

**SOUTHERN UTE INDIAN TRIBAL CODE**

**TITLE 23**

**SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION CODE**

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**SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION CODE**

**23-1-101. Purpose and General Responsibilities.**

- (1) **Purpose.** The intent of this Code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) (42 USC § 16901 et seq.). It shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.
- (2) **General Responsibilities.** The Southern Ute Police Department (SUPD) is primarily responsible for implementation of this Code, including:
  - (a) Maintaining a sex offender registry;
  - (b) Maintaining, or cooperating with another jurisdiction to maintain, a public sex offender registry website;
  - (c) Registering sex offenders;
  - (d) Notifying the community;
  - (e) Ensuring that any sex offender incarcerated or sentenced by the Tribe for a registerable sex offense completes his or her initial registration with the Tribe;
  - (f) Ensuring 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 requirements;
  - (g) Ensuring that sex offenders required to retroactively register do so; and
  - (h) Ensuring that upon entry of a 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.

**23-1-102. Creation of Registries.**

- (1) **Sex Offender Registry.** There is hereby established a sex offender registry, which the Department of Justice and Regulatory, through SUPD, shall maintain and operate pursuant to the provisions of this Code.
- (2) **Public Sex Offender Registry Website.** Information regarding Tier 1 offenders convicted of a specified offense against a minor, Tier 2 offenders, and Tier 3 offenders registered with the Southern Ute Indian Tribe shall be published on a public sex offender registry website. The website shall not publish information regarding juveniles adjudicated delinquent of a sex offense (see 23-1-103(1)(b)) and Tier 1 offenders not convicted of a specified offense against a minor. The website shall be maintained in accordance with the Sex Offender Registration and Notification Act.

**23-1-103. Definitions.** The definitions below apply to this Title only.

- (1) **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 deferred judgment shall not be considered a conviction.

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

- (a) Prosecuted and found guilty as an adult for a sex offense; or
  - (b) Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 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.
- (2) **Foreign Conviction.** A “foreign conviction” is one obtained outside of the United States.
  - (3) **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.
  - (4) **Immediate.** “Immediate” and “immediately” mean within 3 business days.

- (5) **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 “jail”. Persons under “house arrest” following conviction of a registerable sex offense are required to register pursuant to the provisions of this Code during their period of “house arrest”.
- (6) **Indian.** “Indian” as used in this Code shall mean:
- (a) Any person who is an enrolled member or is qualified to be an enrolled member of any federally recognized Indian tribe; or
  - (b) Any person who is receiving federal or other aid under any program as an Indian.
- (7) **Jurisdiction.** The term “jurisdiction” as used in this Title refers to any Indian tribe that elected to function as a SORNA registration and notification jurisdiction pursuant to PL 109-248 Section 127 (42 USC § 16927), the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.
- (8) **Minor.** The term “minor” means an individual who has not attained the age of 18 years.
- (9) **Reservation.** “Reservation” means the Southern Ute Indian Reservation.
- (10) **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. “Resides” also includes visitation to the Reservation for 7 or more consecutive days.
- (11) **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 23-1-104 of this Code or any other registerable offense under tribal law.
- (12) **Sex Offender.** A person convicted of a sex offense is a “sex offender”.
- (13) **Sexual Act.** The term “sexual act” means:
- (a) 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;

- (b) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
  - (c) 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
  - (d) the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- (14) **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 desires of a person.
- (15) **Student.** A “student” is an intern, extern, apprentice, or 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.
- (16) **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.
- (17) **Sex Offender Registry.** The term “sex offender registry” means the registry of sex offenders, and a notification program, maintained by the SUPD.
- (18) **National Sex Offender Registry (NSOR).** The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. §16919.
- (19) **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.
- (20) **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.

- (21) **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 23-1-105(1).
- (22) **Tier 2 Sex Offender.** A “tier 2 sex offender”, or a “sex offender” designated as “tier 2”, is one that has been either convicted of a “tier 2” sex offense as defined in section 23-1-105(2).
- (23) **Tier 3 Sex Offender.** A “tier 3 sex offender”, or a “sex offender” designated as “tier 3”, is one that has been either convicted of a “tier 3” sex offense as defined in section 23-105(3).

**23-1-104. Registerable Offenses.** Except as limited by sub-paragraphs (7), (8), or (9), non-Indians who work on, live on, or attend school on tribal trust land within the exterior boundaries of the Reservation or Indians who reside within the exterior boundaries of the Reservation, are employed within the exterior boundaries of the Reservation, or who attend school within the exterior boundaries of the Reservation, 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:

- (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);
  - (5) **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(a) and (b)) and committed by a minor who is 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 by rendering unconscious or involuntarily drugging the victim; or
  - (6) An attempt or conspiracy to commit an offense described in clauses (1) through (5).
  - (7) **Offenses Involving Consensual Sexual Conduct.** An offense involving consensual sexual conduct is not a registerable offense for the purposes of this Code if the victim was at least 13 years old and the offender was not more than 4 years older than the victim or if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense.
  - (8) **Foreign Offenses.** A foreign conviction is not a registerable offense for the purposes of this Code unless it was either: 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.
  - (9) **Juvenile Offenses.** Conviction of a minor for a crime involving a sexual act with a person under the age of 12 is not a sex offense for purposes of this Code if such act does not involve any aggravating factors, such as engaging in a sexual act with another by force or the threat of serious violence; or a sexual act with another by rendering unconscious or involuntarily drugging the victim.

## 23-1-105. Tiered Offenses.

### (1) Tier 1 Offenses.

- (a) **Sex Offenses.** A “Tier 1” offense 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 1” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to section 23-1-104(8) 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 up to one year in jail shall be considered a “Tier 1” sex offense.
- (d) **Certain Federal Offenses.** Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 1” offense:
  - (i) 18 U.S.C. §1801 (video voyeurism of a minor);
  - (ii) 18 U.S.C. §2252 (receipt or possession of child pornography);
  - (iii) 18 U.S.C. §2252A (receipt or possession of child pornography);
  - (iv) 18 U.S.C. §2252B (misleading domain names on the internet);
  - (v) 18 U.S.C. §2252C (misleading words or digital images on the internet);
  - (vi) 18 U.S.C. §2422(a) (coercion to engage in prostitution);
  - (vii) 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct);
  - (viii) 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places);
  - (ix) 18 U.S.C. §2423(d) (arranging, inducing, procuring, or facilitating the travel in interstate commerce of an adult for the purposes of engaging illicit conduct for financial gain);



- (x) 18 U.S.C. §2424 (failure to file factual statement about an alien individual); or
  - (xi) 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- (e) **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 note) that is similar to those offenses outlined in section 23-1-105(1) (B), (C), or (D) shall be considered a “Tier 1” offense.
- (2) **Tier 2 Offenses.**
- (a) **Recidivism and Felonies.** Unless otherwise covered by Section 23-1-105(3), any sex offense that is not the first sex offense for which a person has been convicted or an attempt or conspiracy to commit such an offense and that is punishable by more than one year in jail is considered a Tier 2 offense.
  - (b) **Offenses Involving Minors.** A “Tier 2” offense includes 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 13 years of age or older, 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.
  - (c) **Certain Federal Offenses.** Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 2” offense:
    - (i) 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion);

- (ii) 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);
  - (iii) 18 U.S.C. §2244 (abusive sexual contact, where the victim is 13 years of age or older);
  - (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 or 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 for prostitution);
  - (x) 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution); or
  - (xi) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).
- (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 note) that is similar to those offenses outlined in section 23-1-105(2) (A), (B), or (C) shall be considered a “Tier 2” offense.
- (3) **Tier 3 Offenses.**
- (a) **Recidivism and Felonies.** Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction or an attempt or conspiracy to commit such an offense for a Tier 2 sex offense, or has previously become a Tier 2 sex offender, is a Tier 3 offense.
  - (b) **General Offenses.** A “Tier 3” offense includes 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 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) **Certain Federal Offenses.** Conviction for any of the following federal offenses shall be considered conviction for a “Tier 3” offense:
- (i) 18 U.S.C. §2241 (aggravated sexual abuse);
  - (ii) 18 U.S.C. §2245 (offenses resulting in death);
  - (iii) 18 U.S.C. §2242 (sexual abuse);
  - (iv) 18 U.S.C. §2243 (sexual abuse of a minor or ward); or
  - (v) Where the victim is 12 years of age or younger, 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 note) that is similar to those offenses outlined in section 23-1-105(3)(A), (B), or (C) shall be considered a “Tier 3” offense.

## **23-1-106. Registration.**

### **(1) Where Registration is Required.**

- (a) **Jurisdiction of Conviction.** A sex offender must initially register with the SUPD if the sex offender was convicted by the Southern Ute Tribal Court of a registerable sex offense, regardless of the sex offender’s actual or intended residency.

- (b) **Jurisdiction of Incarceration.** A sex offender must register with the SUPD if the sex offender is incarcerated by the Tribe while completing any sentence for a registerable sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
  - (c) **Jurisdiction of Residence.** An Indian sex offender must register with the SUPD if the sex offender resides within the exterior boundaries of the Reservation, and a non-Indian sex offender must register with the SUPD if the sex offender resides on lands subject to the jurisdiction of the Tribe, including tribal trust land and tribally-owned fee land within the exterior boundaries of the Reservation.
  - (d) **Jurisdiction of Employment.** An Indian sex offender must register with the SUPD if he or she is employed within the exterior boundaries of the Reservation, and a non-Indian sex offender must register with the SUPD if the non-Indian sex offender is employed by the Tribe in any capacity or otherwise is employed within lands subject to the jurisdiction of the Tribe including tribal trust land and tribally-owned fee land within the exterior boundaries of the Reservation.
  - (e) **Jurisdiction of School Attendance.** An Indian sex offender must register with the SUPD if the sex offender is a student in any capacity within the exterior boundaries of the Reservation, and a non-Indian sex offender must register with the SUPD if the non-Indian sex offender attends school on lands subject to the jurisdiction of the Tribe, including tribal trust land and tribally-owned fee land within the exterior boundaries of the Reservation.
- (2) **Timing of Registration.** A sex offender required to register with the Tribe under this code shall do so in the following timeframe:
- (a) If convicted for a registerable sex offense and incarcerated at the Southern Ute Detention Center, the sex offender must register before being released from incarceration;
  - (b) If convicted of a registerable sex offense but not incarcerated, within 3 business days of sentencing for the registerable offense, and
  - (c) Within 3 business days of establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the Tribe, including tribal trust land and tribally-owned fee land within the exterior boundaries of the Reservation, a sex offender must appear in person to register with SUPD.

(3) **Acknowledgement of Registration Requirements.** The sex offender shall read, or have read to them, and sign a form stating that the duty to register has been explained to them by the SUPD and that the sex offender understands the registration requirement.

- (a) The form shall be signed and dated by the SUPD personnel registering the sex offender.
- (b) The SUPD shall immediately upload the acknowledgement form into the Southern Ute sex-offender registry.

(4) **Keeping Registration Current.**

- (a) **Jurisdiction of Residency.** Any Indian sex offender who resides within the exterior boundaries of the Reservation, and any non-Indian sex offender who resides on lands subject to the jurisdiction of the Tribe, including tribal trust land and tribally-owned fee land within the exterior boundaries of the Reservation, shall immediately appear in person at the SUPD to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform SUPD via telephone of any changes to their temporary lodging information, vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, the sex offender and SUPD shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.
- (b) **Jurisdiction of School Attendance.** Any Indian sex offender who is a student in any capacity within the exterior boundaries of the Reservation, and any non-Indian sex offender who attends school on lands subject to the jurisdiction of the Tribe, including tribal trust land and tribally-owned fee land within the exterior boundaries of the Reservation, who change their school, or otherwise terminate their schooling, shall immediately appear in person at the SUPD to update that information. The SUPD shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.
- (c) **Jurisdiction of Employment.** Any non-Indian sex offender employed on tribal trust land within the exterior boundaries of the Reservation, and any Indian sex offender who is employed by the Tribe in any capacity or otherwise is employed on lands subject to the jurisdiction of the Tribe,

including tribal trust land and tribally-owned fee land within the exterior boundaries of the Reservation who change their employment, or otherwise terminate their employment, shall immediately appear in person at the SUPD to update that information. The SUPD shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

(5) **Retroactive Registration.**

- (a) SUPD must ensure that the following categories of sex offenders are subject to the registration and updating requirements of the Code:
  - (i) Sex offenders incarcerated or under the supervision of the Tribe, whether for a covered sex offense or other crime.
  - (ii) Those persons who were convicted of a sex offense prior to the enactment of SORNA, who are subsequently reentering the justice system due to a felony or sex offense conviction.

**23-1-107. General Requirements.**

- (1) **Duties.** A sex offender covered by this Code who is required to register with the Tribe pursuant to this Code shall provide all of the information detailed in this Section to the SUPD. The SUPD shall verify all sex offender information on a quarterly basis.
  - (a) **Name.** A registerable sex offender shall provide the following information related to the sex offender's name:
    - (i) The sex offender's full primary given name;
    - (ii) Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used; and
    - (iii) 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.
  - (b) **Date of Birth.** A registerable sex offender shall provide the following information related to the sex offender's date of birth:
    - (i) The sex offender's actual date of birth.

- (ii) Any other date of birth used by the sex offender.
- (c) **Social Security Number.** A registerable sex offender shall provide the following information:
  - (i) A valid social security number for the sex offender.
  - (ii) Any social security number the sex offender has used in the past, valid or otherwise.
- (d) **Phone Numbers.** A registerable sex offender shall provide the following information related to the sex offender's telephone numbers:
  - (i) Any and all land line telephone numbers.
  - (ii) Any and all cellular telephone numbers.
- (e) **Address.** A registerable sex offender shall provide the following information related to the sex offender's address:
  - (i) The address of each residence at which the sex offender resides or will reside; and
  - (ii) 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; and
  - (iii) A valid mailing address.
- (f) **School Information.** A registerable sex offender shall provide the following information related to the sex offender's school:
  - (i) The address of each school where the sex offender is or will be a student.
  - (ii) The name of each school the sex offender is or will be a student.
- (g) **Employment Information.** A registerable 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:

- (i) The name of the sex offender's employer;
  - (ii) The address of the sex offender's employer; and
  - (iii) Similar information related to any transient or day labor employment.
- (h) **Criminal History.** A registerable sex offender shall provide the following information related to the sex offender's criminal history:
- (i) The date of all arrests;
  - (ii) The date of all convictions;
  - (iii) The sex offender's status of parole, probation, or supervised release;
  - (iv) The sex offender's registration status; and
  - (v) Any outstanding arrest warrants.
- (i) **Vehicle Information.** A registerable 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:
- (i) License plate numbers;
  - (ii) Registration numbers or identifiers;
  - (iii) General description of the vehicle to include color, make, model, and year; and
  - (iv) Any permanent or frequent locations where any registerable vehicle is kept.
- (j) **Internet Identifiers.** A registerable sex offender shall provide the following information related to the sex offender's internet related activity:
- (i) Any and all email addresses used by the sex offender;
  - (ii) Any and all Instant Message addresses and identifiers;



- (iii) Any and all other designations or monikers used for self-identification in internet communications or postings; and
  - (iv) Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.
- (k) **Physical Description.** A registerable sex offender shall provide an accurate description of the sex offender as follows:
  - (i) A physical description;
  - (ii) A general description of the sex offender's physical appearance or characteristics; and
  - (iii) Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.
- (l) **Driver's Licenses, Identification Cards, Passports, and Immigration Documents.**
  - (i) **Driver's License.** A registerable sex offender shall provide a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.
  - (ii) **Identification Cards.** A registerable sex offender shall provide a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.
  - (iii) **Passports.** A registerable sex offender shall provide a photocopy of any passport used by the sex offender.
  - (iv) **Immigration Documents.** A registerable sex offender shall provide a photocopy of any and all immigration documents.
- (m) **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 SUPD or designee a sample of his DNA.
- (n) **Finger and Palm Prints.** A registerable sex offender shall provide both finger prints and palm prints.
- (o) **Photograph.**

- (i) A registerable sex offender shall provide a current photograph of him or herself.
  - (ii) **Update Requirements.** Unless the appearance of a sex offender has not changed significantly, a digitized photograph will be collected:
    - A. Every 90 days for Tier 3 sex offenders;
    - B. Every 180 days for Tier 2 sex offenders; and
    - C. Every year for Tier 1 sex offenders.
  - (p) **Professional Licensing Information.** A registerable 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.
  - (q) **Temporary Lodging Information.** A registerable sex offender shall provide the following information when the sex offender will be absent from his residence for 7 days or more:
    - (i) Identifying information of the temporary lodging locations including addresses and names.
    - (ii) The dates the sex offender will be staying at each temporary lodging location.
    - (iii) The registered sex offender shall provide the information in the above two sections no later than 7 days before his or her scheduled travel. The information shall be provided in person.
  - (r) **International Travel.** Sex offenders must inform their residence jurisdictions 21 days in advance if they intend to travel outside of the United States. Jurisdictions must notify the U.S. Marshals Service and immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information. Update also must be made to NCIC/NSOR.
- (2) **Requirements for in Person Appearances.**
- (a) **Photographs.** At each in-person verification, the sex offender shall permit the SUPD 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.

**23-1-108. Frequency, Duration and Reduction of Registration.**

- (1) **Frequency and Duration.** A sex offender who is required to register shall, at a minimum, appear in person at the SUPD for purposes of verification and keeping their registration current in accordance with the following time frames:
  - (a) For “Tier 1” offenders, once every year for 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 2” offenders, once every 180 days for 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 3” offenders, once every 90 days for the rest of their lives.
- (2) **Reduction of Registration Periods.** A sex offender may have his or her period of registration reduced if he or she maintains a clean record for the time periods prescribed below.
  - (a) **Clean Record.** For purposes of this Code, a person has a clean record if:
    - (i) He or she has not been convicted in a court other than a tribal court of any offense for which imprisonment for more than 1 year may be imposed;
    - (ii) He or she has not been convicted in tribal court of an offense that, if in a non-tribal jurisdiction, would be a felony;
    - (iii) He or she has not been convicted of any sex offense;
    - (iv) He or she has successfully completed, without revocation, any period of supervised release, probation, or parole; and
    - (v) 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.

**(b) Reductions Available.**

- (i) A Tier 1 offender may have his or her period of registration reduced to 10 years if he or she has maintained a clean record for 10 consecutive years.
- (ii) A Tier 3 offender may have his or her period of registration reduced to 25 years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for 25 consecutive years. A Tier 3 offender is not eligible to have his or her registration requirement discontinued pursuant to § 23- 1-108(3).

**(3) Petitions for Removal from Registry.**

- (a) Except as otherwise provided in this Code, any person who has been adjudicated delinquent as a juvenile for a sex offense who is required to register pursuant to this Code or whose information is required to be posted on the internet pursuant to this Code may file a petition with the Southern Ute Tribal Court for an order to discontinue the requirement for such registration or internet posting, or both:
  - (i) if the person was younger than 18 years of age at the time he or she committed the offense;
  - (ii) after the successful completion of and discharge from the sentence;
  - (iii) if the person has not been subsequently convicted of unlawful sexual behavior or of any other offense, the underlying factual basis of which involved unlawful sexual behavior; and
  - (iv) the person was adjudicated delinquent in the Southern Ute Tribal Court.
- (b) In determining whether to grant the petition, the court shall consider whether the person is likely to commit a subsequent offense involving unlawful sexual behavior. The court shall base its determination on recommendations from the person's probation or parole officer, the person's treatment provider, and the prosecuting attorney for the jurisdiction in which the person was tried and on the recommendations included in the person's presentence investigation report. In addition, the court shall consider any written or oral testimony submitted by the victim of the offense for which the petitioner was required to register.

If the person is eligible to petition to discontinue his or her duty to register, the court, at least 63 days before granting the petition, shall notify the following that the court shall consider whether to order that the juvenile may discontinue his or her duty to register:

- (i) the petitioner's probation or parole officer;
- (ii) the petitioner's treatment provider;
- (iii) the tribal prosecutor;
- (iv) the petitioner; and
- (v) the victim of the offense for which the juvenile was required to register by mail to the victim's last known address.

The court shall set the matter for hearing if any of the parties described in this paragraph or the victim of the offense objects, or if the juvenile requests a hearing, and shall consider the criteria in this paragraph in determining whether to continue or discontinue the duty to register. If the court enters an order discontinuing the juvenile's duty to register, the court shall send a copy of the order to each local law enforcement agency with which the juvenile is registered and to the jurisdictions that maintain the Tribe's sex offender websites. If the victim of the offense has requested notice, the court shall notify the victim of its decision either to continue or discontinue the juvenile's duty to register.

- (c) Prior to filing a petition pursuant to this section, the petitioner shall notify each of the following parties by certified mail of the petitioner's intent to file a request pursuant to this section:
  - (i) Each local law enforcement agency with which the petitioner is required to register;
  - (ii) The prosecuting attorney for the jurisdiction in which each such local law enforcement agency is located; and
  - (iii) The prosecuting attorney who obtained the adjudication for which the petitioner is required to register.

When filing the petition, the petitioner shall attach to the petition copies of the return receipts received from each party notified pursuant to this paragraph.

- (d) On receipt of a copy of an order discontinuing a petitioner's duty to register:
  - (i) SUPD shall remove the petitioner's sex offender registration information from the sex offender registry; and
  - (ii) Shall notify other jurisdictions where the petitioner is required to register due to his or her adjudication; and
  - (iii) Shall notify the jurisdictions that maintain the Tribe's sex offender websites that the petitioner's information shall be removed from the website.
- (e) Where a petitioner has been adjudicated delinquent by another jurisdiction, and the petitioner has obtained a valid, certified order from that jurisdiction relieving the petitioner from his or her duty to register, the petitioner may request that the Southern Ute Indian Tribe recognize such order. If such order has been recognized by the Southern Ute Indian Tribal Court, SUPD shall remove the petitioner's sex offender registration information from the Tribe's sex offender registry and shall notify the jurisdictions that maintain the Tribe's sex offender websites that petitioner's information shall be removed from the website.

#### **23-1-109. Immunity.**

- (1) **No Waiver of Immunity.** Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Southern Ute Indian Tribe, its departments, agencies, employees, or agents.
- (2) **Good Faith.** Without limitation on the foregoing, any tribal official acting under good faith of this Title shall be immune from any civil liability arising out of such actions.

#### **23-1-110. Violations.**

- (1) **Criminal.** Each violation of a provision of this Code by a sex offender who is an Indian shall be considered a crime.

- (2) **Civil.** Each violation of a provision of this Code by a sex offender who is not an Indian shall be considered a civil violation.
- (3) **Hindrance of Sex Offender Registration.** A person is guilty of an offense if they:
  - (a) Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this Title;
  - (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 Title; or
  - (c) Provides information to law enforcement agency regarding a sex offender which the person knows to be false.

#### **23-1-111. Sanctions.**

- (1) **Criminal Penalty.** Each violation of a 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 1 year and a fine of up to \$5,000.
- (2) **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 of up to \$5,000, forfeitures, and civil contempt. Civil violations must be proven by a preponderance of the evidence.
- (3) **Exclusion.** Civil and criminal violations of this Code are punishable by exclusion from the Southern Ute Indian Reservation.

## **TITLE 23**

### **SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION CODE**

#### **(SORNA CODE)**

#### **History and Amendments<sup>1</sup>**

The Southern Ute Indian Tribal Sex Offender Registration and Community Notification Code (“SORNA Code”) adopted by Tribal Resolution No. 2013-167 on August 13, 2013, approved by the Bureau of Indian Affairs on August 19, 2013.

Resolution No. 2021-151 repealed and replaced Title 23 – SORNA Code – with a reformatted SORNA Code for online publication that contained only minor technical corrections, no substantive revisions, that the Bureau of Indian Affairs concurred it did not need to formally approve (April 25, 2023).

Resolution No. 2023-079 authorized on-line publication of the 2021-151 reformatted SORNA Code and provided an effective date of May 25, 2023.

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<sup>1</sup> This page does not constitute an official part of any code. Information contained on this page is solely for informational and historical purposes and is from sources deemed reliable.