification; and

**WHEREAS,** Prior to adoption of the SORNA, federal laws governing sex offender registration provided national standards for state sex offender registration programs, however there were no comparable provisions concerning sex offenders who are convicted in tribal courts or who enter the jurisdiction of Indian tribes following conviction in other jurisdictions and as a result there has been a lack of a consistent means for tribal authorities to be notified about sex offenders entering their jurisdictions, to track those offenders, or to make information about those offenders available to







members of tribal communities for the protection of themselves and their families; and

**WHEREAS,** The SORNA filled this gap by allowing Indian Tribes to participate in the national system of sex offender registration and notification programs by electing to function as a registration jurisdiction for tribes in non-Public Law 280 states; and

**WHEREAS,** Non-Public Law 280 Tribes who elect not to act as a registration jurisdiction can elect to delegate registration and notification functions to the state within which their jurisdiction lies provided that when a tribe delegates authority to a state the law grants the state a right of access to the Tribe's jurisdiction to implement SORNA on the Reservation; and

**WHEREAS,** that the Tribal Business Council pursuant to its constitutional authority and pursuant to the Sex Offender Registration and Notification Act of 2006 affirmatively elected to act as a registration jurisdiction on June 14, 2007 pursuant to TAT Resolution Number 07-107-VJB; and

**WHEREAS,** in 2005, prior to passage of SORNA the Tribal Business Council adopted the Three Affiliated Tribes Sex Offenders Registration and Notification Act as Title III Chapter 4 (E) of the Three Affiliated Tribes Law and Order Code, however said Act does not meet all of the requirements of the SORNA to become a registration jurisdiction and must be amended to meet those requirements; and

**WHEREAS,** Indian Tribes electing to become registration jurisdictions under SORNA have until July 27, 2011 to substantially implement the minimum standards required by SORNA or face delegation of this responsibility to the State with which the Tribe is located and one of the minimum standards is the adoption of a Tribal Code that meets the minimum requirements of the SORNA and the 2005 Tribal Sex Offender Registration and Notification Act does not meet those minimum standards and has been amended by the Legal Department to meet those requirements according to the Model Code developed by the SMART Office.

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Business Council of the Three Affiliated Tribes hereby adopts the attached Statute entitled " Amended Three Affiliated Tribes Sex Offenders Registration and Notification Act"; and

**BE IT FURTHER RESOLVED,** that this Statute shall be adopted and codified into the Three Affiliated Tribes Tribal Criminal Code as Chapter 4 (E) of Title III.

**BE IT FURTHERER RESOLVED,** that the adoption of this amended Code hereby repeals the prior Code with the same Title adopted in 2005.

**BE IT FINALLY RESOLVED,** that the Tribal Business Council finds that an emergency exists and therefore waives the reading, public notice and comment period required by Resolution #08 VJB and these code provisions shall take effect immediately upon adoption of this resolution





# THREE AFFILIATED TRIBES

## TITLE III

### Chapter 4 (E)

#### AMENDED

#### SEX OFFENDERS REGISTRATION AND NOTIFICATION ACT

#### CHAPTER 1

#### GENERAL PROVISIONS

**4E-1-1. Title.** This code shall be cited as the Three Affiliated Tribes “Sex Offender Registration and Notification Act”.

**4 E-1- 2. Purpose.** The purpose of this code is to implement the federal sex offender Registration and Notification Act (SORNA) for purposes of becoming a registration jurisdiction and to assist the Tribe and law enforcement in identifying and tracking sex offenders, to prevent future sex offenses, especially those against children, and to inform and alert the public when a sex offender is residing on or located on the Reservation in the interests of community safety.<sup>11</sup>

**4 E-1-3. Definitions.** The following definitions shall apply to this code

A. **Convicted.** An adult sex offender is “convicted” for the purposes of this code if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

A juvenile offender is “convicted” for purposes of this code if the juvenile offender is either:

1. Prosecuted and found guilty as an adult for a sex offense; or
2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is fourteen (14) years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

B. **Foreign Convictions.** A foreign conviction is one obtained outside of the United States.

C. **Employee.** The term “employee” as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of





compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.

- D. Immediate. “immediate” and “immediately” mean within three (3) business days.
- E. Imprisonment. The term “imprisonment” refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state “prison” as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal detention center. Persons under “house arrest” following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of “house arrest”.
- F. Jurisdiction. The term “jurisdiction” as used in this code refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe that elected to function as a SORNA registration and notification jurisdiction pursuant to PL 109-248 § 127 (42 USC§ 16927)
- G. Minor. The term “minor” means an individual who has not attained the age of eighteen (18) years.
- H. Resides. The term “reside” or “resides” means, with respect to an individual, the location of the individual’s home or other place where the individual habitually lives or sleeps.
- I. Sex Offense. The term “sex offense” as used in this code includes those offenses contained in 42 U.S.C. §16911(5) and those offenses enumerated in Section 4E-2-1 of this Code or any other registerable offense under tribal law.  
An offense involving consensual sexual conduct is not a sex offense for the purposes of this code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.
- J. Sex Offender. A person convicted of a sex offense is a “sex offender”.
- K. Sexual Act. The term “sexual act” means:
1. Contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
  2. Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
  3. The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or





4. The intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of eighteen (18) years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- L. Sexual Contact. The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of another person.
- M. Student. A “student” is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.
- N. SORNA. The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. §16911 et. Seq., as amended.
- O. Sex Offender Registry. The term “sex offender registry” means the registry of sex offenders, and a notification program, maintained by the Three Affiliated Tribes law enforcement division.
- P. National Sex Offender Registry (NSOR). The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. §16919.
- Q. SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.
- R. Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.
- S. “Tier 1 Sex Offender”. A “tier 1 sex offender, or a sex offender “designated as “tier 1”, is one that has been convicted of a “tier 1” sex offense as defined in section 4 E 3-1.
- T. “Tier II Sex Offender”. A “tier II sex offender, or a sex offender designated as “tier II, is one that has been either convicted of a “tier II” sex offense as defined in section 4E-3-2 or who is subject to the recidivist provisions of 4E-3-2 (a)
- U. “Tier III Sex Offender”. A “tier III sex offender”, or a “sex offender” designated as “tier III”, is one that has been either convicted of a “tier III” sex offense as defined in section 4 E 3-3 or who is subject to the recidivist provisions of 4 E-3-2 (a)
- V. Reservation means the Fort Berthold Indian Reservation as established by the Act of March 3, 1891 (26 Stat. 1032) and by Executive Order dated June 17, 1892.





W. Tribe means the Three Affiliated Tribes.

X. "Tribal court: means the Fort Berthold District Court.

## CHAPTER 2 REGISTERABLE OFFENSES

**4E-2-1** Individuals who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the tribe in fee or trust regardless of location, are who employed within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, or who attend school within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, that have been convicted of any of the following offenses, or convicted of an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this code:

A. Tribal Offenses.

1. Chapter IV. § 240.3 of the law and order code of the Three Affiliated Tribes
2. Chapter IV. § 240.4 of the law and order code of the Three Affiliated Tribes.

B. Federal Offenses. A conviction for or a conviction for an attempt or a conspiracy to commit any of the following, and any other offense hereafter included in the definition of "sex offense" at 42 U.S.C. §16911(5) including offenses prosecuted under the Assimilative Crimes Act (18 U.S.C. § 1152 or §1153:

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §1801 (video voyeurism of a minor),
3. 18 U.S.C. §2241 (aggravated sexual abuse),
4. 18 U.S.C. §2242 (sexual abuse),
5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
6. 18 U.S.C. §2244 (abusive sexual contact),
7. 18 U.S.C. §2245 (offenses resulting in death),
8. 18 U.S.C. §2251 (sexual exploitation of children),
9. 18 U.S.C. §2251A (selling or buying of children),
10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
11. 18 U.S.C. §2252A (material containing child pornography),
12. 18 U.S.C. §2252B (misleading domain names on the internet),
13. 18 U.S.C. §2252C (misleading words or digital images on the internet),
14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.),
15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
16. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),
17. 18 U.S.C. §2423 (Mann Act),
18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual),
19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).





- C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this Section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- D. Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a) (8) (C) (i) of Public Law 105-119 (codified at 10 U.S.C. 951).
- E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241) and committed by a minor who is fourteen (14) years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another rendering unconscious or involuntarily drugging the victim.
- F. Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including the jurisdiction of the Three Affiliated Tribes, that involves:
1. Any type or degree of genital, oral, or anal penetration,
  2. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
  3. Kidnapping of a minor,
  4. False imprisonment of a minor,
  5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
  6. Use of a minor in a sexual performance
  7. Solicitation of a minor to practice prostitution,
  8. Possession, production, or distribution of child pornography,
  9. Criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
  10. Any conduct that by its nature is a sex offense against a minor, or
  11. Any offense similar to those outlined in:
    - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
    - b. 18 U.S.C. §1801 (video voyeurism of a minor),
    - c. 18 U.S.C. §2241 (aggravated sexual abuse),
    - d. 18 U.S.C. §2242 (sexual abuse),





- e. 18 U.S.C. §2244 (abusive sexual contact),
- f. 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution), or
- g. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

“Sex Offense”

- A. Except as limited by subparagraph 6 or 7, the term “sex offense” means:
- 1. A criminal offense that has an element involving a sexual act or sexual contact with another;
  - 2. A criminal offense that is a “specified offense against a minor”. The term “specified offense against a minor” means an offense against a minor that involves any of the following:
    - a. An offense (unless committed by a parent or guardian) involving kidnapping.
    - b. An offense (unless committed by a parent or guardian) involving false imprisonment.
    - c. Solicitation to engage in sexual conduct.
    - d. Use in a sexual performance.
    - e. Solicitation to practice prostitution.
    - f. Video voyeurism as described in 18 U.S.C. §1801.
    - g. Possession, production, or distribution of child pornography.
    - h. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
    - i. Any conduct that by its nature is a sex offense against a minor.
  - 3. A Federal offense (including an offense prosecuted under section 1152 or 1153 of Title 18 of the United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code;
  - 4. A military offense specified by the Secretary of Defense under section 115(a)(8)(C)(I) of Public Law 105-119 (10 U.S.C. 951 note); or
  - 5. An attempt or conspiracy to commit an offense described in clauses (1) through (4).
  - 6. Offenses involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.





7. Foreign Offenses. A foreign conviction is not a sex offense for the purposes of this code unless it was either:
- a. Obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or
  - b. Under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

### CHAPTER 3.

#### TIERING OF OFFENSES

**4E-3-1 TIER 1 OFFENSES** under this code Tier 1 offenses are established as follows:

- a. Tier I offenses includes any sex offense, for which a person has been convicted , or an attempt or conspiracy to commit such an offense, that is not a “Tier 2” or “Tier 3” offense.
- b. Offenses Involving Minors. A “Tier I offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 4 E-2-1 -(C)that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- c. Tribal Offenses. Any sex offense covered by this act where punishment was limited to one year in jail shall be considered a “Tier I sex offense.
- d. Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a Tier 1 offense:
  1. 18 U.S.C. §1801 (video voyeurism of a minor),
  2. 18 U.S.C. §2252 (receipt or possession of child pornography),
  3. 18 U.S.C. §2252A (receipt or possession of child pornography),
  4. 18 U.S.C. §2252B (misleading domain names on the internet),
  5. 18 U.S.C. §2252C (misleading words or digital images on the internet),
  6. 18 U.S.C. §2422(a) (coercion to engage in prostitution),
  7. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
  8. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
  9. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or
  10. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct.).
- e. Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a) (8) (C) (i) of Public Law 105-119 (codified at 10 U.S.C. §951 that is





similar to those offenses outlined in Sections 4E-3-1, 4 E-3-2 and 4E 3-3 shall be considered a “Tier 1 offense.

**4E-3-2 TIER 2 OFFENSES** under this code Tier II offenses are established as follows:

- a. Recidivism and Felonies. Unless otherwise covered by Section 4E-3-3 any sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one (1) year in jail is considered a Tier 2 offense.
- b. Offenses Involving Minors. Any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:
  1. The use of minors in prostitution, including solicitations,
  2. Enticing a minor to engage in criminal sexual activity,
  3. Sexual contact with a minor thirteen (13) years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body,
  4. The use of a minor in a sexual performance, or
  5. The production or distribution of child pornography.
- c. Federal Offenses. Conviction for any of the following federal offenses :
  1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
  2. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
  3. 18 U.S.C. §2244 (Abuse sexual contact, where the victim is 13 years of age or older),
  4. 18 U.S.C. §2251 (sexual exploitation of children),
  5. 18 U.S.C. §2251A (selling or buying of children),
  6. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
  7. 18 U.S.C. §2252A (production or distribution of material containing child pornography),
  8. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
  9. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
  10. 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution),
  11. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).
- d. Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 3.02(A), (B), or (C) shall be considered a “Tier 2” offense.

**4E-3-3 TIER 3 OFFENSES**

Tier III offenses are established as follows:





- a. Recidivism and Felonies. Any sex offense that is punishable by more than one (1) year in jail where the offender has at least one prior conviction for a Tier 2 sex offense, or has previously become a Tier 2 sex offender, is a “Tier 3” offense.
- b. General Offenses any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that involves:
  1. Non-parental kidnapping of a minor,
  2. A sexual act with another by force or threat,
  3. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or
  4. Sexual contact with a minor twelve (12) years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.
- c. Conviction for any of the following federal offenses:
  1. 18 U.S.C. §2241 (aggravated sexual abuse),
  2. 18 U.S.C. §2242 (sexual abuse),
  3. 18 U.S.C. §2243 (sexual abuse of a minor or ward)
  4. Where the victim is twelve (12) years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).
- d. Certain Military Offense. Any military offense specified by the Secretary of Defense under section 115(a) (8) (C) (i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Sections 4E-3-, 4 E-3-2 and 4E- 3-3.

## CHAPTER 4

### THREE AFFILIATED TRIBES SEX OFFENDER REGISTRY AND REGISTRATION REQUIREMENTS

#### **4E-4-1 Tribal sex offender registry.**

There is hereby established the Three Affiliated Tribes Sex Offender Registry which shall consist at a minimum of a database of all person residing on the Reservation who are required by Chapter 2 of this Code to register and the information required by Section 4E-4-2 of this Chapter. The Three Affiliated Tribes Law Enforcement Services shall be responsible for and maintain the Sex Offender Registry. The sex offender registry shall be maintained in an electronic database and shall be in a form capable of electronic transmission.

#### **E-4-2 Required information.**





A. A sex offender who is required to register pursuant to Chapter 2 of this code shall provide all of the information required by Chapter 5 of this code

**4E-4-3 Requirement for in person appearance.**

- A. Photographs. At each in person verification, the sex offender shall permit the Three Affiliated Tribes Law Enforcement services to take a photograph of the offender.
- B. Review of Information. At each in person verification the sex offender shall review existing information for accuracy.
- C. Notification. If any new information or change in information is obtained at an in person verification, the Three Affiliated Tribes Law Enforcement services shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.
- D. To the Three Affiliated Tribes Law Enforcement Agency, and the Three Affiliated Tribes Law Enforcement Agency shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the tribe in accordance with this code and shall implement any relevant policies and procedures.

**4E-4-4 where registration is required.**

- A. Jurisdiction of Conviction. A sex offender must initially register with the Three Affiliated Law enforcement Services if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
- B. Jurisdiction of Incarceration. A sex offender must register with the Three Affiliated Tribes Law Enforcement Services if the sex offender is incarcerated by the tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
- C. Jurisdiction of Residence. A sex offender must register with the Tribes Law Enforcement Services if the sex offender resides within the boundaries of the Fort Berthold Reservation.
- D. Jurisdiction of Employment. A sex offender must register with the Tribes Law Enforcement Services if he or she is employed by the tribe in any capacity or otherwise is employed within the boundaries of the Fort Berthold Reservation.





- E. Jurisdiction of School Attendance. A sex offender must register with the Tribes Law Enforcement services if the sex offender is a student in any capacity within the boundaries of the Fort Berthold Reservation.

#### **4 E-4-5 Timing of Registration.**

- A. Timing. A sex offender required to register with under this code shall do so in the following timeframe:
1. If convicted by the Three Affiliated Tribes for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
  2. If convicted by the Three Affiliated Tribes but not incarcerated, within three (3) business days of sentencing for the registration offense, and
  3. Within three (3) business days of establishing a residence, commencing employment, or becoming student within the boundaries of the Fort Berthold Reservation, a sex offender must appear in person to register with the Law Enforcement of the Three Affiliated Tribes.
- B. Three The Law Enforcement services of the Three Affiliated Tribes shall have policies and procedures in place to ensure the following:
1. That any sex offender incarcerated or sentenced by the tribe for a covered sex offense completes their initial registration with the tribe,
  2. That the sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement,
  3. That the sex offender is registered, and
  4. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

#### **4 E-4-6 Retroactive Registration.**

- A. The Three Affiliated Tribes Law Enforcement services shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:
1. Sex offenders incarcerated or under the supervision of the tribe, whether for a covered sex offense or other crime,
  2. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the tribe's laws, and
  3. Sex offenders reentering the justice system due to conviction for any crime.





B. Timing of Recapture. Law Enforcement services shall ensure recapture of the sex offenders mentioned in Section this section within the following timeframe to be calculated from the date of passage of this code:

1. For Tier 1 sex offenders, 1 year,
2. For Tier 2 sex offenders, 180 days, and
3. For Tier 3 sex offenders, 90 days.

#### **4E-4-7 Frequency, duration and reduction.**

The following are the requirements for registration, duration and reduction under this Code.

a. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Three Affiliated Tribes Law Enforcement Services for purposes of verification and keeping their registration current in accordance with the following time frames:

1. For "Tier 1" offenders, once every year for fifteen (15) years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
2. For "Tier 2" offenders, once every 180 days for twenty five (25) years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
3. For "Tier 3" offenders, once every 90 days for the rest of their lives.

A. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:

1. A Tier 1 offender may have his or her period of registration reduced to ten (10) years if he or she has maintained a clean record for ten (10) consecutive years.
2. A Tier 3 offender may have his or her period of registration reduced to twenty five (25) years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she had maintained a clear record for twenty (25) consecutive years.

B. Clean Record. For purposes of this section a person has a clean record if:

1. He or she has not been convicted of any offense, for which imprisonment for more than one (1) year may be imposed,
2. He or she has not been convicted of any sex offense,
3. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole, and





4. He or she has successfully completed an appropriate sex offender treatment program certified by the tribe, another jurisdiction, or by the Attorney General of the United States.

#### **4 E-4- 8 Failure to appear and absconding.**

- A. Failure to Appear. In the event a sex offender fails to register with the tribe as required by this code, the Three Affiliated Tribes Law Enforcement services or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the tribe that the sex offender failed to appear for registration.
- B. Absconded Sex Offenders. If the Three Affiliated Tribes Law Enforcement services or designee receives information that a sex offender has absconded the Three Affiliated Tribes Law Enforcement services shall make an effort to determine if the sex offender has actually absconded.
  1. In the event no determination can be made, the Three Affiliated Tribes Law Enforcement services or designee shall ensure the tribal police and any other appropriate law enforcement agency is notified.
  2. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
  3. If an absconded sex offender cannot be located then the tribal police shall take the following steps:
    - a. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located,
    - b. Notify the U.S. Marshals Service,
    - c. Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest,
    - d. Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
    - e. Enter the sex offender into the National Crime Information Center Wanted Person File.
- C. Failure to Register. In the event a sex offender who is required to register due to their employment or school attendance status fails to do so or otherwise violates a registration requirement of this code, the Three Affiliated Tribes Law Enforcement services shall take all appropriate follow-up measures including those outlined in Section sub section (b) above.





The Three Affiliated Tribes Law Enforcement shall first make an effort to determine if the sex offender is actually employed or attending school within the Tribe's jurisdiction.

## **CHAPTER 5 REQUIRED INFORMATION**

This chapter sets forth the information that is required to be obtained in the registration process.

### **4E-5-1 general requirements**

1. Duties. A sex offender covered by this code who is required to register with pursuant to Chapter 2 of this code shall provide all of the information detailed in this chapter to the Three Affiliated Tribes Law Enforcement services and the Three Affiliated Tribes Law Enforcement Services shall obtain all of the information detailed in this chapter in accordance with this code and shall implement any relevant policies and procedures.
2. Digitization. All information obtained under this code shall be, at a minimum, maintained by the Three Affiliated Tribes Law Enforcement Agency in a digitized format.
3. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Three Affiliated Tribes Law Enforcement services and shall be in a form capable of electronic transmission.

### **4E-5-2 Criminal history**

**Criminal History.** The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history.

1. The date of all arrests,
2. The date of all convictions,
3. The sex offender's status of parole, probation, or supervised release,
4. The sex offender's registration status, and
5. Any outstanding arrest warrants.

### **4E-5-3 Date of birth**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

1. The sex offender's actual date of birth, and
2. Any other date of birth used by the sex offender.





#### **4E-5-4 DNA sample**

If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Three Affiliated Tribes Law Enforcement services or designee a sample of his DNA. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.

#### **4E-5-5 Drivers license, identification cards, passports and immigration documents,**

- A. Driver's License. The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.
- B. Identification Cards. The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.
- C. Passports. The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification used by the sex offender.
- D. Immigration Documents. The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

#### **4E-5-6 Employment Information.**

A. Employment. The Three Affiliated Tribes Law Enforcement or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

1. The name of the sex offender's employer,
2. The address of the sex offender's employer, and
3. Similar information related to any transient or day labor employment.

#### **4E-5-7 Finger and palm prints.**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

#### **4E-5-8. Internet identifiers**





The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:

1. Any and all email addresses used by the sex offender
2. Any and all Instant Message addresses and identifiers,
3. Any and all other designations or monikers used for self-identification in internet communications or postings, and
4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

#### **4E-5-9 Name**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:

1. The sex offender's full primary given name,
2. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
3. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

#### **4E-5-10 Phone numbers**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide any and all landline numbers and any and all cellular phone numbers.

#### **4E-5-11 Picture**

The Three Affiliated Tribes Law Enforcement or designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.

Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:

Every 90 days for Tier 3 sex offenders, Every 180 days for Tier 2 sex offenders, and Every year for Tier 1 sex offenders.

#### **4E-5-12 Physical description**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

1. A physical description,
2. A general description of the sex offender's physical appearance or characteristics, and





3. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

**4E-5-13 Professional licensing information.**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

**4E-5-14 Residence address.**

- A. Address. The Three Affiliated Tribes Law Enforcement or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:
1. The address of each residence at which the sex offender resides or will reside, and
  2. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

**4E-5-15 School.**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:

1. The address of each school where the sex offender is or will be a student, and
2. The name of each school the sex offender is or will be a student.

**4E-5-15. Social Security number.**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, the following information:

1. A valid social security number for the sex offender, and
2. Any social security number the sex offender has used in the past, valid or otherwise

**4E-5-16 Lodging information.**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for seven (7) days or more:

1. Identifying information of the temporary lodging locations including addresses and names, and
2. The dates the sex offender will be staying at each temporary lodging location





3. Travel Abroad. In the event the sex offender will be traveling outside of the United States for more than seven (7) days, the Three Affiliated Tribes Law Enforcement or designee shall immediately provide this information to INTERPOL.

#### **4E-5-18 Offense information.**

The Three Affiliated Tribes Law Enforcement services or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

#### **4E-5-19 vehicle information.**

The Three Affiliated Tribes Law Enforcement or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

1. License plate numbers,
2. Registration numbers or identifiers,
3. General description of the vehicle to include color, make, model, and year, and
4. Any permanent or frequent location where any covered vehicle is kept.

### **CHAPTER 6 PUBLIC OFFENDER REGISTRY WEBSITE**

#### **4E-6-1 website.**

The Three Affiliated Tribes Law Enforcement services shall create, use and maintain a public sex offender registry website in accordance with the following:

The registry website shall include links to sex offender safety and education resources.

The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.

The registry website shall have the capability of conducting searches by (1) name; (2) country, city, and/or town; and, (3) zip code and/or geographic radius.

The website shall include in the design of its website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

#### **4E-6-2 required and prohibited information.**





- A. Required Information. The following information shall be made available to the public on the sex offender registry website.
1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
  2. All sex offenses for which the sex offender has been convicted,
  3. The sex offense(s) for which the offender is currently registered,
  4. The address of the sex offender's employer(s),
  5. The name of the sex offender including all aliases,
  6. A current photograph of the sex offender,
  7. A physical description of the sex offender,
  8. The residential address and, if relevant, a description of a habitual residence of the sex offender,
  9. All addresses of schools attended by the sex offender, and
  10. The sex offender's vehicle license plate number along with a description of the vehicle.
- B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:
1. Any arrest that did not result in conviction,
  2. The sex offender's social security number,
  3. Any travel and immigration documents,
  4. The identity of the victim, and
  5. Internet identifiers (as defined in 43 U.S.C. §16911).
- C. Witness Protection. For sex offenders who are under a witness protection program, the Tribe may honor the request of the United States Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

**4E-6-3. Community notification.**

Whenever a sex offender registers or updates his or her information with the tribe, the Three Affiliated Tribes Law Enforcement services shall:

1. Immediately notify the FBI or other federal agency as designated by the Attorney General in order that the information may be updated on NSOR or other relevant databases,
2. Immediately notify any agency, department, or program within the tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.
3. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.
4. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the





National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates registration.

- A. Community Notification. The Three Affiliated Tribes Law Enforcement services shall ensure there is an automated community notification process in place that ensures the following:
1. Upon a sex offender's registration or update of information with the tribe, the tribe's public sex offender registry website is immediately updated.
  2. The tribe's public sex offender registry has a function that enables the general public to request an e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

## CHAPTER 7 CRIMES AND CIVIL SANCTIONS

- A. Criminal penalty. Each violation of any provision of this code by a sex offender who is an Indian shall be considered a crime and subject to a period of incarceration of up to 6 months in jail.
- B. Civil Penalty. Each violation of a provision of this code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt.
- banishment/exclusion.
- C. A person is guilty of an offense if they:
- a. Knowingly harbor or knowingly attempt to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this code.
  - b. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this code; or
  - c. Provides information to law enforcement agency regarding a sex offender which the person knows to be false.







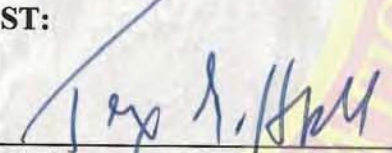
**CERTIFICATION**

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 15 day of June, 2011, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [] Voting. [  ] Not Voting

Dated this 15 day of June, 2011

  
\_\_\_\_\_  
Tribal Secretary V. Judy Brugh  
Tribal Business Council  
Three Affiliated Tribes

**ATTEST:**  
  
\_\_\_\_\_  
Tribal Chairman Tex G. Hall  
Tribal Business Council  
Three Affiliated Tribes

