

Chapter 21 – Human Trafficking Code (Loren’s Law)

3-21-1 **Definitions**

3-21-1.1 In this chapter unless another meaning is plainly required, the following definitions apply:

- a. “Adult” means an individual eighteen (18) years of age or older.
- b. “Coercion” means:
 - i. The use of threat of force against, abduction of, serious harm to, or physical restraint of, an individual.
 - ii. The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of, an individual.
 - iii. The abuse or threatened abuse of law or legal process.
 - iv. Controlling or threatening to control an individual's access to a controlled substance.
 - v. The destruction or taking of or the threatened destruction or taking of an individual's identification document or other property.
 - vi. The use of debt bondage.
 - vii. The use of an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function; or
 - viii. The commission of civil or criminal fraud.
- c. "Commercial sexual activity" means sexual activity for which anything of value is given to, promised to, or received, by a person.
- d. "Debt bondage" means inducing an individual to provide commercial sexual activity in payment toward or satisfaction of a real or purported debt or inducing an individual to provide labor or services in payment toward or satisfaction of a real or purported debt. The term does not include an effort by a creditor to collect an enforceable obligation by means that are permitted under law.
- e. "Human trafficking" means the commission of an offense for purposes of labor or sex trafficking.
- f. "Identification document" means a passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.
- g. “Jane/John Doe” means a defendant/suspect for purposes of prosecution when the individual’s identity is unknown.
- h. "Labor or services" means activity having economic value.
- i. “Labor Trafficking” means the recruitment, transportation, transfer, harboring, receiving, providing, obtaining, isolating, maintaining, or enticement of any person by any means (including telephonic or electronic) in furtherance of debt bondage, forced labor, or forced services.
- j. "Minor" means an individual less than eighteen (18) years of age.
- k. “Prostitution” means offering or agreeing to perform for hire, where there is an exchange of anything of value, or an offer to exchange anything of value for sexual activity.
- l. "Serious harm" means harm, whether physical or nonphysical, including psychological, economic, or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.
- m. "Sexual activity" means all sexual conduct as defined in section 3-16-1(w). The term includes a sexually explicit performance.
- n. “Sex trafficking” means the recruitment, transportation, transfer, harboring, receiving, providing, obtaining, isolating, maintaining, or enticement by any means (including telephonic or electronic) in furtherance of prostitution or other commercial sexual activity.

- o. "Traditional restitution" means any tribal cultural, customary, or traditional compensation determined as part of a custom-law finding certified to a tribal judge subsequent to:
 - i. Notice of the custom-law proceeding; and
 - ii. Appointment of a custom-law advisory board who shall participate in the finding and outcome of the certification.
- p. "Victim" means an individual who is subjected to human trafficking or to conduct that would constitute human trafficking, regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted.
- q. "Victim Restitution" means any payment of victim's documented costs of medical treatment, counseling, substance abuse treatment, or any financial damage caused by the act of human trafficking regardless of the race of the victim.

3-21-2 **Human Trafficking**

3-21-2.1 A person is guilty of the offense of trafficking an individual if the person knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices an individual in furtherance of:

- a. Forced labor in violation of section 3-21-3; or
- b. Sexual servitude in violation of subsection 3-21-1(d).

3-21-2.2 Trafficking any individual, adult, or minor, is a Felony offense.

- a. There is no statute limitation on the time in which a charge may be filed, or prosecution may commence for any offense under Loren's Law involving a victim who is a minor at the time of the alleged offense.
- b. The Tribe shall file a criminal complaint against a 'John/Jane Doe' where there is physical or other credible evidence (forensic interview /examination, DNA, fingerprints, false name given, etc.) that a child is a victim of a human trafficking crime but where the perpetrator name is unknown.

3-21-3 **Labor Trafficking**

3-21-3.1 A person is guilty of labor trafficking if the individual knowingly commits any one or more of the following acts:

- a. Benefits financially or receives anything of value while knowing or having reason to know the financial benefit or thing of value is derived from an act of labor trafficking;
- b. Uses coercion to compel an individual to provide forced labor or services; or
- c. Attempts or conspires to promote labor trafficking as defined in section 3-21-1(i).

3-21-3.2 It is a Felony offense if the victim of labor trafficking is an adult or minor as defined in subsections 3-21-1.1(a) and (j).

3-21-4 **Sex Trafficking**

3-21-4.1 A person is guilty of sex trafficking if the individual knowingly commits any one or more of the following acts:

- a. Benefits financially or receives anything of value while knowing or having reason to know the financial benefit or thing of value is derived from an act of sex trafficking;
- b. Maintains or makes available a minor for the purpose of engaging in commercial sexual activity;
- c. Uses coercion or deception to compel an individual to engage in commercial sexual activity; or
- d. Attempts or conspires to promote sex trafficking as defined in subsection 3-26-1(14).

- 3-21-4.2 It is not a defense in a prosecution under subsection 3-21-4.1(b) that the minor consented to engage in commercial sexual activity or that the defendant believed the minor was an adult.
- 3-21-4.3 It is a Felony offense if the victim of sex trafficking is an adult or minor as defined in subsections 3-21-1.1(a) and (j).
- 3-21-5 **Patronizing a Victim of Sex Trafficking**
- 3-21-5.1 A person is guilty of the offense of patronizing a victim of sex trafficking if the person knowingly gives, agrees to give, or offers to give anything of value so that an individual may engage in commercial sexual activity with another individual and the person knows that the other individual is a victim of sex trafficking.
- 3-21-5.2 Patronizing an adult or minor victim of sex trafficking is a Felony offense. Adult or minor victim has the meaning defined in subsections 3-21-1.1(a) and (j).
- 3-21-6 **Patronizing a Minor for Commercial Sexual Activity**
- 3-21-6.1 A person is guilty of patronizing a minor for commercial sexual activity, a Felony offense, if, with the intent that the person engage in commercial sexual activity with a minor, the person gives, agrees to give, or offers to give anything of value to a minor or another person so that the person may engage in commercial sexual activity with a minor.
- 3-21-7 **Business Entity Liability**
- 3-21-7.1 A person that is a member of a business entity knowingly engaged in the business of human, sex, or labor trafficking may be prosecuted for an offense under sections 3-21-2, 3-21-3, or 3-21-4.
- 3-21-7.2 When a person that is a member of a business entity engaged in the business of human, sex, or labor trafficking is prosecuted for an offense under sections 3-21-2, 3-21-3, or 3-21-4, the court may consider the severity of the entity's conduct and order penalties in addition to those otherwise provided for the offense, including:
- a. Forfeiture of all profit and property derived from activity in violation of this chapter; and
 - b. Debarment from future tribal government contracts.
- 3-21-8 **Restitution**
- 3-21-8.1 The court shall order a person convicted of an offense under sections 3-21-2, 3-21-3, or 3-21-4 to pay restitution to the victim of the offense for:
- a. Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including costs of medical services relating to physical, psychiatric, or psychological care;
 - b. Physical and occupational therapy or rehabilitation;
 - c. Necessary transportation, temporary housing, and childcare expenses;
 - d. Lost income;
 - e. Reasonable attorney fees, as well as other costs incurred; and
 - f. The greater of the gross income or value of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et. seq.)
- 3-21-8.2 If the court has ordered restitution for the victim of the trafficking offense, and the victim does not claim the restitution ordered within five (5) years after entry of the order, the restitution may be subrogated to the Victims of Crime Advocacy Center for payment.

3-21-9 **Past Sexual Behavior of Victim**

- 3-21-9.1 In a prosecution for an offense under this chapter, evidence of a specific instance of the alleged victim's past sexual behavior or reputation or opinion evidence of past sexual behavior of the alleged victim is not admissible unless the evidence is:
- a. Admitted in accordance with Federal Rules of Evidence; or
 - b. Offered by the prosecution to prove a pattern of trafficking by the defendant.

3-21-10 **Victim Confidentiality**

- 3-21-10.1 In an investigation of or prosecution for an offense under Loren's Law, a law enforcement agency and the tribal prosecutor shall keep confidential the identity, pictures, and images of the alleged victim and the family of the alleged victim, except to the extent that disclosure is:
- a. Necessary for the purpose of investigation or prosecution;
 - b. Required by law or court order; or
 - c. Necessary to ensure provision of services or benefits for the victim or the victim's family.

3-21-11 **Affirmative Defense of Victim**

- 3-21-11.1 An individual charged with prostitution, felony forgery, felony theft, felony drug distribution, or any other offense which was committed as a direct result of being a victim may assert an affirmative defense that the individual is a victim of human trafficking.

- 3-21-11.2 If the individual charged with a tribal offense was a minor at the time of the offense and committed the offense as a direct result of being a victim under this chapter, the minor is not criminally liable or subject to juvenile delinquency proceedings pursuant to the Juvenile Code.

3-21-12 **Additional Penalties and Sentencing Alternatives**

- 3-21-12.1 Upon conviction of any offense under Loren's Law, the court may, in addition to the statutorily proscribed sentence, sentence the defendant to any of the following:
- a. Banishment from the Fort Berthold Reservation;
 - b. Up to five (5) years of probation;
 - c. Loss of firearm privileges;
 - d. Substance abuse treatment;
 - e. No contact or protection order for the victim of the offense;
 - f. Loss of business license;
 - g. Victim restitution;
 - h. Special payment to Victim of Crime Advocacy Center;
 - i. Traditional restitution;
 - j. Loss of hunting and or fishing privileges;
 - k. Diversion of tribal per capita payments; and
 - l. Require defendant to comply with Sex offender registry requirements.

- 3-21-12.2 Violations of the provisions of Loren's Law may be subject to prosecution under both Tribal and Federal jurisdictions.

3-21-13 **Motion to vacate and seal conviction**

- 3-21-13.1 An individual convicted of prostitution, or an offense listed in section 3-21-11 which was committed as a direct result of being a victim may apply by motion to the court to vacate the conviction and seal the record of conviction. The court may grant the motion on a finding that the individual's participation in the offense was a direct result of being a victim.

- 3-21-13.2 Official determination or documentation from a federal, state, local, or tribal agency that the individual was a victim at the time of the offense creates a presumption that the individual's participation was a direct result of being a victim.
- 3-21-14 **Civil action**
- 3-21-14.1 A victim may bring a civil action against a person that commits an offense against the victim under sections 3-26-2, 3-26-3, or 3-26-4 for compensatory damages, exemplary or punitive damages, injunctive relief, and any other appropriate relief.
- 3-21-14.2 If a victim prevails in an action under this section, the court shall award the victim reasonable attorney's fees and costs.
- 3-21-14.3 An action under this section must be commenced not later than ten (10) years after the later of the date on which the victim:
- a. Ceased to be a subject to human trafficking; or
 - b. In the case of a minor victim, the period for commencement of the action does not begin to run until the victim has attained eighteen (18) years of age.
- 3-21-14.4 Damages awarded to a victim under this section for an item must be offset by any restitution paid to the victim pursuant to subsections 3-21-8.1(a-f) for the same item.
- 3-21-14.5 This section does not preclude any other remedy available to a victim under federal law or law of this chapter.
- 3-21-15 **Treatment**
- 3-21-15.1 Upon the defendant's guilty plea or conviction of a violation of any offense under Loren's Law, the judge may order an assessment of the defendant by a probation officer or other qualified service provider to ascertain a correct treatment plan for the defendant.
- a. Upon the recommendation by the probation officer or other qualified assessment personnel, the court may order treatment, including but not limited to, substance abuse counseling, mental health, parenting, anger management, sexual offender treatment, or job training and make this order part of the defendant's probation or release. Failure to complete the term(s) of probation or release shall constitute probation or release violation and may subject the defendant to incarceration or other sanctions.
- 3-21-15.2 Upon the defendant's guilty plea or conviction for a violation of any offense under Loren's Law, the judge may order an assessment of the victim by a qualified service provider.
- a. The victim may choose to accept or deny the evaluation.
 - b. Upon recommendations by a qualified service provider, treatment in the form of, but not limited to, substance abuse counseling, mental health, parenting, anger management, or job training may be ordered by the court.
 - c. All expenses incurred will be assessed as the victim's restitution and will be the responsibility of the defendant to pay. Services shall be provided to the victim regardless of race.

Chapter 22 - Amended Sexual Offenders Registration and Notification Act

- 3-22-1 **Title**
- 3-22-1.1 This Chapter shall be cited as the Three Affiliated Tribes Sex Offender Registration and Notification Act.

3-22-2 **Purpose**

3-22-2.1 The purpose of this chapter is to implement the Federal Sex Offender Registration and Notification Act (SORNA) (Title 1 of the Adam Walsh Act, Public Law 109-248) and shall be interpreted liberally to comply with the terms and conditions of SORNA as written or hereinafter amended. The purpose of this enactment is to become 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.

3-22-3 **Definitions**

3-22-3.1 The following definitions shall apply to this chapter only:

- a. “Convicted” An adult sex offender is "convicted" for the purposes of this chapter 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:
 - i. Prosecuted and found guilty as an adult for a sex offense; or
 - ii. 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 section 18 U.S.C. §§ 2241(a) or (b) or was an attempt or conspiracy to commit such an offense.
- b. “Foreign Convictions” is one obtained outside the United States.
- c. “Employee” as used in this chapter 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” and "immediately" mean within three (3) tribal court business days.
- e. “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. “Indian” status shall be determined in accordance with prevailing federal law as it applies within the jurisdiction of the United States Court of Appeals for the 8th Circuit. Indian status shall include members of the First Nations of Canada, i.e., Canadian Indians.
- g. “Jurisdiction” as used in this chapter refers to the fifty 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 U.S.C. § 16927)
- h. “Minor” means an individual who has not attained the age of eighteen (18) years.
- i. “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.
- j. Sex Offense” as used in this chapter includes those offenses contained in 42 U.S.C. § 16911(5) and those offenses enumerated in Chapter 11 of this title or any other registerable offense under tribal law. An offense involving consensual sexual contact is not a sex offense for the purposes of the Sex Offender Registration and Notification Act/Code if the victim was an adult, unless the adult victim was under the custodial authority of the offender at the time of the offense, or if the victim was years at least seventeen (17) years old and the offender was not more than four (4) years older than the victim.
- k. “Sex Offender” means a person convicted of a sex offense.

- I. "Sexual Act" as used in this chapter means:
 - i. 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;
 - ii. Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 - iii. 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
 - iv. 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.
- m. "Sexual Contact" means 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.
- n. "Student" means 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.
- o. "SORNA" means 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.
- p. "Sex Offender Registry" means the registry of sex offenders, and a notification program, maintained by the Three Affiliated Tribes law enforcement division.
- q. "National Sex Offender Registry (NSOR)" The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. § 16919.
- r. "SMART Office" means 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.
- s. "Dru Sjodin National Sex Offender Public Website (NSOPW)" means the public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. § 16920.
- t. "Tier I Sex Offender" means any person that has been convicted of a "Tier I" sex offense as defined in subsection 3-22-6.1.
- u. "Tier II Sex Offender" means any person that has been either convicted of a "Tier II" sex offense as defined in subsection 3-22-6.2 or who is subject to the recidivist provisions of subsections 3-22-6.2(a-c)
- v. "Tier III Sex Offender" means any person that has been either convicted of a "Tier III" sex offense as defined in section subsection 3-22-6.3 or who is subject to the recidivist provisions of subsections 3-22-6.3(a-d).
- w. "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.
- x. "Tribe" means the Three Affiliated Tribes or Mandan Hidatsa Arikara Nation
- y. "Tribal court" means the Fort Berthold District Court.

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Registerable Offenses

Offenders subject to the provisions under this chapter are not limited to tribal members or Indians convicted or sentenced in tribal court. The following sex offenders, which include all sex offenders who have been convicted, sentenced, and required to register as a sex offender by the tribal, federal, or state court also are subject to the provisions of this chapter, if the sex offender meets any of the conditions set forth below:

- a. Tribal Offenses - Individuals who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the tribe in fee or trust status regardless of location, who are employed within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust status 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 status regardless of location, that have been convicted of any of the following tribal offenses, or convicted of an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this registry chapter:
- i. T.A.T.C.C. § 3-11-2 (rape);
 - ii. T.A.T.C.C. § 3-11-3 (assault with intent to commit rape);
 - iii. T.A.T.C.C. § 3-11-4 (statutory rape);
 - iv. T.A.T.C.C. § 3-11-6 (sexual assault);
 - v. T.A.T.C.C. § 3-11-7 (sexual assault of a child);
 - vi. T.A.T.C.C. § 3-11-8 (indecent exposure);
 - vii. T.A.T.C.C. § 3-11-14 (sex trafficking);
 - viii. T.A.T.C.C. § 3-11-15 (video voyeurism);
 - ix. T.A.T.C.C. § 3-11-16 (entering reservation with a child to engage in sexual act);
 - x. T.A.T.C.C. § 3-11-17 (sexual exploitation of children);
 - xi. T.A.T.C.C. § 3-11-18 (buying or selling children);
 - xii. T.A.T.C.C. § 3-11-19 (materials involving sexual exploitation of children);
 - xiii. T.A.T.C.C. § 3-11-20 (materials constituting or containing child pornography);
 - xiv. T.A.T.C.C. § 3-11-22 (misleading domain name on the internet);
 - xv. T.A.T.C.C. § 3-11-23 (misleading words or digital images on the internet); and
 - xvi. T.A.T.C.C. § 3-11-23 (use of child's name for illicit purpose).
 - xvii. A pardon granted by the tribe as to any of the forgoing offenses shall not terminate or modify the requirements of registration otherwise imposed by this chapter.
- b. Federal Offenses - A conviction of, or a conviction for an attempt or a conspiracy to commit any of the following, and any other offense hereinafter 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:
- i. 18 U.S.C. § 1591 (sex trafficking of children);
 - ii. 18 U.S.C. § 1801 (video voyeurism of a minor);
 - iii. 18 U.S.C. § 2241 (aggravated sexual abuse);
 - iv. 18 U.S.C. § 2242 (sexual abuse);
 - v. 18 U.S.C. § 2243 (sexual abuse of a minor or ward);
 - vi. 18 U.S.C. § 2244 (abusive sexual contact);
 - vii. 18 U.S.C. § 2245 (offenses resulting in death);
 - viii. 18 U.S.C. § 2251 (sexual exploitation of children);
 - ix. 18 U.S.C. § 2251A (selling or buying of children);
 - x. 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor);
 - xi. 18 U.S.C. § 2252A (material containing child pornography);
 - xii. 18 U.S.C. § 2252B (misleading domain names on the internet);
 - xiii. 18 U.S.C. § 2252C (misleading words or digital images on the internet);
 - xiv. 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the U.S.);
 - xv. 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity);
 - xvi. 18 U.S.C. § 2422 (coercion and enticement of a minor for illegal sexual activity);
 - xvii. 18 U.S.C. § 2423(a-c) (transportation of minors for illegal sexual activity; travel with the intent to engage in illicit sexual conduct with a minor, engaging in illicit sexual conduct in foreign places);
 - xviii. 18 U.S.C. § 2424 (filing factual statement about alien individual); and

- xix. 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct).
- c. Foreign Country Offenses - Any conviction for a sex offense involving any conduct listed in this chapter 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.
 - i. 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 by rendering unconscious or involuntarily drugging the victim.
 - ii. Adjudications of delinquency by minors fourteen (14) years of age or older, of offenses listed in subsection (a) above shall be tiered as set forth in subsections 3-22-6.1(b) Tier I, 3-22-6.2(b) Tier II, and 3-22-6.3(b)(iv) Tier III of this chapter. Tier I and II offenses are exempt from all registration requirements.
 - iii. Adjudication of delinquency by minors fourteen (14) years of age or older of 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 (18 U.S.C. § 2241) and subsection 3-22-6.3 Tier III of this chapter shall be subject to registration requirements and included in the NSOR, but exempt from inclusion in the SRPSOR.

3-22-4.2 Jurisdiction Offenses

Jurisdictions are required to register any person who has been convicted of a criminal sex offense in any state, tribe, territory, or the District of Columbia, and any foreign country including the jurisdiction of the Three Affiliated Tribes, that involves:

- a. Any type or degree of genital, oral, or anal penetration;
- b. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing;
- c. Kidnapping of a minor;
- d. False imprisonment of a minor;
- e. 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;
- f. Use of a minor in a sexual performance;
- g. Solicitation of a minor to practice prostitution;
- h. Possession, production, or distribution of child pornography;
- i. 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;
- j. Any conduct that by its nature is a sex offense against a minor, or
- k. Any offense similar to those outlined in:
 - i. Tribal offenses, subsection 3-22-4.1(a); or
 - ii. Federal offenses, subsection 3-22-4.1(b).

3-22-5 **Sex Offenses**

3-22-5.1 Except as limited by subsections 3-22-5.1(f-g) below, the term “sex offense” means:

- a. A criminal offense that has an element involving a sexual act or sexual contact with another;
- b. The term "specified offense against a minor" means an offense against a minor that involves any of the following:
 - i. An offense (unless committed by parent or guardian) involving kidnapping;
 - ii. An offense (unless committed by a parent or guardian) involving false imprisonment;
 - iii. Solicitation to engage in sexual conduct;
 - iv. Use in a sexual performance;
 - v. Solicitation to practice prostitution;
 - vi. Video voyeurism as described in 18 U.S.C. §1801;
 - vii. Possession, production, or distribution of child pornography;
 - viii. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct; and
 - ix. Any conduct that by its nature is a sex offense against a minor.
- c. A Federal offense including an offense prosecuted under U.S.C Title 18, §§ 1152 or 1153; § 1591, or Title 18, Chapter 109A-Sexual Abuse, Title 18, Chapter 110-Sexual Exploitation and Other Abuse of Children (other than U.S.C. Title 18, §§ 117, 2257, 2257A, or 2258)
- d. A military offense specified by the Secretary of Defense under § 11 S(a)(S)(C)(I) of Public Law 105-119 (10 U.S.C. § 951 note);
- e. An attempt or conspiracy to commit an offense described in subsections (a-d);
- f. 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 not less than seventeen (17) years old and the offender was not more than four (4) years older than the victim.
- g. A foreign conviction is not a sex offense for the purposes of this code unless it was either:
 - i. Obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or
 - ii. 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.

3-22-6 **Tiering of Offenses**

3-22-6.1 **Tier I Offenses** – Under this section Tier I offenses are established as follows:

- a. Tier I offenses include any sex offense, for which a person has been convicted, or an attempt to commit such an offense, that is not categorized as a Tier II or Tier III offense.
- b. Tier I offenses also include any offense for which a person has been convicted by any jurisdiction of the United States, tribal government, or qualifying foreign government pursuant to subsections 3-22-4.1(c) and 3-22-5.1(g), that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- c. Any tribal sex offense covered by this Title of offenses which is sentenced as a Class 3 or 4 offense level.
- d. Conviction for any of the following federal offenses, in addition to those previously determined in section (b) of this subsection:
 - i. 18 U.S.C. §2252B (misleading domain names on the internet);
 - ii. 18 U.S.C. §2252C (misleading words or digital images on the internet);
 - iii. 18 U.S.C. §2422 (coercion to engage in prostitution);
 - iv. 18 U.S.C. §2423 (Mann Act), (a)(transportation of person [adult/child] ancillary offenses), (b) (travel with the intent to engage in illicit conduct), and (c) (engaging in illicit conduct in foreign places);

- v. 18 U.S.C. §2424 (failure to file factual statement about an alien individual); or
- vi. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- e. 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 within this subsection shall be considered a Tier I offense.

3-22-6.2 Tier II Offenses – Under this section Tier II offenses are established as follows:

- a. Recidivism and Felonies: Unless otherwise covered by subsections 3-22-5.1(b)(i-viii) of this Chapter, 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 II 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:
 - i. The use of minors in prostitution, including solicitations,
 - ii. Enticing a minor to engage in criminal sexual activity,
 - iii. Sexual contact with a minor under eighteen (18) years of age of whether directly or indirectly through the clothing, that involves the intimate parts of the body.
 - iv. The use of a minor in a sexual performance, or
 - v. The production or distribution of child pornography.
 - vi. The non-forcible Sexual Act with a minor sixteen (16) or seventeen (17) years old.
- c. Federal Offenses: Conviction for any of the following federal offenses:
 - i. 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion);
 - ii. 18 U.S.C. § 2243 (sexual abuse of a minor or ward);
 - iii. 18 U.S.C. § 2244 (Abusive sexual contact, where the victim is under eighteen (18) years of age);
 - iv. 18 U.S.C. § 2251 (sexual exploitation of children);
 - v. 18 U.S.C. § 2251A (selling or buying of children);
 - vi. 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor);
 - vii. 18 U.S.C. § 2252A (production/distribution of material containing child pornography)
 - viii. 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the United States);
 - ix. 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity);
 - x. 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution);
 - xi. 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct);
 - xii. 18 U.S.C. § 2423(b) (travel with intent to engage in criminal sexual activity with a minor);
 - xiii. 18 U.S.C. § 2423(c) (engaging in illicit sexual conduct in foreign places with a minor);
 - xiv. 18 U.S.C. § 2423(d) (arranging, inducing, procuring, or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain);
 - xv. 18 U.S.C. § 2424 (filing factual statements about alien individual); and
 - xvi. 18 U.S.C. § 2425 (use of interstate facilities to transmit information about a minor).
- 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 § 3-22-5.1(b) (1-5) (6) (7) shall be considered a "Tier II" offense.

- 3-22-6.3 **Tier III Offenses** – Under this section, 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 II sex offense, or has previously become a Tier II sex offender, is a Tier III 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:
 - i. Non-parental kidnapping of a minor,
 - ii. A sexual act with another by force or threat,
 - iii. 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
 - iv. Sexual contact with a minor under eighteen (18) years of age 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:**
 - i. 18 U.S.C. §2241 (aggravated sexual abuse),
 - ii. 18 U.S.C. §2242 (sexual abuse).
 - iii. 18 U.S.C. §2243 (sexual abuse of a minor or ward)
 - iv. Where the victim is under eighteen (18) years of age, 18 U.S.C. §2244 (abusive sexual contact).
 - d. **Certain 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 subsections 3-22-6.1, 3-22-6.2, and 3-22-6.3 of this chapter.

3-22-7 **Three Affiliated Tribes’ Sex Offender Registry and Registration Requirements**
Tribal Sex Offender Registry

- 3-22-7.1 **Sex Offender Registry** – It is herein established that Three Affiliated Tribes shall maintain a Sex Offender Registry which shall consist at a minimum of a database of all persons residing on the reservation who are required by subsection 3-22-4 of this chapter to register, with the information required in section 3-22-14 of this chapter. The Three Affiliated Tribes Law Enforcement Services shall be responsible to 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.

3-22-8 **Requirement for In-Person Appearance**

- 3-22-8.1 **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.

- 3-22-8.2 **Review of Information** – At each in-person verification the sex offender shall review existing information for accuracy.

- 3-22-8.3 **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.

- 3-22-8.4 Three Affiliated Tribes Law Enforcement Services shall obtain all the information required in this chapter from covered sex offenders who are required to register with the tribe in accordance with this chapter and shall implement any relevant policies and procedures to effect the orderly process of collection of information and registration.

3-22-9 **Where Registration is Required**

3-22-9.1 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.

3-22-9.2 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.

3-22-9.3 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.

3-22-9.4 Jurisdiction of Employment – A sex offender must register with the Tribes Law Enforcement Services if he is employed in the Fort Berthold reservation jurisdiction, but neither resides nor attends school there. The offender must update any employment related information in this jurisdiction, including termination of employment, and if he is employed with the tribe in any capacity, whether compensated or not.

3-22-9.5 Jurisdiction of School Attendance – A sex offender must register with the Tribes Law Enforcement Services if the sex offender is a student who is enrolled in or attends an educational institution, including a secondary school (whether public or private), trade or professional school, and institution of higher education, in any capacity, to include termination of school attendance, within the boundaries of the Fort Berthold Reservation.

3-22-10 **Timing of Registration**

3-22-10.1 Timing – A sex offender required to register with under this chapter shall do so in the following timeframe:

- a. If convicted by the Three Affiliated Tribes for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
- b. If convicted by the Three Affiliated Tribes but not incarcerated, within three (3) business days of sentencing for the registration offense; or
- c. 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 Three Affiliated Tribes Law Enforcement Services.

3-22-10.2 Policies and Procedures – The Three Affiliated Tribes Law Enforcement Services shall have policies and procedures in place to ensure the following:

- a. That any sex offender incarcerated or sentenced by the tribe for a covered sex offense completes their initial registration with the tribe;
- b. 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;
- c. That the sex offender is registered, and information posted on public website; and
- d. That upon entry of the sex offender's information into 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.

3-22-11 **Frequency, Duration, and Reduction of Registration**

3-22-11.1 The following are the requirements for registration, duration, and reduction under this chapter:

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:

- a. For Tier I 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.
- b. For Tier II 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.
- c. For Tier III offenders, once every 90 days for the rest of their lives.

3-22-11.2 **Reduction of Registration Periods** – A sex offender may have their period of registration reduced as follows:

- a. A Tier I offender may have his period of registration reduced to ten (10) years if he has maintained a clean record for ten (10) consecutive years;
- b. A Tier II offender may have his period of registration reduced to fifteen (15) years if he has maintained clean record for fifteen (15) consecutive years; and
- c. A Tier III offender may have his period of registration reduced to twenty-five (25) years if he was adjudicated delinquent of an offense as a juvenile that required Tier III registration and he has maintained a clear record for twenty (25) consecutive years.

3-22-11.3 **Clean Record** – For purposes of the above subsection 3-22-11.2, a person has a clean record if:

- a. He has not been convicted of any offense for which imprisonment for more than one (1) year may be imposed;
- b. He has not been convicted of any sex offense;
- c. He has successfully completed, without revocation, any period of supervised release, probation, or parole; and
- d. He has successfully completed an appropriate sex offender treatment program certified by the tribe, another jurisdiction, or by the Attorney General of the United States.

3-22-12 **Failure to Appear and Absconding**

3-22-12.1 **Failure to Appear** – In the event a sex offender fails to register with the tribe as required by this chapter, the Three Affiliated Tribes Law Enforcement Services, or authorized designee shall immediately inform the jurisdiction which provided the sex offender to commence residency, employment, or school attendance with the tribe that the sex offender failed to appear for registration.

3-22-12.2 **Absconded Sex Offenders** – If the Three Affiliated Tribes Law Enforcement services or an authorized designee receives information that a sex offender has absconded, the Three Affiliated Tribes Law Enforcement Services shall make diligent efforts to determine if the sex offender has actually absconded.

- a. In the event no determination can be made, the Three Affiliated Tribes Law Enforcement Services or authorized designee shall ensure the tribal police and any other appropriate law enforcement agency is notified.
- b. 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.
- c. If an absconded sex offender cannot be located, then the tribal police shall take the following steps:
 - i. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located;
 - ii. Notify the U.S. Marshals Service;

- iii. 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;
- iv. Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located; and
- v. Enter the sex offender into the National Crime Information Center Wanted Person File.

3-22-12.3 **Failure to Register** – In the event a sex offender who is required to register due to his employment or school attendance status fails to do so or otherwise violates a registration requirement of this chapter, the Three Affiliated Tribes Law Enforcement services shall take all appropriate follow-up measures including those outlined in subsection 3-22-12.2 above.

3-22-13 **Required Information**

3-22-13.1 This section sets forth the information that is required to be obtained in the registration process.

General Requirements

- a. Duties: A sex offender covered by this chapter who is required to register pursuant to section 3-22-4 of this chapter 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 shall implement any relevant policies and procedures to ensure compliance.
- b. Digitization: All information obtained under this chapter shall be, at a minimum, maintained by the Three Affiliated Tribes Law Enforcement Services in a digitized format.
- c. 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.

3-22-13.2 **Criminal History** – The Three Affiliated Tribes Law Enforcement Services or an authorized designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:

- a. The date of all arrests;
- b. The date of all convictions;
- c. The sex offender's status of parole, probation, or supervised release;
- d. The sex offender's registration status; and
- e. Any outstanding arrest warrants.

3-22-13.3 **Date of Birth** – The Three Affiliated Tribes Law Enforcement Services or an authorized designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

- a. The sex offender's actual date of birth; and
- b. Any other date of birth used by the sex offender.

3-22-13.4 **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 an authorized 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 into CODIS.

3-22-13.5 **Driver's License, Identification Cards, Passports, and Immigration Documents**

- a. Driver's License – The Three Affiliated Tribes Law Enforcement Services or an authorized designee shall obtain, and a covered sex offender shall provide, a photocopy of all the sex offender's valid driver's licenses issued by any jurisdiction;

- b. Identification Cards – The Three Affiliated Tribes Law Enforcement Services or an authorized 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 an authorized designee shall obtain, digitized copies, and a covered sex offender shall provide a photocopy of any identification used by the sex offender; and
 - d. Immigration Documents – The Three Affiliated Tribes Law Enforcement Services or an authorized designee shall obtain, digitized copies, and a covered sex offender shall provide a photocopy of all immigration documents.
- 3-22-13.6 Employment Information – The Three Affiliated Tribes Law Enforcement or an authorized designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment in that jurisdiction and termination in that jurisdiction, to include all places where the sex offender is employed in any means including volunteer and unpaid positions:
- a. The name of the sex offender's employer;
 - b. The address of the sex offender's employer; and
 - c. Similar information related to any transient or day labor employment.
- 3-22-13.7 Finger and Palm Prints – The Three Affiliated Tribes Law Enforcement Services or an authorized designee shall obtain, and a covered sex offender shall provide, both fingerprints and palm prints of the sex offender in a digitized format. Palm prints will be taken and submitted to the FBI Central Database (Next Generation Identification Program).
- 3-22-13.8 Internet – The Three Affiliated Tribes Law Enforcement Services or an authorized designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:
- a. All email addresses used by the sex offender;
 - b. All Instant Message addresses and identifiers;
 - c. All other designations or monikers used for self-identification in internet communications or postings; and
 - d. All designations used by the sex offender for the purpose of routing or self-identification in internet communication or postings.
- 3-22-13.9 Name – The Three Affiliated Tribes Law Enforcement Services or an authorized designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:
- a. The sex offender's full primary given name;
 - b. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used; and
 - c. 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.
- 3-22-13.10 Phone Numbers – The Three Affiliated Tribes Law Enforcement services or an authorized designee shall obtain, and a covered sex offender shall provide all landline numbers and any and all cellular phone numbers.
- 3-22-13.11 Picture – The Three Affiliated Tribes Law Enforcement or an authorized 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:

- a. Each ninety (90) days for Tier III sex offenders;
- b. Each one hundred eighty (180) days for Tier II sex offenders; and
- c. Each year for Tier I sex offenders.

3-22-13.12 Physical Description – The Three Affiliated Tribes Law Enforcement services or an authorized designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

- a. A physical description;
- b. A general description of the sex offender’s physical appearance or characteristics; and
- c. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

3-22-13.13 Professional Licensing Information – The Three Affiliated Tribes Law Enforcement services or an authorized 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 conduct a trade or business.

3-22-13.14 Residence Address – The Three Affiliated Tribes Law Enforcement or an authorized designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence and/ or termination of residence:

- a. The address of each residence at which the sex offender resides or will reside; and
- b. 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.

3-22-13.15 School – The Three Affiliated Tribes Law Enforcement Services or an authorized designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender’s school:

- a. The address of each school where the sex offender is or will be a student; and
- b. The name of each school the sex offender is or will be a student.

3-22-13.16 Social Security Number – The Three Affiliated Tribes Law Enforcement Services or an authorized designee shall obtain, and a covered sex offender shall provide, the following information:

- a. A valid social security number for the sex offender; and
- b. Any social security number the sex offender has used in the past, valid, or otherwise.

3-22-13.17 Temporary Lodging Information – The Three Affiliated Tribes Law Enforcement Services or an authorized 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:

- a. Identifying information of the temporary lodging locations including addresses and names; and
- b. The dates the sex offender will be staying at each temporary lodging location.
- c. The registered sex offender shall provide the information in subsections (a-b) above no later than three (3) days before his scheduled travel. The information shall be provided in person.
- d. 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 an authorized designee shall immediately provide this information to INTERPOL.

3-22-14 **International Travel**

3-22-14.1 Sex offenders must inform their residence jurisdictions twenty-one (21) days in advance if they intend to travel outside the United States, and the jurisdiction so informed must notify the

U.S. Marshals Service and update the sex offender's registration information in the national databases. Once so notified, the Three Affiliated Tribes Law Enforcement an authorized designee shall immediately:

- a. Notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information;
- b. Notify the U.S. Marshal Service; and
- c. Update NCIC.

3-22-15 **Offense Information**

3-22-15.1 The Three Affiliated Tribes Law Enforcement services or an authorized designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

3-22-16 **Vehicle Information**

3-22-16.1 The Three Affiliated Tribes Law Enforcement or an authorized 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:

- a. License plate numbers;
- b. Registration number of identifiers;
- c. General description of the vehicle to include color, make, model, and year; and
- d. Any permanent or frequent location where any covered vehicle is kept.

3-22-17 **Public Offender Registry Website**

3-22-17.1 Website – The Three Affiliated Tribes Law Enforcement services shall create, use, and maintain a public sex offender registry website in accordance with the following:

- a. The registry website shall include links to sex offender safety and education resources;
- b. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous;
- c. 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;
- d. The registry website shall have the capability of conducting searches by:
 - i. Name;
 - ii. Country, city, and/or town;
 - iii. Zip code and/or geographic radius; and
- e. 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.

3-22-18 **Required and Prohibited Information**

3-22-18.1 Required Information – The following information shall be made available to the public on the sex offender registry website:

- a. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded;
- b. All sex offenses for which the sex offender has been convicted;
- c. The sex offense(s) for which the offender is currently registered;
- d. The address of the sex offender's employer(s);
- e. The name of the sex offender including all aliases;
- f. A current photograph of the sex offender;

- g. A physical description of the sex offender;
- h. The residential address and, if relevant, a description of a habitual residence of the sex offender;
- i. All addresses of schools attended by the sex offender; and
- j. The sex offender's vehicle license plate number along with a description of the vehicle.

3-22-18.2 **Prohibited Information** – The following information shall not be available to the public on the sex offender registry website:

- a. Any arrest that did not result in conviction;
- b. The sex offender's social security number;
- c. Any travel and immigration documents;
- d. The identity of the victim; and
- e. Internet identifiers (as defined in 43 U.S.C. § 16911).

3-22-18.3 **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.

- a. The sex offender must review the information for accuracy.

3-22-19 **Community Notification**

3-22-19.1 Whenever a sex offender registers or updates his or her information with the tribe, the Three Affiliated Tribes Law Enforcement Services shall:

- a. 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;
- b. 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;
- c. 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; and
- d. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment related background checks under the National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates registration.

3-22-19.2 **Community Notification** – The Three Affiliated Tribes Law Enforcement services shall ensure there is an automated community notification process in place that ensures the following:

- a. Upon a sex offender's registration or update of information with the tribe, the tribe's public sex offender registry website is immediately updated within three (3) days.
- b. 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 current information.

3-22-20 **Crimes and Civil Sanctions**

3-22-20.1 **Criminal Penalty** – Each violation of any provision of this chapter by a sex offender who is an Indian offender may be considered a crime and subject to a period of incarceration for up to three (3) years and a maximum period of incarceration of nine (9) years.

3-22-20.2 **Non-Indian Criminal Penalty** – Each violation of a provision of this chapter by a sex offender who is a non-Indian shall be considered a criminal violation subject to the covered crimes for protection

of children and domestic violence victims as provided in Chapter 24 of this title. Enforcement of sex offenses not qualifying under Chapter 24 of this tile may be subject to federal law prosecution.

- 3-22-20.3 A person is guilty of a Class 1 Misdemeanor if he knowingly:
- a. Harbors or attempts to harbor, or assist another person in harboring or attempting to harbor a sex offender who is in violation of this chapter;
 - b. 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 chapter; or
 - c. Provides information to law enforcement agency regarding a sex offender which the person knows to be false.

3-22-21 **Immunity**

- 3-22-21.1 Nothing under this chapter should be construed as a waiver of sovereign immunity for the Three Affiliated Tribes, their departments, agencies, employees, or agents.
- a. Any person acting under good faith of this chapter shall be immune from any civil liability arising out of such actions.

Chapter 23 - Pow Wow Control Ordinance

3-23-1 **Definitions**

- 3-23-1.1 In this Chapter, unless a different meaning plainly is required:
- a. “Tribe” means The Three Affiliated Tribes or Mandan Hidatsa Arikara Nation.
 - b. “Person” includes an individual or his executor, administrator or other personal representative or a corporation, partnership, association, or other legal commercial entity, whether or not a citizen or domiciliary of this reservation and whether or not organized under the laws of this reservation.
 - c. “Pow-Wow” means any duly authorized pow-wow so recognized by the Three Affiliated Tribes.
 - d. “Pow-Wow areas” means that area so described in the pow-wow permit duly issued by the Tribal Council of the Three Affiliated Tribes.
 - e. “Pow-Wow permit” shall include location, date, and time of the pow-wow. The permit must also include addresses with names and titles of the committee members.
 - f. “Firearms” means any explosive device capable of releasing a projectile propelled by either gas, air, explosive force, spring action, or commonly accepted as a firearm.

3-23-2 **Legislative Intent**

- 3-23-2.1 It is the purpose of this ordinance to maintain a peaceful and healthy atmosphere in order to perpetuate the heritage and culture of our people. It is a further purpose of this ordinance to make the persons and property on our pow-wow grounds safe, healthy, and secure.

3-23-3 **Prohibitions**

- 3-23-3.1 Alcoholic Beverage – It shall be unlawful for any person to enter upon the designated pow-wow area with any alcoholic beverages. It shall be unlawful for any person to consume, own, possess, furnish, or deliver alcoholic beverages to any other person in the duly designated pow-wow area.

- 3-23-3.2 Firearms – It shall be unlawful for any person to enter upon the designated pow-wow area with any firearms except those specifically permitted by the pow-wow committee for ceremonial purposes or those carried by law enforcement personnel. It shall be unlawful for any person to own, possess, or furnish to any other person firearm in the duly designated pow-wow area, except those permitted by the pow-wow committee for ceremonial purposes or law enforcement.