

JULY 2009, CROW TRIBAL LEGISLATURE

BILL NO. CLB09-05

**INTRODUCED BY CEDRIC BLACK EAGLE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH**

A BILL FOR AN ACT ENTITLED "AN ACT TO AMEND THE CRIMINAL CODE, TITLE 8D, TO ADOPT A NEW SEX OFFENDER REGISTRATION AND NOTIFICATION ACT TO CONFORM WITH THE REQUIREMENTS IN THE ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006, PUBLIC LAW 109-248 "

WHEREAS, the United States Congress enacted the Adam Walsh Child Protection and Safety Act in 2006, and

WHEREAS, the stated purpose of the Adam Walsh Child Protection and Safety Act is to protect children from sexual exploitation and violent crime, to promote Internet safety, and to honor the memory of child victims such as Adam Walsh, and

WHEREAS, Title I of the Adam Walsh Act is known as the Sex Offender Registration and Notification Act (SORNA), and

WHEREAS, the federal government has mandated that the States shall have the obligation to participate in a national sex offender registration program meeting the requirements of SORNA on behalf of tribal governments located within a particular state unless the tribal government elects to participate in the national registration program and to meet the requirements of SORNA; and

WHEREAS, the Crow Tribe elected to participate in the national sex offender registration program and to function as a registration jurisdiction in order to maintain its sovereign right to manage its law enforcement programs without interference or direction by the State of Montana through CLB 07-12, which was signed into law by Chairman Carl Venne on July 19, 2007;

WHEREAS, the Crow Tribe is required by the terms of Title I of the Adam Walsh Act to adopt legislation to fully comply with the requirements therein; and

WHEREAS, the requirements and procedures outlined in the Crow Law and Order Code, Title 8D, Sex Offenders, do not currently meet the requirements of Title I of the Adam Walsh Act and therefore must be amended or replaced; and

WHEREAS, the Crow Tribe now has until July 27, 2010 to come into full compliance with Title I of the Adam Walsh Act;

NOW THEREFORE BE IT ENACTED BY THE CROW TRIBAL LEGISLATURE:

The current provisions of Title 8D, Sex Offender Registration, are hereby rescinded and replaced with the attached Crow Tribe Sex Offender Registration Ordinance. Title 8D, Sex Offender Registration, shall be amended to read as follows:

CROW TRIBE SEX OFFENDER REGISTRATION ORDINANCE

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CHAPTER 1 GENERAL MATTERS

SECTION 1.01 TITLE

This Code/Ordinance shall be known as the Crow Tribe Sex Offender Registration Ordinance.

SECTION 1.02 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) and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.

SECTION 1.03 NEED

Violent crime in Indian Country is more than twice the national average. On some reservations it is twenty times the national average. An astounding thirty percent of Indian and Alaska Native women will be raped in their lifetimes. Tribal nations are disproportionately affected by violent crime and sex offenses in particular from both Indian and non-Indian perpetrators; consequently, the conduct and presence of convicted sex offenders in Indian Country threatens the political integrity, economic security, health and welfare of tribal nations even to the point of imperiling the subsistence of tribal communities.

SECTION 1.04 CREATION OF REGISTRIES

- A. Sex Offender Registry. There is hereby established a Crow Tribe Sex Offender Registry, which the Crow Tribe shall maintain and operate pursuant to the provisions of this code, as amended.
- B. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the Crow Tribe Sex Offender Registry shall maintain and operate pursuant to the provisions of this code, as amended.

CHAPTER 2 TERMINOLOGY AND COVERED OFFENSES

SECTION 2.01 DEFINITIONS

The Definitions below apply to this Ordinance only.

- A. Convicted. An adult sex offender is "convicted" for the purposes of this code if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.
 - a). A juvenile offender is "convicted" for purposes of this code if the juvenile offender is either:
 - 1. Prosecuted and found guilty as an adult for a sex offense; or
 - 2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.
- B. Foreign Convictions. A foreign conviction is one obtained outside of the United States.

- C. Employee. The term "employee" as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.
- D. Immediate. "Immediate" and "immediately" mean within 3 business days.
- E. Imprisonment. The term "imprisonment" refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state "prison" as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal "jail". Persons under "house arrest" following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of "house arrest".
- F. Jurisdiction. The term "jurisdiction" as used in this code refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe.
- G. Minor. The term "minor" means an individual who has not attained the age of 18 years.
- H. Resides. The term "reside" or "resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps.
- I. Sex Offense. The term "sex offense" as used in this code includes those offenses contained in 42 U.S.C. §16911(5) and those offenses enumerated in Section 2.02 of this Code/Title or any other covered offense under tribal law.
- a). An offense involving consensual sexual conduct is not a sex offense for the purposes of this Ordinance if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.
- J. Sex Offender. A person convicted of a sex offense is a "sex offender".
- K. Sexual Act. The term "sexual act" means:
1. contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
 2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
 4. the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- L. Sexual Contact. The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent

to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of another person.

- M. Student. A “student” is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.
- N. SORNA. The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. §16911 *et. seq.*, as amended.
- O. Sex Offender Registry. The term “sex offender registry” means the registry of sex offenders, and a notification program, maintained by the Crow Tribe.
- P. National Sex Offender Registry (NSOR). The national database maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16919.
- Q. SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.
- R. Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.
- S. “Tier 1 Sex Offender”. A “tier 1 sex offender”, or a “sex offender” designated as “tier 1”, is one that has been convicted of a “tier 1” sex offense as defined in section 3.01.
- T. “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 3.02, or who is subject to the recidivist provisions of 3.02(B).
- U. “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 3.03, or who is subject to the recidivist provisions of 3.03(B).

SECTION 2.02 COVERED OFFENSES

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

A. Tribal offenses.

1. CLOC 8B-5-502 (sexual assault)
2. CLOC 8B-5-503 (sexual intercourse without consent)
3. CLOC 8B-5-504 (indecent exposure)
4. CLOC 8B-5-505 (deviate sexual conduct)

5. CLOC 8B-5-609 (sexual abuse of children)
 6. CLOC 8B-8-203 (public display or dissemination of obscene materials to minors)
- B. Federal Offenses. A conviction for any of the following, and any other offense hereafter included in the definition of "sex offense" at 42 U.S.C. §16911(5):
1. 18 U.S.C. §1591 (sex trafficking of children),
 2. 18 U.S.C. §1801 (video voyeurism of a minor),
 3. 18 U.S.C. §2241 (aggravated sexual abuse),
 4. 18 U.S.C. §2242 (sexual abuse),
 5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
 6. 18 U.S.C. §2244 (abusive sexual contact),
 7. 18 U.S.C. §2245 (offenses resulting in death),
 8. 18 U.S.C. §2251 (sexual exploitation of children),
 9. 18 U.S.C. §2251A (selling or buying of children),
 10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
 11. 18 U.S.C. §2252A (material containing child pornography),
 12. 18 U.S.C. §2252B (misleading domain names on the internet),
 13. 18 U.S.C. §2252C (misleading words or digital images on the internet),
 14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.),
 15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
 16. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),
 17. 18 U.S.C. §2423 (Mann Act),
 18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual),
 19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in this Section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- D. Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. 951 note).

- 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 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.
- F. Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this tribe, that involves:
1. Any type or degree of genital, oral, or anal penetration,
 2. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
 3. Kidnapping of a minor,
 4. False imprisonment of a minor,
 5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
 6. Use of a minor in a sexual performance,
 7. Solicitation of a minor to practice prostitution,
 8. Possession, production, or distribution of child pornography,
 9. Criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
 10. Any conduct that by its nature is a sex offense against a minor, or
 11. Any offense similar to those outlined in:
 - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
 - b. 18 U.S.C. §1801 (video voyeurism of a minor),
 - c. 18 U.S.C. §2241 (aggravated sexual abuse),
 - d. 18 U.S.C. §2242 (sexual abuse),
 - e. 18 U.S.C. §2244 (abusive sexual contact),
 - f. 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution), or
 - g. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

A. Except as limited by subparagraph 6 or 7, the term "sex offense" means:

1. A criminal offense that has an element involving a sexual act or sexual contact with another;

2. A criminal offense that is a "specified offense against a minor". The term "specified offense against a minor" means an offense against a minor that involves any of the following:
 - a. An offense (unless committed by a parent or guardian) involving kidnapping.
 - b. An offense (unless committed by a parent or guardian) involving false imprisonment.
 - c. Solicitation to engage in sexual conduct.
 - d. Use in a sexual performance.
 - e. Solicitation to practice prostitution.
 - f. Video voyeurism as described in 18 U.S.C. §1801.
 - g. Possession, production, or distribution of child pornography.
 - h. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
 - i. Any conduct that by its nature is a sex offense against a minor;
3. A Federal offense (including an offense prosecuted under section 1152 or 1153 of Title 18 of the United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code;
4. A military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or
5. An attempt or conspiracy to commit an offense described in clauses (1) through (4).
6. Offenses involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this Ordinance if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.
7. Foreign Offenses. A foreign conviction is not a sex offense for the purposes of this code/ordinance unless it was either:
 - a. obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or
 - b. under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

CHAPTER 3. TIERED OFFENSES

SECTION 3.01 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 2.02(C) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- C. Tribal Offenses. Any sex offense covered by this act where punishment was limited to one year in jail shall be considered a "Tier 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:
 - 1. 18 U.S.C. §1801 (video voyeurism of a minor),
 - 2. 18 U.S.C. §2252 (receipt or possession of child pornography),
 - 3. 18 U.S.C. §2252A (receipt or possession of child pornography),
 - 4. 18 U.S.C. §2252B (misleading domain names on the internet),
 - 5. 18 U.S.C. §2252C (misleading words or digital images on the internet),
 - 6. 18 U.S.C. §2422(a) (coercion to engage in prostitution),
 - 7. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
 - 8. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
 - 9. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), or
 - 10. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- E. 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 3.01(A),(B), or (C) shall be considered a "Tier 1" offense.

SECTION 3.02 TIER 2 OFFENSES

- A. Recidivism and Felonies. Unless otherwise covered by Section 3.03, 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 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:
 - 1. The use of minors in prostitution, including solicitations,
 - 2. Enticing a minor to engage in criminal sexual activity,

3. Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body,
4. The use of a minor in a sexual performance, or
5. The production or distribution of child pornography.

C. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a "Tier 2" offense:

1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
2. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
3. 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older),
4. 18 U.S.C. §2251 (sexual exploitation of children),
5. 18 U.S.C. §2251A (selling or buying of children),
6. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
7. 18 U.S.C. §2252A (production or distribution of material containing child pornography),
8. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
9. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
10. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),
11. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

D. 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 3.02(A),(B), or (C) shall be considered a "Tier 2" offense.

SECTION 3.03 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 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:

1. Non-parental kidnapping of a minor,
2. A sexual act with another by force or threat,
3. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or

4. Sexual contact with a minor 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:

1. 18 U.S.C. §2241 (a) and (b) (aggravated sexual abuse),
2. 18 U.S.C. §2242 (sexual abuse), or
3. 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 3.03(A),(B), or (C) shall be considered a "Tier 3" offense.

CHAPTER 4 REQUIRED INFORMATION

SECTION 4.01 GENERAL REQUIREMENTS

- A. Duties. A sex offender covered by this code who is required to register with the tribe pursuant to Chapter 5 shall provide all of the information detailed in this chapter to the Crow Tribe Sex Offender Registry, and the Crow Tribe Sex Offender Registry shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the tribe in accordance with this code and shall implement any relevant policies and procedures.
- B. Digitization. All information obtained under this code shall be, at a minimum, maintained by the Crow Tribe Sex Offender Registry in a digitized format.
- C. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Crow Tribe Sex Offender Registry and shall be in a form capable of electronic transmission.

SECTION 4.02 CRIMINAL HISTORY

- A. Criminal History. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:
 1. The date of all arrests,
 2. The date of all convictions,
 3. The sex offender's status of parole, probation, or supervised release,
 4. The sex offender's registration status, and
 5. Any outstanding arrest warrants.

SECTION 4.03 DATE OF BIRTH

- A. Date of Birth. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:
1. The sex offender's actual date of birth, and
 2. Any other date of birth used by the sex offender.

SECTION 4.04 DNA SAMPLE

- A. DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Crow Tribe Sex Offender Registry or designee a sample of his DNA.
- B. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.

SECTION 4.05 DRIVER'S LICENSES, IDENTIFICATION CARDS, PASSPORTS, AND IMMIGRATION DOCUMENTS

- A. Driver's License. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.
- B. Identification Cards. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.
- C. Passports. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.
- D. Immigration Documents. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

SECTION 4.06 EMPLOYMENT INFORMATION

- A. Employment. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:
1. The name of the sex offender's employer,
 2. The address of the sex offender's employer, and
 3. Similar information related to any transient or day labor employment.

SECTION 4.07 FINGER AND PALM PRINTS

- A. Finger and Palm Prints. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

SECTION 4.08 INTERNET IDENTIFIERS

- A. Internet Names. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:
1. Any and all email addresses used by the sex offender,
 2. Any and all Instant Message addresses and identifiers,
 3. Any and all other designations or monikers used for self-identification in internet communications or postings, and
 4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

SECTION 4.09 NAME

- A. Name. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:
1. The sex offender's full primary given name,
 2. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
 3. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

SECTION 4.10 PHONE NUMBERS

- A. Phone Numbers. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:
1. Any and all land line telephone numbers, and
 2. Any and all cellular telephone numbers.

SECTION 4.11 PICTURE

- A. Photograph. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.
- B. Update Requirements. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected :
1. Every 90 days for Tier 3 sex offenders,
 2. Every 180 days for Tier 2 sex offenders, and
 3. Every year for Tier 1 sex offenders.

SECTION 4.12 PHYSICAL DESCRIPTION

- A. Physical Description. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:
1. A physical description,
 2. A general description of the sex offender's physical appearance or characteristics, and
 3. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

SECTION 4.13 PROFESSIONAL LICENSING INFORMATION

- A. Professional Licenses. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

SECTION 4.14 RESIDENCE ADDRESS

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

SECTION 4.15 SCHOOL

- A. School Location. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:
1. The address of each school where the sex offender is or will be a student, and
 2. The name of each school the sex offender is or will be a student.

SECTION 4.16 SOCIAL SECURITY NUMBER

- A. Social Security. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information:
1. A valid social security number for the sex offender, and
 2. Any social security number the sex offender has used in the past, valid or otherwise.

SECTION 4.17 TEMPORARY LODGING

- A. Lodging Information. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for 7 days or more:

1. Identifying information of the temporary lodging locations including addresses and names, and
2. The dates the sex offender will be staying at each temporary lodging location.
3. Travel Abroad. In the event the sex offender will be traveling outside of the United States for more than 7 days, the Crow Tribe Sex Offender Registry or designee shall immediately provide this information to INTERPOL.

SECTION 4.18 OFFENSE INFORMATION

- A. Offense Information. The Crow Tribe Sex Offender Registry or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

SECTION 4.19 VEHICLE INFORMATION

- A. Detailed Information. The Crow Tribe Sex Offender Registry or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:
1. License plate numbers,
 2. Registration numbers or identifiers,
 3. General description of the vehicle to include color, make, model, and year, and
 4. Any permanent or frequent location where any covered vehicle is kept.

SECTION 4.20 FREQUENCY, DURATION AND REDUCTION

- A. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Crow Tribe Sex Offender Registry for purposes of verification and keeping their registration current in accordance with the following time frames:
1. For "Tier 1" offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 2. For "Tier 2" offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 3. For "Tier 3" offenders, once every 90 days for the rest of their lives.
- B. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
1. A Tier 1 offender may have his or her period of registration reduced to 10 years if he or she has maintained a clean record for 10 consecutive years;
 2. 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.

C. Clean Record. For purposes of Chapter 4.20(B) a person has a clean record if:

1. He or she has not been convicted of any offense, for which imprisonment for more than 1 year may be imposed,
2. He or she has not been convicted of any sex offense,
3. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole, and
4. He or she has successfully completed an appropriate sex offender treatment program certified by the tribe, another jurisdiction, or by the Attorney General of the United States.

a). **SECTION 4.21 REQUIREMENTS FOR IN PERSON APPEARANCES**

- A. Photographs. At each in person verification, the sex offender shall permit the Crow Tribe Sex Offender Registry 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.
- b). C. Notification. If any new information or change in information is obtained at an in person verification, the Crow Tribe Sex Offender Registry shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

CHAPTER 5 REGISTRATION

SECTION 5.01 WHERE REGISTRATION IS REQUIRED

- A. Jurisdiction of Conviction. A sex offender must initially register with the Crow Tribe Sex Offender Registry of the Crow Tribe if the sex offender was convicted by the Crow Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
- B. Jurisdiction of Incarceration. A sex offender must register with the Crow Tribe Sex Offender Registry of the Crow Tribe if the sex offender is incarcerated by the tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
- C. Jurisdiction of Residence. A sex offender must register with the Crow Tribe Sex Offender Registry of the Crow Tribe if the sex offender resides within the physical boundaries of the Crow Indian Reservation.
- D. Jurisdiction of Employment. A sex offender must register with the Crow Tribe Sex Offender Registry of the Crow Tribe if he or she is employed by the tribe in any capacity or otherwise is employed within the physical boundaries of the Crow Indian Reservation.
- E. Jurisdiction of School Attendance. A sex offender must register with the Crow Tribe Sex Offender Registry of the Crow Tribe if the sex offender is a student in any capacity within the physical boundaries of the Crow Indian Reservation.

SECTION 5.02 TIMING OF REGISTRATION

- A. Timing. A sex offender required to register with the tribe under this code shall do so in the following timeframe:

1. If convicted by the Crow Tribal Court for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
 2. If convicted by the Crow Tribal Court but not incarcerated, within 3 business days of sentencing for the registration offense, and
 3. Within 3 business days of establishing a residence, commencing employment, or becoming a student on lands within the physical boundaries of the Crow Indian Reservation, a sex offender must appear in person to register with Crow Tribe Sex Offender Registry.
- B. Duties of Crow Tribe Sex Offender Registry. The Crow Tribe Sex Offender Registry shall have policies and procedures in place to ensure the following:
1. That any sex offender incarcerated or sentenced by the tribe for a covered sex offense completes their initial registration with the tribe,
 2. That the sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement,
 3. That the sex offender is registered, and
 4. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

SECTION 5.03 RETROACTIVE REGISTRATION

- A. Retroactive Registration. The Crow Tribe Sex Offender Registry shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:
1. Sex offenders incarcerated or under the supervision of the tribe, whether for a covered sex offense or other crime,
 2. Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the tribe's laws, and
 3. Sex offenders reentering the justice system due to conviction for any crime.
- B. Timing of Recapture. The Crow Tribe Sex Offender Registry shall ensure recapture of the sex offenders mentioned in Section 5.03(A) within the following timeframe to be calculated from the date of passage of this code:
1. For Tier 1 sex offenders, 1 year,
 2. For Tier 2 sex offenders, 180 days, and
 3. For Tier 3 sex offenders, 90 days.

SECTION 5.04 KEEPING REGISTRATION CURRENT

- A. Jurisdiction of Residency. All sex offenders required to register in this jurisdiction shall immediately appear in person at the Crow Tribe Sex Offender Registry 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 Crow Tribe Sex Offender Registry in person or in writing via certified mail 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 Crow Tribe Sex Offender Registry shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.

- B. Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within the physical boundaries of the Crow Indian Reservation, regardless of location, that change their school, or otherwise terminate their schooling, shall immediately appear in person at the Crow Tribe Sex Offender Registry to update that information. The Crow Tribe Sex Offender Registry 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 sex offender who is employed by the tribe in any capacity or otherwise is employed within the physical boundaries of the Crow Indian Reservation, regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Crow Tribe Sex Offender Registry to update that information. The Crow Tribe Sex Offender Registry 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.
- D. Duties of Crow Tribe Sex Offender Registry. With regard to changes in a sex offender's registration information, the Crow Tribe Sex Offender Registry or designee shall immediately notify:
 - 1. All jurisdictions where a sex offender intends to reside, work, or attend school,
 - 2. Any jurisdiction where the sex offender is either registered or required to register, and
 - 3. Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The tribal police shall also ensure this information is immediately updated on NSOR.

SECTION 5.05 FAILURE TO APPEAR FOR REGISTRATION AND ABSCONDING

- A. Failure to Appear. In the event a sex offender fails to register as required by this code, the Crow Tribe Sex Offender Registry or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the tribe that the sex offender failed to appear for registration.
- B. Absconded Sex Offenders. If the Crow Tribe Sex Offender Registry or designee receives information that a sex offender has absconded the Crow Tribe Sex Offender Registry shall make an effort to determine if the sex offender has actually absconded.
 - 1. In the event no determination can be made, the Crow Tribe Sex Offender Registry or designee shall ensure the tribal police and any other appropriate law enforcement agency is notified.
 - 2. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.

3. If an absconded sex offender cannot be located then the tribal police shall take the following steps:
 - a. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located,
 - b. Notify the U.S. Marshals Service,
 - c. Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest,
 - d. Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
 - e. Enter the sex offender into the National Crime Information Center Wanted Person File.
- C. Failure to Register. In the event a sex offender who is required to register due to their employment or school attendance status fails to do so or otherwise violates a registration requirement of this code, the Crow Tribe Sex Offender Registry shall take all appropriate follow-up measures including those outlined in Section 5.05(B). The Crow Tribe Sex Offender Registry shall first make an effort to determine if the sex offender is actually employed or attending school in lands subject to the tribe's jurisdiction.

CHAPTER 6 PUBLIC SEX OFFENDER REGISTRY WEBSITE

SECTION 6.01 WEBSITE

- A. Website. The Crow Tribe Sex Offender Registry shall use and maintain a public sex offender registry website.
- B. Links. The registry website shall include links to sex offender safety and education resources.
- C. Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
- D. Warnings. 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.
- E. Search Capabilities. The registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code and/or geographic radius.
- F. Dru Sjodin National Sex Offender Public Website. The tribe 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.

SECTION 6.02 REQUIRED AND PROHIBITED INFORMATION

- A. Required Information. The following information shall be made available to the public on the sex offender registry website:

1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
 2. All sex offenses for which the sex offender has been convicted,
 3. The sex offense(s) for which the offender is currently registered,
 4. The address of the sex offender's employer(s),
 5. The name of the sex offender including all aliases,
 6. A current photograph of the sex offender,
 7. A physical description of the sex offender,
 8. The residential address and, if relevant, a description of a habitual residence of the sex offender,
 9. All addresses of schools attended by the sex offender, and
 10. The sex offender's vehicle license plate number along with a description of the vehicle.
- B. Prohibited Information. The following information shall not be available to the public on the sex offender registry website:
1. Any arrest that did not result in conviction,
 2. The sex offender's social security number,
 3. Any travel and immigration documents,
 4. The identity of the victim, and
 5. Internet identifiers (as defined in 42 U.S.C. §16911).
- C. Witness Protection. For sex offenders who are under a witness protection program, the tribal police 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.

SECTION 6.03 COMMUNITY NOTIFICATION

- A. Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the tribe, the Crow Tribe Sex Offender Registry shall:
1. Immediately notify the FBI or other federal agency as designated by the Attorney General in order that the information may be updated on NSOR or other relevant databases,
 2. Immediately notify any agency, department, or program within the tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.
 3. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.

4. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates registration.

B. Community Notification. The Crow Tribe Sex Offender Registry shall ensure there is an automated community notification process in place that ensures the following:

1. Upon a sex offender's registration or update of information with the tribe, the tribe's public sex offender registry website is immediately updated,
2. The tribe's public sex offender registry has a function that enables the general public to request an e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

CHAPTER 7 IMMUNITY

A. No waiver of immunity. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Crow Tribe, its departments, agencies, employees, or agents.

B Good faith. Any person acting under good faith of this Title shall be immune from any civil liability arising out of such actions.

CHAPTER 8 CRIMES AND CIVIL SANCTIONS

A. 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 one year and a fine of up to \$5,000.00.

B. Civil Penalty. Each violation of a provision of this code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt.

C. Customs and traditions and banishment/exclusion.

D. Hindrance of sex offender registration

1. 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.

FURTHER BE IT ENACTED that upon passage of these proposed amendments, the current text of that Title shall be rescinded in its entirety and replaced by these amendments. These amendments will be codified within Title 8E of the Crow Law and Order Code.


CERTIFICATION

I hereby certify that this Crow Legislative Bill was duly approved by the Crow Tribal Legislature with a vote of 16 in favor, 0 opposed, and 0 abstained and that a quorum was present on this 15TH day of July, 2009.



Speaker of the House
Legislative Branch, Crow Tribe

Attest:


Secretary
Legislative Branch, Crow Tribe



EXECUTIVE ACTION

I hereby X (approve), _____ (veto) this Legislative Bill pursuant to the Authority vested in the Chairman of the Crow Tribe by Article V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians.

Dated this 20th day of July, 2009.



Cedric Black Eagle, Chairman
Executive Branch, Crow Tribe

Bill or Resolution Number: **CLB09-05** Introduced by: **Executive Branch** Date of Vote: **7/15/2009**

<u>Representative:</u>	Yes	No	Abstained
B. House	<u>X</u>	<u> </u>	<u> </u>
R. Fighter, Sr.	<u> </u>	<u> </u>	<u> </u>
C. J. Stewart	<u>X</u>	<u> </u>	<u> </u>
L. Hogan, Jr.	<u>X</u>	<u> </u>	<u> </u>
S. Fitzpatrick, Jr.	<u>X</u>	<u> </u>	<u> </u>
O. Half, Jr.	<u>X</u>	<u> </u>	<u> </u>
W. Plainfeather	<u>X</u>	<u> </u>	<u> </u>
R. Old Crow, Sr.	<u>X</u>	<u> </u>	<u> </u>
P. Alden, Jr.	<u>X</u>	<u> </u>	<u> </u>
M. Not Afraid	<u>X</u>	<u> </u>	<u> </u>
V. Crooked Arm	<u>X</u>	<u> </u>	<u> </u>
L. Plain Bull, Sr.	<u>X</u>	<u> </u>	<u> </u>
C. Goes Ahead	<u> </u>	<u> </u>	<u> </u>
O. Costa	<u>X</u>	<u> </u>	<u> </u>
J. Stone, Sr.	<u>X</u>	<u> </u>	<u> </u>
D. Wilson	<u>X</u>	<u> </u>	<u> </u>
B. Shane	<u>X</u>	<u> </u>	<u> </u>
Secretary of the House			
M. Covers Up, Sr.	<u>X</u>	<u> </u>	<u> </u>
Speaker of the House			
Totals:	<u>16</u>	<u>0</u>	<u>0</u>

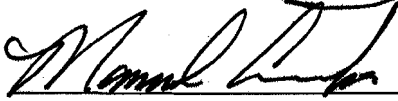
Result of Vote:

Passed

Not Passed

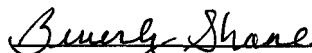
Tabled

Veto-Override



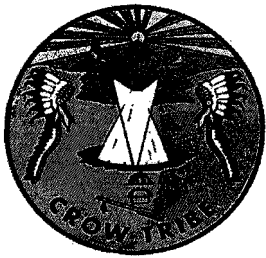
Manuel Covers Up, Sr.
Speaker of the House

Date



Beverly M. Shane
Secretary of the House

Date



Crow Country

LEGISLATIVE BRANCH OF THE CROW TRIBAL GOVERNMENT

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Legislative Branch

Pryor:

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Larry Plain Bull, Sr.
Oliver Costa
Carlson Goes Ahead

Big Horn:

Valley of the Give

Away

Vincent Crooked Arm
Marlin D. Not Afraid
Pat Alden, Jr.

Dunmore:

Black Lodge

Bruce R. House
Ertis Fighter, Sr.
Conrad J. Stewart

Reno:

Center Lodge

Lloyd Hogan, Jr.
Sidney Fitzpatrick, Jr.
Oliver Half, Jr.

Lodge Grass:

Valley of the Chief

Manuel Covers Up, Sr.

Speaker of the House

Rudolph K. Old Crow
Woodrow Plainfeather

Wyola:

Mighty Few

Beverly M. Shane
Secretary of the House
Jonathan D. Stone
Dana Wilson

Staff

Jackie Blacksmith,
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William Old Crow
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Assist.

Sheri Chandler
Office Assist./Receptionist

Sheila Wilkinson
Legal Assistant

Kenny Pretty On Top
Maintenance/Custodian
Sergeant at Arms

Ronald Arneson, Esq.,
Attorney At Law

OFFICIAL CERTIFICATE OF DELIVERY

I, Beverly M. Shane, Secretary of the Legislative Branch of the Crow Tribal Government hereby this Transitional Action do deliver a True and Correct Official copy Of the Final Approval for the following Bill:

INTRODUCED CEDRIC BLACK EAGLE, CHAIRMAN BRANCH CROW TRIBAL EXECUTIVE BRANCH

A BILL FOR ACT ENTITLED:

“AN ACT TO AMEND THE CRIMINAL CODE, TITLE 8D, TO ADOPT A NEW SEX OFFENDER REGISTRATION AND NOTIFICATION ACT TO CONFORM WITH THE REQUIREMENTS IN THE ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006, PUBLIC LAW 109-248 ”

No. CLB09-05 to William C. Mutt in the

Position of: Attorney for the
Crow Tribal Executive Branch.

Done and dated this 20 day of July, 2009 @ 11:35 a.m./p.m.

Beverly M. Shane
Beverly M. Shane
Secretary of the House
Legislative Branch of the
Crow Tribal Government

Served by:

Jackie Blacksmith
Legislative Branch Staff

Cc: file

