

# *Sex and Violent Offender Registration and the Registry in Indiana*



# History of Registration/Registry



- ◆ Started July 1, 1994 – Sex Offender Registry
- ◆ Modified significantly over the years with major revisions in 2001, 2003, 2006, and 2007
- ◆ Children who have influenced registration / registry
  - Jacob Wetterling
  - Megan Kanka
  - Adam Walsh
  - Zachary Snyder
- ◆ Indiana Sex and Violent Offender Registry

# Who Is Required To Register?

Rape Vicarious Sexual Gratification

Child Molesting Incest Child Solicitation

Child Exploitation Child Seduction Sexual Battery

Criminal Deviate Conduct

2<sup>nd</sup> Offense Possession Child Pornography

Sexual Misconduct with a Minor {A,B,C Felony}

Kidnapping {victim under 18 years of age}

Criminal Confinement {victim under 18 years of age}

Attempt or Conspiracy to Commit ANY of the above

A Crime under Laws in Other Jurisdictions  
(including Military) that are EQUIVALENT  
to ANY of the above

# Registration of Juveniles Adjudicated as Delinquents

- ◆ 14 year of age or older
- ◆ Commit offense that is similar to an adult registration offense
- ◆ Released from incarceration or placed on supervision
- ◆ Found by a court by clear and convincing evidence to be likely to repeat an act that would be a similar act as that of an adult
- ◆ In making determination...court shall consider expert testimony



# Changes to Registerable Offenses – HB 1386

- ◆ Kidnapping if victim is less than 18 and the person who kidnapped the victim is not the victim's parent or guardian
- ◆ Criminal Confinement if the victim is less than 18 and the person who kidnapped the victim is not the victim's parent or guardian
- ◆ Possession of Child Pornography (1<sup>st</sup> Offense)

# Changes to Registerable Offenses – HB 1386

- ◆ Sexual Misconduct with a Minor as a Class C Felony; **AND**
- ◆ The person is not more than...
  - \*4 years older than the victim if offense committed after June 30, 2007
  - \*5 years older than the victim if offense committed before June 30, 2007; **AND**
- ◆ The sentencing court finds that the person should not be required to register as a sex offender

# New Registerable Offenses

## – HB 1386

- ◆ Promoting Prostitution as a Class B Felony
- ◆ Promotion of Human Trafficking if the victim is less than 18 years of age
- ◆ Sexual Trafficking of a Minor
- ◆ Human Trafficking if the victim is less than 18 years of age
- ◆ Murder and Voluntary Manslaughter
- ◆ All retroactive



# Who is a Sexually Violent Predator?



**By operation of law, only those offenders who were released from incarceration or supervision after June 30, 1994**

- Rape
- Criminal Deviant Conduct
- Child Molesting (A & B Felony)
- Vicarious Sexual Gratification
- 2<sup>nd</sup> Unrelated Conviction
- Determined by Court



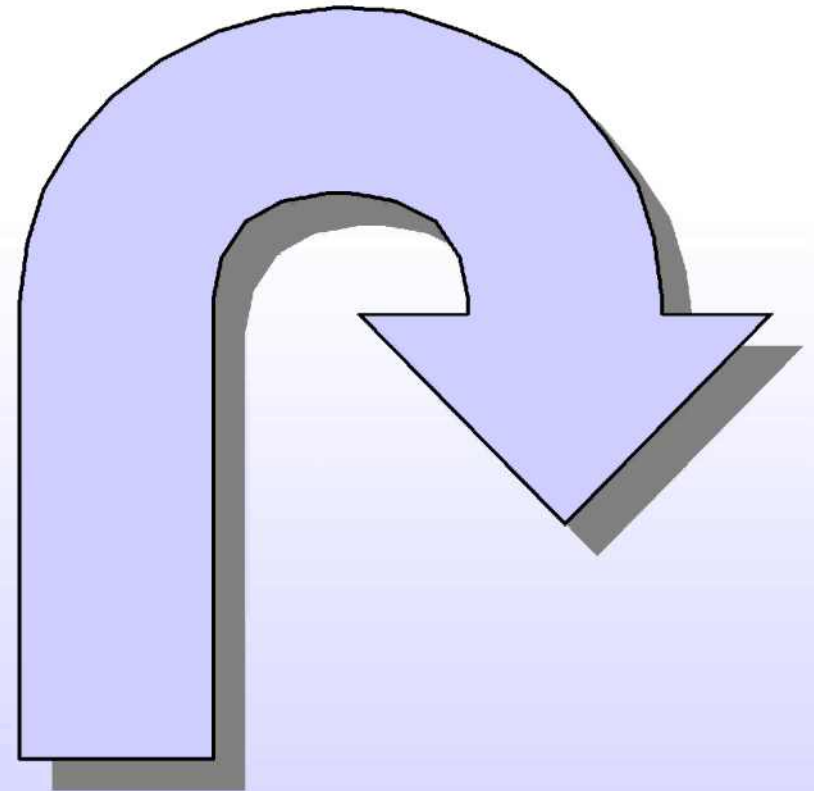
# Length of Registration

- Lifetime Registration
  - Sexually Violent Predators
  - Victim under the age of 12
  - Caused bodily injury, use of force, threat of force, victim incapable of giving consent
  
- Ten Year registration (All others – including sexual battery at the D felony level)
  - Released from Penal Facility
  - Placed in Community Transition Program, Community Corrections Program
  - Placed on Probation or Parole
  - Whichever occurs last
  
- A person who is required to register as a sex or violent offender in any jurisdiction shall register for the period required by the other jurisdiction or the period described in this section, whichever is longer.



# IC 11-8-8-22

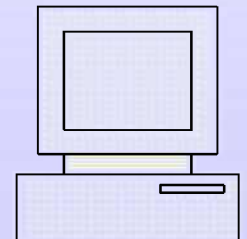
- ◆ Certain offenders may be able to have their registration requirements lessened or removed
- ◆ Presently this only applies to offenders convicted of sexual battery at the D felony level, specific instances of sexual misconduct with a minor, kidnapping, and criminal confinement
- ◆ Offenders have the option to appear before a court to ask for relief
- ◆ The court may hold a hearing or summarily dismiss the case
- ◆ If granted, registration requirements could be lessened or removed



# Information Collected at Registration

Demographics	ID Number	Vehicle Description	Vehicle Plate Number
Principal Address	Other addresses	Scars, Marks, and Tattoos	Offense Information
SVP Indication	Photograph	Length of Registration	DL Number
Employer Address and Name	School location	SSN	Any other information requested

Source: IC 11-8-8-8



The Indiana Department of Correction,  
Local Sheriffs, and Probation Departments  
Roles in Sex and Violent Offender  
Registration and the Registry

# The Indiana Department of Correction

- ◆ IC 11-8-2-12.4
  - Maintain the registry
  - Ensure no offender social security numbers are available to the public
  - Prescribe and approve a format for registration
  - Provide judges, law enforcement officials, prosecuting attorney's, parole agents, probation officers, community correction officials, etc., with information and training concerning registration and the registry
  - Provide information to neighborhood associations on request
  - Maintain records on every offender
  
- ◆ IC 11-8-2-13
  - Ensure the registry contains information on each offender who is or has been required to register
  - Ensure the registry is updated on a daily basis
  - Ensure the registry is available on the Internet



# The Indiana Department of Correction

- ◆ Register offenders before they leave the Department
- ◆ Determine for all offenders...
  - Whether they are sex and/or violent offenders
  - Whether they are SVPs
  - How long they are required to register
- ◆ Develop agreements with other jurisdictions to exchange information on sex and violent offenders who relocate to Indiana



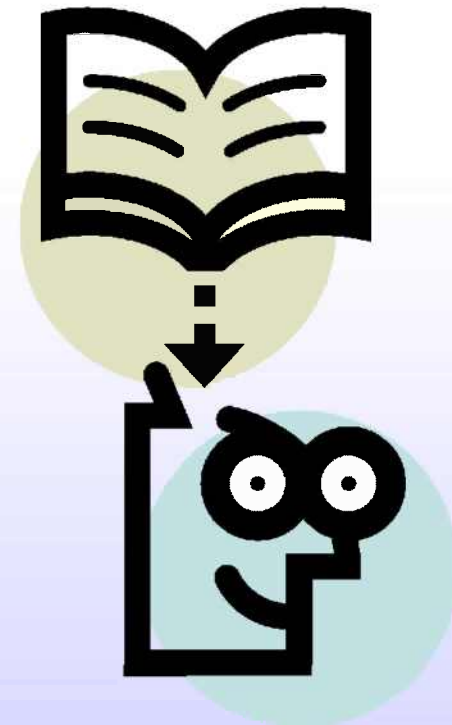
# The Indiana Department of Correction

- ◆ IC 11-8-8-9(a)
  - Orally inform the offender of his duty to register
  - Deliver a form advising the offender of his duty to register
  - Have the offender acknowledge his understanding of his requirement by signing off of the form advising him of his duty to register
  - Obtain the address where the offender expects to reside after release
  - Provide this information to local justice authorities
- ◆ IC 11-8-8-9(b)
  - Provide the state police with...
    - The offender's fingerprints, photograph, and identification factors
    - The address where the offender expects to reside
    - The offender's complete criminal history
    - Information about mental health treatment
    - Information indicating whether or not the individual is a predator



# IDOC's Sex and Violent Offender Education Course

- ◆ Occurs within 180 days of release
- ◆ Provides information about registration obligations, including specific information for 10-year, lifetime, and SVP offenders
- ◆ Knowledge testing





# Local Probation Departments

- ◆ If an offender is not sent to IDOC, it is the local probation department's responsibility to provide the information in IC 11-8-8-9 to their local sheriff's department and the state police
- ◆ Local probation for any sex or violent offender not sent to IDOC is required to provide the Department with the offender's sentencing order, presentence investigation report, and any other information the Department needs to make a registration decision



# Local Sheriffs Departments

- ◆ Update information on offenders each time they change their principal, work, or school address
- ◆ Mail a form to 10-year and non SVP lifetime offenders once a year
- ◆ Mail a form to SVPs every 90 days
- ◆ Personally visit 10-year and non SVP lifetime offenders once a year at their principal residence
- ◆ Personally visit SVPs every 90 days at their principal residence
- ◆ Provide sex offender documentation to IDOC



# Local Sheriffs Departments

- ◆ Sex Offender Registration Fees
  - County ordinance – county has to create and adopt
  - One time fee for all offenders, up to \$50 per year
  - Address change fee (home, work, or school), up to \$5 for each change



# Offender Responsibilities

# Sex and Violent Offenders Must Register if...

- ◆ Reside in Indiana...spends 7 nights in a 180 day period
- ◆ Work or carry on a vocation full or part-time for a period...exceeding 7 consecutive days or for a period exceeding 14 days during a calendar year regardless of compensation, volunteering, etc
- ◆ Enroll in a full or part-time basis in an educational institution

# Sex or Violent Offenders Must Register (in person)...

- ◆ Within 72 hours of release if they are a predator or within 7 days if they are a 10-year or lifetime offender (not defined as a predator)
- ◆ In the counties where they live, work, and attend school
- ◆ Future address changes within 72 hours of the change to the appropriate local sheriff's department
- ◆ In Addition...
  - 10-year and lifetime offenders must report in person once per year and SVPs must report in person every 90 days regardless if there is a change in their living, working, or school status

# If No Permanent or Temporary Residence, Sex and Violent Offenders Must....

- ◆ Report in person every 7 days to the Sheriff's Department in the county where they will be staying
- ◆ Includes offenders staying in hotels, shelters, etc., and offenders who are homeless



# Sex and Violent Offenders Must Have in their Possession

- ◆ Valid Driver's License  
or
- ◆ Valid ID Card

**If they do not, they can be charged with...**

- Class A Misdemeanor
- Class D Felony if SVP





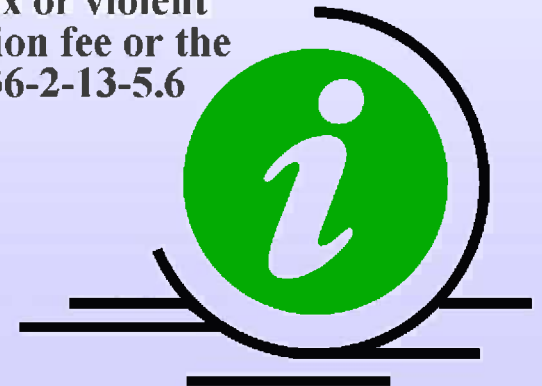
# An SVP Who Will Be Absent from His Principal Residence

- ◆ For more than 72 hours...must inform local law enforcement in person in the county where the offender's principal address is located of the following:
  - Will be absent
  - Location where he will be staying
  - How long away
- ◆ If the offender will be staying in a new county during the 72 hours, the offender has to report in person the same information to that sheriff as well



# IC 11-8-8-17

- ◆ **A sex or violent offender who knowingly or intentionally:**
  - Fails to register when required to register;
  - Fails to register in every location where the sex or violent offender is required to register;
  - Makes a material misstatement or omission while registering as a sex or violent offender;
  - Fails to register in person and be photographed at least one (1) time per year; or
  - Does not reside at the sex or violent offender's registered address or location; commits a Class D felony
  
- ◆ **The Offense can be a Class C felony if the sex or violent offender has a prior unrelated conviction for an offense:**
  - Under this section; or
  - Based on the person's failure to comply with any requirement imposed on a sex or violent offender under this chapter or under IC 5-2-12 before its repeal
  
- ◆ **It is not a defense to a prosecution under this section that the sex or violent offender was unable to pay the sex or violent offender registration fee or the sex or violent offender address change fee described under IC 36-2-13-5.6**



# IC 35-42-4-11(a)

## Offenders Against Children

- ◆ “Offender against children” means a person required to register as a sex offender under IC 11-8-8 who has been:
  - found to be a sexually violent predator under IC 35-38-1-7.5; or
  - convicted of one (1) or more of the following offenses:
    - Child molesting (IC 35-42-4-3)
    - Child exploitation (IC 35-42-4-4(b))
    - Child solicitation (IC 35-42-4-6)
    - Child seduction (IC 35-42-4-7)
    - Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age
    - Attempt to commit or conspiracy to commit an offense listed above
    - An offense in another jurisdiction that is substantially similar to an offense described above
- ◆ By operation of law, an offender is an offender against children if they have been convicted of one of these offenses at any time

# IC 25-42-4-11(b) and (c)

## Residency Restrictions

- ◆ Offenders against children who knowingly or intentionally spend more than 3 nights in a 30 day period
  - within 1000 feet of school property, a youth program center, or a public park
- ◆ Establish a residence within 1 mile of the victim
- ◆ Commit a residency offense, a Class D Felony



# Unlawful employment by a SVP

- ◆ Offenders against children and SVPs
- ◆ Can't work or volunteer
  - On school property
  - At a youth program center
  - At a public park
- ◆ If they do, they can be charged with a Class D or C Felony



# School Property

## IC 35-41-1-24.7 – “School property” defined

- ◆ A building or other structure owned or rented by:
  - A school corporation;
  - An entity that is required to be licensed under IC 12-17.2 (*e.g., daycare or child care*) or IC 31-27 (*e.g., child caring institutions, foster family homes, group homes, and child placing agencies*);
  - A private school that is not supported and maintained by funds realized from the imposition of a tax on property, income, or sales; or
  - A federal, state, local, or nonprofit program or service operated to serve, assist, or otherwise benefit children who are at least three (3) years of age and not yet enrolled in kindergarten, including the following:
    - A Head Start program under 42 U.S.C. 9831 et seq
    - A special education preschool program
    - A developmental child care program for preschool children
  
- ◆ The grounds adjacent to and owned or rented in common with a building or other structure described above





# Youth Program Centers

## IC 35-41-1-29 – “Youth program center” defined

- ◆ A building or structure that on a regular basis provides recreational, vocational, academic, social, or other programs or services for persons less than eighteen (18) years of age
  - The real property on which a building or structure described in subdivision (1) is located
  
- ◆ The term does not include school property (as defined in section 24.7 of this chapter)



# Public Parks

## IC 35-41-1-23.7 – “Public park” defined

- ◆ Any property operated by a political subdivision for park purposes (as defined in IC 36-10-1-2)

## IC 36-10-1-2 “Park purposes”

Sec. 2. "Park purposes" include the establishment, equipment, and operation of parks, boulevards, pleasure drives, parkways, wheelways, park boulevards, bridlepaths, playgrounds, playfields, bathhouses, comfort stations, swimming pools, community centers, recreation centers, other recreational facilities, and recreational programs





# Where Can I Find Information on Registration?

[www.in.gov](http://www.in.gov)

(IC 11-8-8; 35-38-1-7.5; 35-42-4-10 & 11)

[www.insor.org](http://www.insor.org)

Indiana Department of Correction

(317) 232-1232

