



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 02-05
Of the
SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises, and its agencies by authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and with protecting and managing the lands and treaty resources and rights of the Tribe; and

WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

WHEREAS, the Squaxin Island Tribal Council has determined that it is in the best interests of the Tribe to exclude certain sex offenders and kidnapping offenders from the Squaxin Island Reservation and to notify community members of the presence of sex offenders and kidnapping offenders on the Squaxin Island Reservation; and

WHEREAS, The Squaxin Island Tribal Council wishes to adopt the codes necessary to regulate the registration and exclusion of sex offenders and kidnapping offenders on the Squaxin Island Reservation.


NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby adopts the following code, as attached hereto: chapters 9.12.775, 9.12.780, and 9.12.785.

NOW THEREFORE BE IT FURTHER RESOLVED, that these chapters shall collectively be known as the "Registration of Sex Offenders and Kidnapping Offenders Ordinance".

CERTIFICATION

The Squaxin Island Tribal Council does hereby certify that the foregoing Resolution was adopted at a regular meeting of the Squaxin Island Tribal Council, held on this 24th day of January, 2002, at which time a quorum was present and was passed by a vote of 6 for and 0 against with 0 abstentions.


Dave Lopeman, Chairman


Andy Whitener, Vice-Chairman

Attested by: 
Pete Kruger, Sr., Secretary

REGISTRATION OF SEX OFFENDERS AND KIDNAPPING OFFENDERS

9.12.775 Registration Requirements; Sex Offenders and Kidnapping Offenders

A. Definitions. For the purpose of registration of sex offenders and kidnapping offenders:

“Employed” or “carries on a vocation” means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person’s employment is financially compensated, volunteered, or for the purpose of governmental or educational benefit.

“Kidnapping offense” means any offense defined as a kidnapping offense under the law of the jurisdiction imposing the charge, including, but not limited to, offenses such as kidnapping and unlawful imprisonment.

“Law Enforcement” means the Squaxin Island Law Enforcement Department.

“Sex offense” means any offense defined as a sex offense under the laws of the United States or of the jurisdiction imposing the charge, including, but not limited to, offenses such as aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, abusive sexual contact, sexual abuse resulting in death, sexual exploitation of a minor, dealing in depictions of minor engaged in sexually explicit conduct, sending or bringing into the jurisdiction depictions of minor engaged in sexually explicit conduct, communication with a minor for immoral purposes, patronizing a juvenile prostitute, sexual misconduct with a minor, as well as any gross misdemeanor that is a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense. Under Squaxin Island Tribal Law, the definition includes: §9.12.450 (Incest); §§9.12.695 – 9.12.720 (Rape); §9.12.730 (Public Indecency); §9.12.735 (Child Molestation); §9.12.745 (Prostitution); §§9.12.755 – 9.12.760 (Promoting Prostitution); §9.12.765 (Permitting Prostitution); and §9.12.700 (Abusive Sexual Touching).

“Student” means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

B. Who is Required to Register. Any adult or juvenile residing, whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation, on the Reservation, who has been found to have committed or has been convicted of any sex offense or kidnapping offense under the law of any jurisdiction, or who has been found not guilty by reason of insanity of committing any sex offense or kidnapping offense under the law of any jurisdiction, shall register with Law Enforcement.

C. Information required when registering.

1. The person shall provide the following information when registering: (1) Name; (2) address; (3) date and place of birth; (4) place of employment; (5) crime for which convicted; (6) date and place of conviction; (7) aliases used; (8) social security number; (9) photograph taken within one year of the date of registration; and, (10) fingerprints. The person shall be responsible for providing updated information within two days of any change in the information provided at registration.

2. Any person who lacks a fixed residence shall provide the following information when registering: (1) Name; (2) date and place of birth; (3) place of employment; (4) crime for which convicted; (5) date and place of conviction; (6) aliases used; (7) social security number; (8) photograph taken within one year of the date of registration; (9) fingerprints; and (10) where he or she plans to stay. The person shall be responsible for providing updated information within two days of any change in the information provided at registration.

D. Deadlines for registration. Offenders shall register with Law Enforcement within the following deadlines. For purposes of this section, the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

1. Offenders in custody. Sex offenders and kidnappers who committed a sex offense or a kidnapping offense on or before the effective date of this section and who, on or after the effective date of this section, are in custody in any jail, prison, or juvenile detention facility, or with any administrative body or agency, of any jurisdiction, must register within twenty-four hours of release from custody.

2. Offenders not in custody by under tribal, federal, military, state or local jurisdiction. Sex offenders and kidnappers who, on the effective date of this section, are not in custody but are under the jurisdiction of a sentence review board or similar agency or under the active supervision of a department of corrections, federal or military correctional agency, department of social and health services, parole board, youth services agency, or a similar tribal, federal, state or local agency, or foreign country, for sex offenses or kidnapping offenses committed on or before the effective date of this section, must register within five days of the effective date of this section.

3. Offenders who are convicted but not confined. Sex offenders and kidnapping offenders who are convicted of a sex or kidnapping offense, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to Law Enforcement to register within twenty-four hours of being sentenced.

4. Offenders who are new or returning Reservation residents; offenders who lack a fixed residence. Sex offenders and kidnapping offenders who move to the Reservation from another location that are not otherwise required to register under subsections 1 through 3 of this subsection (D), must register within twenty-four hours of establishing residence or reestablishing residence on the Reservation. Offenders lacking

a fixed residence who remain on the Reservation for more than twenty-four hours consecutively or who remain on the Reservation for any period of time on any two or more days in a two-week period must register within twenty-four hours of entering the Reservation or within twenty-four hours of the effective date of this section, whichever occurs last. The duty to register under this subsection applies to sex offenders and kidnappers convicted under the laws of any tribe, state, foreign country, federal or military statutes.

5. Offenders found not guilty by reason of insanity. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense or kidnapping offense under the law of any tribal, federal, state, local or foreign jurisdiction, must register within twenty-four hours of release from custody or of the effective date of this section, whichever occurs last.

E. Failure to register.

1. Failure to register in compliance with this section constitutes a per se violation of this section and is punishable as provided in subsection §9.12.775(I). Law Enforcement shall not be required to determine whether the person is living on the Reservation.

2. A civil citation or an arrest on charges of failure to register, service of an information, or a complaint for violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person cited, charged, or receiving service of an information or a complaint, or arraignment on charges for a violation of this section, who asserts as a defense the lack of notice of the duty to register, shall register immediately following actual notice. Failure to register as required under this section 9.12.775 constitutes grounds for issuing another civil citation or filing another charge of failing to register. Registering following civil citation, arrest, service, or arraignment on charges shall not relieve the offender from civil or criminal liability for failure to register prior to the issuance or filing of the original civil citation or charge.

F. Reporting Requirements. A person required to register pursuant to this section who lacks a fixed residence must report in person to the Chief of Law Enforcement. If he or she has been classified as a risk level I sex or kidnapping offender, he or she must report monthly. If he or she has been classified as a risk level II or III sex or kidnapping offender, he or she must report weekly. The lack of a fixed residence is a factor that may be considered in determining a sex or kidnapping offender's risk level.

G. Changes in Residence, Employment, Student Status, or Vocation. If any person required to register pursuant to this chapter changes his or her residence, employment, student status, or vocation on the Reservation, the person must send written notice of the change of address to Law Enforcement within seventy-two hours of the change.

H. Name Changes. A sex or kidnapping offender subject to registration requirements under this section who applies to change his or her name under the laws of any jurisdiction shall submit a copy of the application to Law Enforcement not fewer than five days before the entry of an order granting the name change. If Tribal Law permits the Tribal Court to issue an order granting a name change, no sex or kidnapping offender under the requirement to register under this chapter at the time of the application shall be granted such an order if the Court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A kidnapping or sex offender under the requirement to register under this section who receives an order changing his or her name in any jurisdiction shall submit a copy of the order to Law Enforcement within five days of the entry of the order.

I. Violation; Penalty.

1. An Indian person who knowingly fails to register or who moves within the Reservation without notifying Law Enforcement as required by this section is guilty of a felony if the crime for which the individual was convicted was a felony kidnapping or felony sex offense as defined by the law of the jurisdiction imposing the charge. If the crime was other than a felony under the law of the jurisdiction imposing the charge, violation of this section is a gross misdemeanor.

2. A non-Indian or Indian person who knowingly fails to register or who moves within the Reservation without notifying Law Enforcement as required by this section is guilty of a violation of this section, and is subject to a civil citation and fine not to exceed:

- i. \$ _____ for the first violation;
- ii. \$ _____ for the second violation;
- iii. \$ _____ for the third or subsequent violation.

3. In addition to the penalties of this subsection (I)(1) and (I)(2), the Court may, pursuant to a request by the Tribal Council, enter an exclusion order under Chapter 2.16 of the Squaxin Island Tribal Code upon the second or subsequent violation of the duty to register under this section 9.12.775.

J. Exclusion. Law Enforcement shall seek an exclusion order, under Chapter 2.16 of the Squaxin Island Tribal Code, against any individual who it has reason to believe has been classified as a risk level II or III sex or kidnapping offender under the laws of the Squaxin Island Tribe or of the state of Washington, or has been classified in a substantially equivalent level under the laws of any other jurisdiction. The Tribal Court shall grant such an exclusion order in every case unless otherwise prohibited by law.

9.12.780 Sex Offenders and Kidnapping Offenders; Release of Information to Public; When Authorized; Immunity

A. Squaxin Island Law Enforcement (“Law Enforcement”) shall release information to the public regarding sex offenders and kidnapping offenders when Law Enforcement determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding any person required to register under section 9.12.775.

B. The extent of the public disclosure of relevant and necessary information shall be rationally related to: (1) the level of risk posed by the offender to the community; (2) the locations where offender resides, expects to reside, is employed, attends school, or is regularly found; and (3) the needs of the affected community members for information to enhance their individual and collective safety. At a minimum, Law Enforcement shall mail a notice to all residential, governmental and business addresses on the Reservation as soon as possible upon any new registration under section 9.12.775, any change in residence under section 9.12.775(G), or name change under section 9.12.775(H). Such notice shall include all information the registrant is required to provide under section 9.12.775(C), except that Law Enforcement shall not release the registrant’s date and place of birth, social security number, or fingerprints to anyone other than law enforcement agencies.

C. Law Enforcement shall consider the following guidelines in determining the extent of a public disclosure made under this section: (1) for offenders classified as risk level I, Law Enforcement shall share information with other appropriate law enforcement agencies and may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found; (2) for offenders classified as risk level II, Law Enforcement may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; and (3) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large.

D. The Law Enforcement Department and its employees who disseminate information pursuant to this section shall: (1) Review available risk level classifications made by relevant agencies in the jurisdiction imposing the charge, including, but not limited to, departments of corrections, social and health services departments, and sentencing review boards; (2) assign risk level classifications to all offenders about whom information will be disseminated; and (3) make a good faith effort to notify the public and residents at least fourteen days before the offender is released from confinement or, where an offender moves from another jurisdiction, as soon as possible after Law Enforcement learns of the offender’s move, except that in no case may this notification provision be construed to require an extension of an offender’s release date. The Tribal Court shall provide Law Enforcement with all relevant information on offenders allowed to remain in the community in a timely manner.

E. An appointed or elected official, tribal employee, or tribal department is immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee or department acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of Law Enforcement or an official or employee to classify an offender to a risk level other than the one assigned by the jurisdiction imposing the charge, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

F. Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a tribal official, tribal employee, or tribal agency for failing to release information authorized under this section.

G. Nothing in this section implies that information regarding persons designated in subsection (A) of this section is confidential except as may otherwise be provided by law.

9.12.785 Registration of Sex Offenders and Kidnapping Offenders; End of Duty to Register

A. The duty to register under 9.12.775 shall end:

1. For a person classified as a risk level III sex offender or kidnapping offender, or a person who has two or more convictions for a sex offense or kidnapping offense: such person may only be relieved of the duty to register under subsection (C) or (D) of this section.

2. For a person classified as a risk level II sex offender or kidnapping offender, and the person has only one conviction for a sex offense or kidnapping offense: fifteen years after the last date of release from confinement, if any (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of any new offenses.

3. For a person classified as a risk level I sex offender or kidnapping offender and the person does not have two or more convictions for a sex offense or kidnapping offense: ten years after the last date of release from confinement, if any (including full-time residential treatment), pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of any new offenses.

B. The provisions of subsection (A) of this section shall apply equally to a person who has been found not guilty by reason of insanity of a sex offense or kidnapping offense.

C. Petition to Be Relieved of Duty to Register.

1. Any person having a duty to register under 9.12.775 may petition the Tribal Court to be relieved of that duty, if the person has spent ten consecutive years in the community without being convicted of any new offenses. The Tribe shall be named and served as the respondent in any such petition. The Court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. The Court may order psychological or other testing or examination as it deems relevant to its decision, which shall be paid for by the offender unless he or she can demonstrate an inability to pay. Except as provided in subsection (D) of this section, the Court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of 9.12.775.

2. Special Rules.

a. The Court may not relieve a person of the duty to register if the person has been determined to be a sexually violent predator under the law of any jurisdiction, or has been convicted of a sex offense or kidnapping offense that is a class A felony and that was committed with forcible compulsion on or after the effective date of this ordinance.

b. Any person subject to subsection (2)(a) of this subsection may petition the Court to be exempted from any community notification requirements that the person may be subject to fifteen years after the later of the entry of the judgment and sentence or the last date of release from confinement, if the person has spent the time in the community without being convicted of any new offense.

D. An offender having a duty to register under 9.12.775 for a sex offense or kidnapping offense committed when the offender was a juvenile may petition the Tribal Court to be relieved of that duty when the offender reaches the age of eighteen (18). The Court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after adjudication, and may consider other factors. The Court may order psychological or other testing or examination as it deems relevant to its decision, which shall be paid for by the offender unless he or she can demonstrate an inability to pay.

1. The Court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was fifteen years of age or older only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of 9.12.775.

2. The Court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was under the age of

fifteen if the petitioner: (a) has not been adjudicated or convicted of any additional sex offenses or kidnapping offenses during the twenty-four months following the adjudication for the offense giving rise to the duty to register; and (b) proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of 9.12.775.

3. This subsection shall not apply to juveniles prosecuted as adults.

E. Unless relieved of the duty to register pursuant to this section, a violation of 9.12.775 is an ongoing offense for purposes of any applicable statute of limitations under.