

**SPIRIT LAKE TRIBE
RESOLUTION NO. A05-17-068**

COPY

WHEREAS, the Spirit Lake Tribe of Indians is a federally recognized Indian tribe acting under a revised Constitution dated May 5, 1960, approved by the Acting Commissioner, Bureau of Indian Affairs, July 14, 1961, and as subsequently amended which amendments were approved by the Commissioner, Bureau of Indian Affairs; and August 19, 1996; and

WHEREAS, the Constitution of the Spirit Lake Tribe generally authorizes and empowers the Spirit Lake Tribal Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribe and of the enrolled members thereof; and

WHEREAS, the Spirit Lake Tribal Council (hereinafter the Tribal Council) is the governing body of the Tribe and is empowered to administer the economic resources and financial affairs of the Tribe; and

WHEREAS, the Tribal Council reviewed Spirit Lake Tribe Sex Offender Registration and Community Notification Law Title 20 of the Spirit Lake Tribe Law & Order Code final draft, submitted by LaRissa McKay SORNA Director; and

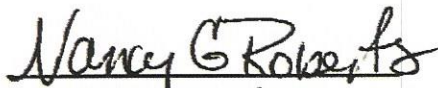
WHEREAS, the Tribal Council presented the Title 20 to the public at two (2) General Assemblies; August 30, 2016 and September 27, 2016 as required per the Spirit Lake Law & Order Code; and

WHEREAS, the main focus of Title 20 is providing substantial implementation from the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office); and

NOW THEREFORE BE IT RESOLVED, that the Spirit Lake Tribal Council hereby approves by executing this resolution the Spirit Lake Tribe Sex Offender Registration and Community Notification Law Title 20 of the Spirit Lake Tribe Law & Order Code as presented to the Spirit Lake Community.

CERTIFICATION

I, the undersigned as Secretary-Treasurer of the Tribal Council, do hereby certify that the Tribal Council is composed of six (6) members of whom six (6) were present, constituting a quorum for a Special Meeting duly called and convened on this 22nd day of November, 2016 and approved this resolution by an affirmative vote of four (4) in favor, none (0) opposed, none (0) abstaining, and none (0) absent. (The Secretary-Treasurer does not vote and the Chairman votes only in case of a tie.)


Nancy Greene-Robertson
Secretary- Treasurer


Myra Pearson
Chairperson

Spirit Lake Tribe
Sex Offender Registration and Community Notification Law
TITLE 20

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Spirit Lake Tribe
Sex Offender Registration and Community Notification Law
TITLE 20
CHAPTER ONE: DEFINITIONS AND APPLICATION

20-1-101 Definitions

The definitions in this Title shall apply only to this Title of the Spirit Lake Law and Order Code.

(1) The term "sex offender" shall include any person who has pled guilty, been found guilty, been found not guilty by reason of insanity, or otherwise convicted of any sex offense under any tribal, state, federal or foreign law.

(2) The term "sex offense" shall include those offenses contained in 42 U.S.C. 16911(5)(as amended) and those offenses enumerate in Chapter 2 of this Title or other sex related crimes qualifying as a registerable offense under tribal, state or federal law.

(3) The term "at risk" means a specific risk of a person being the victim of a sex offense.

(4) The term "convicted" means that the sex offender has been subject to penal consequences based upon an order from a criminal or delinquency court regardless of age at the time of the offense or the severity of the offense. This shall include but not be limited to convictions in tribal, state, federal and foreign courts. A juvenile conviction shall be consider if the juvenile has been tried and convicted as an adult for a sex offense; has been legally emancipated by a court of competent jurisdiction prior to the time of the offense; or has been adjudicated delinquent for a sex offense so long as the offender is 14 years of age or older at the time of the offense.

(5) The terms "incarceration" or "imprisonment" means placement and confinement in an institution, regardless of the nature of the institution in which the offender serves the sentence, by way of a court order resulting from a criminal or delinquency court conviction. This shall include, but not be limited to placement or confinement in a prison, jail, detention facility, treatment facility and placements on house arrest. This term is to be interpreted broadly to include a state prison, federal or military prison, BIA detention facility, private or contract facility, or a local or tribal jail.

(6) The term "sexual act" shall include:

- (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.

(7) The term "sexual contact" shall include any intentional sexual touching of or contact with the genitalia, anus, groin, breast, inner thigh or buttocks of an individual, either directly or through the clothing of the individual, and with the intent to abuse, humiliate, harass, degrade or arouse or gratify desires of another person.

(8) The term "sexually violent offense" for purposes of the classification of sex offenses a sexually violent offense shall include any nonconsensual sexual assault crimes involving penetration, rape or sodomy or similar acts. These offenses shall also include a sexual act perpetrated by violence, threat of serious violence or by rendering unconscious or involuntarily drugging a victim.

(9) The term "school" for the purposes of 20-1-104 exclusively shall include any pre-school, elementary school, high school or alternative school and shall specifically exclude any institution of higher education or higher learning. Any institution of higher education or higher learning shall, within the institution's discretion, prescribe policies and procedures governing the admission or presence of sex offenders within their respective programs and facilities. All convicted sex offenders attending institutions of higher education or higher learning shall be required to register with the Spirit Lake Tribe Sex Offender Registry Program in accordance with all other provisions of Title 20.

20-1-102 Application

A) **No waiver of immunity.** Nothing under this Title shall be construed as a waiver of sovereign immunity for the **Spirit Lake Tribal Tribe**, its elected officials, its departments, agencies, employees, or agents. Any person acting under good faith of this Title shall be immune from any civil liability arising out of such actions.

B) This title shall apply to any individual who resides, attends school, or is employed within the Spirit Lake Tribe reservation or to any individual who enters the Spirit Lake Tribe reservation for the purposes of adjudication, incarceration, education, study, work, the conduct of business, the conduct of personal affairs, or for any other purpose if that individual has been convicted of an attempt or conspiracy to commit a sex offense, including, but not limited to:

- 1) a criminal sex offenses in any state, tribe, territory, the District of Columbia and any foreign jurisdiction;
- 2) a criminal sex offense as enumerated in the Spirit Lake Law and Order Code, or in any jurisdiction that involves:

- a) Any conduct that by its nature is a sex offense against a minor;
- b) Any type or degree of genital or oral penetration;
- c) Any sexual touching of or contact with a person's body, either directly or through the clothing;
- d) Criminal sexual conduct involving a minor (where the elements of the offense involve physical contact with the victim), or the use of the internet to facilitate or attempt such conduct, including offenses whose elements involve using other persons in prostitution in cases where the victim was under the age of 18 years at the time of the crime;
- e) False imprisonment of a minor;
- f) Kidnapping of a minor;
- g) Possession, production or distribution of child pornography;
- h) Solicitation of a minor to practice prostitution;
- i) Solicitation to engage a minor in sexual conduct;
- j) Use of minor in a sexual performance; or
- h) Other sex offense as enumerated in the Spirit Lake Law and Order Code, tribal, state or federal law.

3) a criminal sex offense as enumerated in 42 U.S.C. 16911 and including any offenses prosecuted under the Major Crimes Act (18 U.S.C. 1153), the Assimilative Crimes Act (18 U.S.C. 13), or qualifying as a registerable offense under the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.) .

4) a military offense specified by the United States Secretary of Defense under section 115(a)(8)(C)(i) of public Law 105-119 (codified at 10 U.S.C. 951 note).

5) a foreign offense involving a conviction for a sex offense as defined by this title and obtained under the laws of a foreign country or jurisdiction with an established independent judiciary, an enforceable right to a fair trial, and which complies with basic human rights practices as reported by the United States State Department.

20-1-103 Recognition of Foreign Orders

The Court may review documentation relating to a foreign conviction and determine whether the court will recognize and enforce the order within the Spirit Lake Tribe jurisdiction. In determining the duration of the enforcement the Tribal Court shall follow the following registration and enforcement criteria set forth in 20-1-102, 20-2-101 and 20-2-102 herein. In determining the length of registration terms for people convicted in a jurisdiction outside of the Tribe, the Tribal Court shall require the sex offender to register in accordance with the registration period imposed by the court of conviction or in accordance with 20-1-102, 20-2-101 or 20-2-102.

20-1-104 Community Forums and Events

No convicted sex offender within the definitions provided herein, with the exception of juvenile offenders, shall come within 100 yards of any school, recreational center, daycare, any public forum intended for the youth or children or any community based activities or events unless expressly authorized to do so by the Tribal Judge. Community events shall include but not be limited to the Tribe's annual pow-wow and other culturally based community activities. It shall be the affirmative duty of the sex offender to request such permission at least ten (10) days in advance by filing a written request with the Tribal Court.

TITLE 20
CHAPTER TWO: CLASSIFICATION OF OFFENSES

20-2-101 Classification of Tribal Court Convictions

The Tribal Court shall consider and make specific findings in the court disposition based upon the following criteria when determining the length of time a sex offender convicted in tribal court must register:

A) Tier One Offenses

Has been convicted of a first offense involving:

- 1) sexual acts or sexual contact for which an individual was subject to less than 1 year of incarceration;
- 2) sexual acts or sexual contact deemed by a court of competent jurisdiction to be non-violent;
- 3) sexual acts or sexual contact that was not a sexual offense against a child, with the exception of convictions for statutory rape, which shall be deemed a tier one offense for a first offense; and
- 4) sexual acts or sexual contact underlying the conviction do not qualify as a Tier Two or Tier Three Offense within this title.

Anyone convicted of this classification of offense must register for 15 years.

B) Tier Two Offenses

Has been convicted of:

- 1) two convictions, but less than three convictions, of offense involving sexual acts or sexual contact for which an individual was subject to less than 1 year of incarceration;
- 2) sexual acts or sexual contact deemed by a court of competent jurisdiction to be non-violent;
- 3) sexual acts or sexual contact that was not an sexual offense against a child, with the exception of convictions for statutory rape, which shall be deemed a tier one or a tier two offense if individual has two convictions; and
- 4) sexual acts or sexual contact underlying the conviction do not qualify as a Tier One or Tier Three Offense within this title.

Anyone convicted of this classification of offense must register for 25 years.

C) Tier Three Offenses

Has been convicted of:

- 1) three or more sex offense convictions involving sexual acts or sexual contact;
- 2) one or more sexually violent offenses;

3) any sexual offense against a child, with the exception of convictions for statutory rape, which shall be deemed a tier one offense for a first offense, a tier two offense if the individual has two convictions, or a tier three offense if the individual has three or more convictions; or

4) Spirit Lake Law and Order Code 3-7-138 Carnal Knowledge for Person Under Sixteen Years of Age, 3-7-154, regardless of the number of offenses, Rape in the First Degree, and 3-7-155 Rape in the Second Degree.

Anyone convicted of this classification of offense must register for the duration of their natural life.

20-2-102 Classification of Tribal, State, Local, Federal and Foreign Court Convictions

A) Tribal State and Local Convictions

Any individual, residing, employed or attending school within the exterior boundaries of the reservation who has been convicted of a sex offense and who is required to register as a sex offender based upon a conviction of a sex offense from a tribal, state or local jurisdiction, other than convictions of the Spirit Lake Tribe which shall be classified in accordance with 20-2-101, shall be classified and required to register for the period of time required by the law of the jurisdiction of conviction or by the requirements of 20-2-101 whichever is more stringent.

B) Federal Court and Military Convictions

Any individual residing, employed or attending school within the exterior boundaries of the reservation who is required to register as a sex offender based upon a conviction from federal court shall be classified and required to register for the period of time required by the law of the jurisdiction of conviction as set forth in Title 18 of the United States Code, Title 10 of the United States Code for military convictions and any federal offenses that are hereafter included in the Sex Offender Registration and Notification Act (Section I of P.L. 109-248(2006)).

C) Foreign Convictions

Any individual, residing, employed or attending school within the exterior boundaries of the reservation who has been convicted of a sex offense under the laws of a foreign nation shall be required to register as a sex offender based upon the conviction of a sex offender from the foreign nation so long as that foreign nation provided an independent judiciary and rights of due process at the time of the conviction. Any individual required to register by virtue of a foreign sex offense conviction shall be required to register for the period of time required by the law of the jurisdiction of conviction or by the requirements of 20-2-101 whichever is more stringent.

CHAPTER THREE: SEX OFFENDER REGISTRATION REQUIREMENTS

20-3-101 Sex Offender Registration Requirements

Any person as described in Section entitled "Application" set forth in 20-1-102, who resides attends school, is employed, adjudicated, incarcerated, conducts business, or conducts personal affairs within the exterior boundaries of the reservation shall be required to register with Spirit Lake Tribal Sex Offender Registry Program within three (3) days of entering the exterior boundaries of the reservation.

A) Registration requirements

A sex offender covered by this code who is required to register with the Tribe pursuant to 20-1-102 shall provide all of the information detailed in this chapter to the Spirit Lake Sex Offender Registry (SOR), and the Spirit Lake SOR shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the tribe namely:

- 1) The following information related to the sex offender's criminal history:
 - a) the date of all arrests;
 - b) the date of all convictions;
 - c) the sex offender's status of parole, probation or supervised release;
 - d) the sex offender's registration status; and
 - e) any outstanding arrest warrants.
- 2) The full name(s), aliases, any dates of birth, gender, race and physical description of the offender, including any identifying marks, scars or tattoos.
- 3) If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Spirit Lake SOR or designee a sample of his or her DNA. Any DNA sample obtained from the sex offender shall be submitted to the tribally designated laboratory for submission to CODIS.
- 4) The current place of residence of the offender and any other temporary or permanent address of the offender including temporary lodging or the location and description of any residence or location where the offender habitually resides regardless of whether it is a permanent address or a location otherwise identifiable by a street or address.
- 5) All of the sex offender's valid driver's licenses issued by any jurisdiction and other driver's licenses in the sex offender's possession. The Spirit Lake SOR or designee shall make a photocopy of any such license.
- 6) All of the sex offender's identification cards including the sex offender's tribal enrollment card issued by any jurisdiction. The Spirit Lake SOR or designee shall make a photocopy of any such identification cards.
- 7) Any passports used by the sex offender. The Spirit Lake SOR or designee shall make a photocopy of any such passports.
- 8) Any and all immigration documents used by the sex offender. The Spirit Lake SOR or designee shall make a photocopy of such

documents.

- 9) Any and all vehicle information regarding vehicles owned or registered to the sex offender, including land vehicles, aircrafts, or watercrafts, license plate number(s), registration number(s), a full vehicle description including make, model and year, and any permanent or frequent location where any covered vehicle is kept.
- 10) The name and address of the offender's employer(s), including transient and day-labor working arrangements.
- 11) Land-line telephone numbers, cellular telephone numbers and voice-over-IP ("VOIP") telephone numbers.
- 12) The name and address of any schools or educational institutions or programs the offender is or will be a student.
- 13) Any and all email addresses, instant message identifiers and any other designations used in internet communications or postings by the offender.
- 14) All designations used by the sex offender for purpose of routing or self-identification in internet communications.
- 15) The filing of a written statement detailing the date of conviction, nature of the offense, jurisdiction(s) where the offender was convicted, current contact information including, but not limited to, mailing address, place of residence and telephone number.
- 16) Date that offense(s) were committed, and the date of release from incarceration and any parole or probation conditions that may be in effect.
- 17) Submission to digital fingerprinting and palm printing.
- 18) Dates of travel and temporary lodging information.
- 19) All licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.
- 20) The offender's valid social security number and any social security numbers that the offender used in the past.
- 21) A description of the nature of the crime(s) committed by the offender, the text of the registration offense, and a description of the type of victim generally targeted by the offender. Information describing the type of victim target may include age, marital status, race, or other descriptive information. Names and identifying features pertinent to specific victims shall not be maintained in order to protect victim anonymity. Any and all information describing the type of victim generally targeted by the sex offender shall be maintained in confidence by the Spirit Lake Sex Offender Registry Program, shall not be included in the public website or community bulletins and shall only be shared with law enforcement agencies.

B.) Digitization. All information obtained under this code shall be, at a minimum, maintained by the Spirit Lake SOR in a digitized format.

C) Electronic Database. A sex offender registry shall be maintained in an electronic database by the Spirit Lake SOR and shall be in a form capable of electronic transmission.

D) Requirement for in person appearances.

1) a covered sex offender shall permit his photograph to be taken by the Spirit Lake SOR or designee:

- a) Every 90 days for a Tier III sex offender;
- b) Every 180 days for a Tier II sex offender; and
- c) Every year for a Tier I offender.

Unless appearance of a sex offender has not changed significantly a digitized photograph shall be collected at each in person appearance.

2) Review of Information. At each in person verification the sex offender shall review existing information for accuracy.

3) Notification. If any new information or change in information is obtained at an in person verification, the Spirit Lake SOR shall immediately notify all other jurisdiction in which the sex offender is required to register of the information or change in information.

E) 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 Spirit Lake SOR and that the sex offender understands the registration requirement. The form shall be signed and dated by the Spirit Lake SOR personnel registering the sex offender. The Spirit Lake SOR shall immediately upload the acknowledgement form into the Spirit Lake Sex offender registry.

20-3-102 Frequency and Duration

A sex offender who is required to register shall, at a minimum, appear in person at the Spirit Lake SOR for purposes of verification and keeping their registration current in accordance with the following time frames:

A) For “Tier I” offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

B) For “Tier II” offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

C) For “Tier III” offenders, once every 90 days for the rest of their lives.

20-3-103 Where Registration is Required

A) Jurisdiction of Conviction. A sex offender must initially register with the

Spirit Lake SOR if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.

- B) **Jurisdiction of Incarceration.** A sex offender must register with the Spirit Lake SORNA 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 Spirit Lake SOR if the sex offender resides within lands subject to the jurisdiction of the tribe.
- D) **Jurisdiction of Employment.** A sex offender must register with the Spirit Lake SOR if he or she is employed by the tribe in any capacity or otherwise is employed within lands subject to the jurisdiction of the tribe.
- E) **Jurisdiction of School Attendance.** A sex offender must register with the Spirit Lake SOR if the sex offender is a student in any capacity within lands subject to the jurisdiction of the tribe.

20-3-104 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 Spirit Lake Tribe for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
- 2) If convicted by Spirit Lake Tribe 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 subject to the jurisdiction of the tribe, a sex offender must appear in person to register with the Spirit Lake SOR.

20-3-105 Retroactive Registration

A) Retroactive Registration. The **Spirit Lake SOR** 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, and
- 3) Sex offenders reentering the justice system due to conviction for any

crime.

B) Timing of Recapture. The **Spirit Lake SOR** 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 I sex offenders, 1 year;
- 2) For Tier II sex offenders, 180 days; and
- 3) For Tier III sex offenders, 90 days.

20-3-106 Changes in Information and International Travel

A) Changes in Information

- 1) Persons subject to this Title shall immediately appear in person to the Spirit Lake Tribal Sex Offender Registration Program should their address, place of residency, temporary lodging, school location, educational enrollment status, employment location or employment status change for any reason whatsoever.
- 2) Persons subject to this title, with the exception of those specified in 20-3-102(A)(1) herein, shall appear in person within three (3) days to update any other changes in information required information by 20-3-101.
- 3) All updated information and verifications must be timely submitted to Spirit Lake Tribal Sex Offender Registration Program. Upon receipt of updated information the Spirit Lake Tribal Sex Offender Registration Program shall immediately notify the jurisdiction where the offender will temporarily stay.

B) International Travel

Sex offenders subject to this Title must inform the Spirit Lake Tribe Sex Offender Registry Program 21 days in advance if they intend to travel outside of the United States. Upon receipt of information that a sex offender intends to travel outside of the United States the Spirit Lake Tribe Sex Offender Registry Program shall:

- 1) Immediately notify any other jurisdiction where the sex offender is either registered or required to register the updated information;
- 2) Immediately notify the U.S. Marshals Service; and
- 3) Immediately update NCIC/ NSOR information.

20-3-107 Exemptions

Any person who is no longer required to register as a sex offender by way of a court order from the jurisdiction wherein the conviction occurred shall be exempt from these provisions. The burden shall be on the individual sex offender to prove that the exemption is applicable.

CHAPTER FOUR: COMMUNITY NOTIFICATION

20-4-101 Public Disclosure of Information

A) Website

The Spirit Lake Tribal Sex Offender Registry Program shall use and maintain a public sex offender registry website. The website shall include

1. Links. The Spirit Lake Tribal Sex Offender Registry Program's public sex offender registry website shall include links to sex offender safety and education resources.
2. Instructions. The Spirit Lake Tribal Sex Offender Registry Program's public sex offender registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
3. Warnings. The Spirit Lake Tribal Sex Offender Registry Program's public sex offender 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.
4. Search Capabilities. The Spirit Lake Tribal Sex Offender Registry Program's public sex offender 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.
5. Dru Sjodin National Sex Offender Public Website. The tribe shall include in the design of its registry 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.

B) The Spirit Lake Tribal Sex Offender Registration Program shall disclose the following information to the public via the Tribal Sex Offender Website and via Tribal Sex Offender Bulletin Boards established by the Tribal Sex Offender Registration Program:

- 1) The full name, aliases, date of birth, gender, race and physical description of the offender, including any identifying marks, scars or tattoos.
- 2) The current place of residence of the offender.
- 3) Any and all vehicle information including license plate number(s), registration number(s) and a full vehicle description including make, model and year.
- 4) The name and address of the offender's employer(s).

- 5) The name and address of any schools or educational institutions or programs the offender is or will be a student.
- 6) Any and all email addresses, instant **message identifiers and any other designations used in internet communications or postings** by the offender.
- 7) The filing of a written statement detailing the date of conviction, nature of the offense, jurisdiction(s) where the offender was convicted, current contact information including, but not limited to, mailing address, place of residence and telephone number.
- 8) Date that offense(s) were committed, and the date of release from incarceration and any parole or probation conditions that may be in effect.
- 9) Submission to digital fingerprinting and a photographing.
- 10) The license plate information and a description of any vehicle owned by or registered to the offender.
- 11) A description of the nature of the crime(s) committed by the offender as well as a description of the type of victim generally targeted by the offender.
- 12) A statement detailing whether an offender is violation of their registration requirement, cannot be located, or has absconded.

C) 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).

D) Public Meeting or Written Dissemination

The Spirit Lake Tribal Sex Offender Registration Program shall, in addition to disclosure of information via the Tribal Sex Offender Website, disclose the following information to the public within five (5) working days, at a public meeting or via distribution of a written community bulletin, when it is determined by the Program and Law Enforcement that a sex offender that the community may be at risk of victimization by the offender:

- 1) The full name, aliases, date of birth, gender, race and physical description of the offender.
- 2) The current place of residence of the offender.
- 3) A photograph of the offender.
- 4) A description of any vehicle owned or registered to the offender and the license plate number of the same.
- 5) A description of the nature of the crime(s) committed by the offender as well as a description of the type of victim generally targeted by the offender.
- 6) Date that offense(s) were committed, and the date of release from incarceration and any parole or probation conditions that may be in effect.

In assessing the likelihood that the sex offender will re-offend or otherwise victimize the community the Spirit Lake Tribal Sex Offender Registration Program and Law Enforcement shall take into account any or all of the following:

- a) The dates, locations, frequency of crimes for which the offender has been convicted.
- b) Any treatment that the offender may have completed and the outcomes of the same.
- c) The type of person victimized in the past. Any sexual crimes committed against children shall be cause for automatic public notification by law enforcement and shall not be subject to the discretion of law enforcement personnel.

D) Law Enforcement Notification.

Whenever a sex offender registers or updates his or her information with the tribe, the Spirit Lake Tribal Sex Offender Registration Program shall:

1. Monitor and utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.
2. Immediately update NCIC/NSOR,
3. 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.
4. 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.
5. 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.
6. Enter or update information posted on the public website.

E) Community Notification.

The Spirit Lake Tribal Sex Offender Registration Program 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.

F) 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.

20 -4-102 Victim Confidentiality

Law Enforcement and the Spirit Lake Tribal Sex Offender Registry Program shall at all times make every effort to maintain the confidentiality of the victim's identity.

CHAPTER FIVE: JUVENILE OFFENDERS

20-5-101 Applicability

Sex offender(s) who are the age of fourteen (14) or older but who are under the age of eighteen (18) years of age who are not legally emancipated, or have not been tried and found guilty as an adult of a sex offense as defined by the Title shall be required to register as a sex offender within the Spirit Lake Jurisdiction in accordance with Chapter 4 of this Title.

20-5-102 Registration Requirements

Juvenile sex offenders must register in accordance with Chapter 2 of this Title.

20-5-103 Community Notification

There shall be no public notification requirement for sex offenses committed by juveniles, so long as said offenders were in fact tried as juvenile offenders, and such information shall remain confidential unless otherwise authorized or ordered by the Tribal Court.

The Tribal Court may, require public notification of juvenile offenders within the Court's discretion, however, the Court must make specific findings as to:

- 1) The age of the offender;
- 2) the violent nature of the crime committed;
- 3) any evidence of premeditation;
- 4) the risk of recidivism based upon a psychological evaluation and risk assessment; and
- 5) the need for community awareness to prevent further same or similar criminal acts by the juvenile offender.

20-5-104 Penalties and Enforcement

Any juvenile offender required to register as a sex offender who shall fail to do so in a timely manner shall be subject to a civil penalty of up to \$5000.00 plus court costs and fees, and may be subject to exclusion from the reservation. In addition to the foregoing the Court may, in its discretion impose one or more of the following civil penalties for failure to register:

- A.) Jail time not to exceed one (1) year to force compliance with existing laws and court orders;
 - a) Public Shaming, which shall include but not be limited to:
 - i. Marking of the offender by cutting of the offenders hair;

- ii. Public announcement by the offender of his or her status as an offender and their failure to register; or
- iii. Any other form of lawful public shaming as deemed appropriate by the Judge.

- c) Community Service;
- d) Loss of hunting and fishing rights within the Spirit Lake Jurisdiction;
- e) Loss of any and all rights to own or possess firearms.

CHAPTER SIX: CRIMINAL AND CIVIL SANCTIONS

20-6-101 Criminal Penalties and Enforcement

Any person required to register as a sex offender who is subject to the criminal jurisdiction of the Spirit Lake Tribal Court and who fails to register, update information or provide required information in a timely manner as required by Title 20, shall be deemed to be in violation of this Title and shall be subject to a criminal penalty for each violation of a provision of this code. All criminal rules of procedure as set forth in the Spirit Lake Law and Order Code shall apply. For criminal violations, the individual may be subject to exclusion in addition to the following penalties:

1. A mandatory minimum sentence of thirty (30) days in jail for a first (1st) offense.
2. A mandatory minimum sentence of ninety (90) days in jail for a second (2nd) offense.
3. A mandatory minimum sentence of one hundred eighty (180) days in jail for a third (3rd) or subsequent offense. The maximum sentence for any criminal violation of this code shall be one (1) year in jail, a five thousand dollar (\$5000) fine or both, plus Court Costs.

20-6-102 Civil Penalties and Enforcement

Any person required to register as a sex offender who is subject to the civil jurisdiction of the Spirit Lake Tribal Court and who fails to register, update information or provide required information in a timely manner as required by Title 20, shall be deemed to be in violation of this Title. For Civil violations, the individual may be subject to exclusion in addition to the following civil penalties:

- 1) A civil penalty of up to \$5,000.00 plus court costs and fees;
- 2) Jail time not to exceed one (1) year to force compliance with existing laws and court orders and cur the Civil Contempt;
- 3) Public Shaming, which shall include but not be limited to:
 - i. Public announcement by the offender of his or her status as an offender and their failure to register; or
 - iii. Any other form of lawful public shaming as deemed appropriate by the Judge.
- 4) Community Service;
- 5) Loss of hunting and fishing rights within the Spirit Lake Jurisdiction;
- 6) Loss of any and all rights to own or possess firearms.

20-6-103 Exclusion

Any person who commits a Civil or Criminal violation of any provision of this Code shall be subject to Exclusion from the Spirit Lake Nation pursuant to the provisions set forth in Title Thirteen (13) of the Spirit Lake Law and Order Code.

20-6-105 Hindrance of Sex Offender Registration.

- 1) Any person who 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 shall be guilty a violation of this Code.
- 2) Any person who 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 and shall be guilty a violation of this Code.
- 3) Any person who provides information to a law enforcement agency regarding a sex offender which that person knows to be false shall be guilty a violation of this Code.
- 4) **Penalties.**
 - a) Any violation of 20-6-104 of this Title by an individual subject to the criminal jurisdiction of the Spirit Lake Tribe shall be considered a crime and shall be subject to a sentence of up to one (1) year in jail, a fine of up to five thousand dollars (\$5000) or both, plus Court Costs.
 - b) Any violation of 20-6-104 of this Title by an individual subject to the civil jurisdiction of the Spirit Lake Tribe, shall be considered to have committed a Civil Violation and subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of a Civil Fee of up to five thousand dollar (\$5000), forfeitures and Civil Contempt resulting in up to one (1) year in jail to cure the Civil Contempt.