

Title 4A – Criminal Code
Chapter 1 – Preliminary Provisions

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Legislative History

Enacted:

Swinomish Indian Code, Ord. 331 Adopting STC Title 4A – Registration of Sex Offenders, (4/1/14), BIA (4/14/14)

Repealed:

The portion of Ord. 224 which created STC Title 4, Chapter 14, (4/1/14), BIA (4/14/14)

4A-01.010 Title.

This Title shall be known and may be cited as the “Swinomish Sex Offender Registration Code.”

4A-01.020 Purpose.

The intent of this Title is to protect the security, health, safety, well-being, and welfare of the Swinomish Indian Tribal Community and its members, and to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) (42 USC 16901 et seq.), and this Title shall be interpreted liberally to comply with this intent.

4A-01.030 Definitions.

The definitions below apply to the Swinomish Sex Offender Registration Code only.

- (A) “Business day” means a day on which the agency responsible for registering a sex offender is open to the public to perform registration activities.
- (B) “Convicted” means as follows:
 - (1) An adult sex offender is “convicted” for the purposes of this Title if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled. This includes, but is not limited to, deferred sentencing, suspended sentencing, and the imposition of probation.
 - (a) An adult sex offender who is found not guilty by reason of insanity is “convicted” for purposes of this Title.

- (2) A juvenile offender is “convicted” for purposes of this Title if the juvenile offender is either:
- (a) Prosecuted and found guilty as an adult for a sex offense; or
 - (b) Is convicted or 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 abusive sexual intercourse (as described in STC 4-03) or abusive sexual intercourse with a child (as described in STC 4-03), or was an attempt or conspiracy to commit such an offense.
- (C) "Employed" means working or carrying on a vocation that is full time or part time for a period of time exceeding ten business days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed whether the person's employment is financially compensated, volunteered, or for the purpose of governmental or educational benefit. “Employed” includes individuals who are self-employed or who work for any other entity.
- (D) “Employee” means an individual who is employed.
- (E) “Immediate” and “immediately” mean within three business days.
- (F) “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 and shall include electronic home detention or community service.
- (G) “Juvenile” means an individual who has not attained the age of eighteen years.
- (H) “National Crime Information Center” or “NCIC” means the criminal history databases maintained by the Federal Bureau of Investigation.
- (I) “National Sex Offender Registry” or “NSOR” means the national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S. C. §16919.
- (J) “Registerable sex offense” means as follows:
- (1) Registerable Sex Offense Convictions in Swinomish Tribal Court. A conviction in Swinomish Tribal Court for any of the following or conviction for attempt or conspiracy to commit any of the following:
 - (a) A Class A or Class B offense under STC 4-03;
 - (b) An offense that is classified as a crime with a sexual motivation under STC 4-01.110; and
 - (c) Any class of Abduction under STC 4-02.

- (2) Registerable Sex Offense Convictions from Other Jurisdictions. A conviction for a sex offense that requires registration under the laws of the State of Washington and the conviction was obtained under the laws of the United States, any of the 50 states, the U.S. Military, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, any Indian tribe, 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 at the time in which the conviction occurred.
- (K) “Registered sex offender” means a person who is required under this Title to register as a sex offender, whether or not that person is compliant with registration requirements.
- (L) “Reside” means to have a residence.
- (M) “Residence” means the location of the individual’s home or other place where the individual habitually lives or sleeps. A “residence” includes a location where the individual lives or stays at more than a total of 48 hours in a seven day period.
- (N) “Resident” means an individual who has a residence.
- (O) “SORNA Exchange Portal” means the internet-based community developed by the U.S. Department of Justice for the purpose of satisfying the requirement of the Sex Offender Registration and Notification Act that jurisdictions share information about sex offenders that are relocating between jurisdictions or required to register in more than one jurisdiction.
- (P) “Student” means 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.
- (Q) “Swinomish Police Department” refers to the Swinomish Police Department or its designee.

4A-01.040 Swinomish Registry.

- (A) Definition. The Swinomish Sex Offender Registry (or “the Swinomish Registry”) means the registry of sex offenders and the notification program maintained by the Swinomish Police Department.
- (B) Maintenance. All information obtained under this Title shall be, at a minimum, maintained by the Swinomish Police Department digitally in an electronic database and in a form capable of electronic transmission.

4A-01.050 Policies and Procedures.

The Swinomish Police Department shall have policies and procedures in place to ensure that any individual convicted of a registerable sex offense by the Tribe completes his or her initial registration with the Tribe; that the individual has signed a form stating that the duty to register has been explained to him or her and that the individual understands the registration requirement; that the individual is registered and added to the Swinomish Registered Sex Offender Website if applicable; that upon entry of the individual's information into the Swinomish Registry, that information is immediately forwarded to all other jurisdictions in which the individual is required to register due to the individual's residency, employment, or student status; and that all information is entered and updated in NCIC/NSOR.

4A-01.060 Delegation of Duties.

- (A) **Tribe May Delegate.** The Tribe may, through a written agreement with another Indian tribe, the United States, the State of Washington, or a political subdivision of the State of Washington, enter into arrangements for that Indian tribe, the United States, the State of Washington, or that political subdivision of the State of Washington to assist the Tribe with information verification or other implementation of sex offender registration requirements contained in this Title.
- (B) **Tribe May Assist.** The Tribe may, through a written agreement with another Indian tribe, the United States, the State of Washington, or a political subdivision of the State of Washington, enter into arrangements for the Tribe to assist with information verification or other implementation of sex offender registration requirements contained in the laws of that Indian tribe, the United States, the State of Washington, or that political subdivision of the State of Washington.

4A-01.070 Nonwaiver.

Nothing in this Title shall be deemed to constitute a waiver by the Swinomish Indian Tribal Community of its sovereign immunity, sovereignty, rights, powers, or privileges.