

**SB**

**265**

# ALASKA STATE LEGISLATURE

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**Chair**  
Senate State Affairs  
Administrative Regulation Review

**Member**  
Senate Judiciary Committee  
Senate Resources Committee

**SENATOR LESIL MCGUIRE**

## SPONSOR STATEMENT

### SB 265 – Sex Offenders & Child Kidnappers

One out of ten convicted sex offenders and child kidnappers in the State of Alaska are failing to keep their information current on the state Sex Offender Registry (SOR). SB 265 aims to bring these offenders into compliance by withholding their Permanent Fund Dividend until they have registered.

SB 265 would require that anyone applying for their PFD be screened against the Department of Public Safety's Sex Offender Registry. If the applicant is found to be a convicted sex offender and out of compliance with the SOR, the application would be rejected and a notice with instructions on how to update SOR information would be mailed to the applicant.

Information provided to the PFD is arguably the most accurate and up-to-date information in the state. SB 265 taps into this valuable resource to bring the one out of ten noncompliers on the SOR into compliance.

By creating an incentive for convicted sex offenders to keep their SOR information up to date, SB 265 would relieve law enforcement of the burden of having to dedicate the time, money, and resources to track down noncompliant offenders. Convicted sex offenders willingly updating their information would also relieve the court system of the burden of trying and convicting noncompliers.

But most importantly, SB 265 would increase the effectiveness of an already successful and popular SOR program. By ensuring up-to-date and accurate information is posted on the State SOR, SB 265 gives Alaskan citizens an improved means to identify convicted sex offenders who may be living in their communities.

25-LS1449E  
Cook  
2/25/08

**CS FOR SENATE BILL NO. 265( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR MCGUIRE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the payment of permanent fund dividends to certain individuals**  
2 **required to register as sex offenders or child kidnappers and providing for an effective**  
3 **date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1. AS 43.23 is amended by adding a new section to read:**

6 **Sec. 43.23.021. Delayed payment of certain dividends.** (a) Notwithstanding  
7 other provisions regarding the payment of permanent fund dividends, if an individual  
8 is required to register as a sex offender or child kidnapper under AS 12.63 and has not  
9 registered or has not completed the required periodic verifications or notices required  
10 under AS 12.63, payment of the dividend for that individual shall be delayed.

11 (b) If payment of a dividend is delayed, the department shall notify the  
12 individual in writing of the delayed payment status, explain the requirements of this  
13 section, and request proof of registration and compliance with the verifications and  
14 notices required under AS 12.63. The dividend may not be paid unless, within one

1 year after the notification, the department determines that the individual has registered  
2 and is in compliance with the verifications and notices required under AS 12.63.

3 (c) Notwithstanding other provisions, a permanent fund dividend that has not  
4 become payable to an individual under this section is not subject to levy, execution,  
5 garnishment, attachment, or any other remedy for the collection of debt until that  
6 dividend becomes payable or is paid to the individual.

7 (d) If an individual for whom payment of a permanent fund dividend has been  
8 delayed but remains payable under (b) of this section dies before the dividend is paid  
9 or payable, the department shall pay the dividend to a personal representative of the  
10 individual's estate.

11 (e) The department shall include notice with the dividend application form of  
12 the requirements of (a) and (b) of this section.

13 \* Sec. 2. AS 43.23.025(a) is amended to read:

14 (a) By October 1 of each year, the commissioner shall determine the value of  
15 each permanent fund dividend for that year by

16 (1) determining the total amount available for dividend payments,  
17 which equals

18 (A) the amount of income of the Alaska permanent fund  
19 transferred to the dividend fund under AS 37.13.145(b) during the current year;

20 (B) plus the unexpended and unobligated balances of prior  
21 fiscal year appropriations that lapse into the dividend fund under  
22 AS 43.23.045(d);

23 (C) less the amount necessary to pay prior year dividends from  
24 the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and  
25 43.23.055(3) and (7) [UNDER AS 43.23.055(3) AND (7)];

26 (D) less the amount necessary to pay dividends from the  
27 dividend fund due to eligible applicants who, as determined by the department,  
28 filed for a previous year's dividend by the filing deadline but who were not  
29 included in a previous year's dividend computation;

30 (E) less appropriations from the dividend fund during the  
31 current year, including amounts to pay costs of administering the dividend

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program and the hold harmless provisions of AS 43.23.075;

(2) determining the number of individuals eligible to receive a dividend payment for the current year and the number of estates and successors eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

(3) dividing the amount determined under (1) of this subsection by the amount determined under (2) of this subsection.

\* Sec. 3. This Act takes effect January 1, 2009.

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB265-DOC-OC-2-15-08  
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name): SB265-DOC-OC-2-15-08 Dept. Affected: Corrections  
 Title "An Act relating to drivers' licenses and identification cards RDU Administration and Operations  
issued to sex offenders and child kidnappers." Component Office of the Commissioner  
 Sponsor Senator McGuire  
 Requester Senate Transportation Component Number 694

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

|                               | Appropriation<br>Required | Information |            |            |            |            |            |            |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|------------|
|                               |                           | FY 2009     | FY 2009    | FY 2010    | FY 2011    | FY 2012    | FY 2013    | FY 2014    |
| <b>OPERATING EXPENDITURES</b> |                           |             |            |            |            |            |            |            |
| Personal Services             | 0.0                       | 0.0         | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Travel                        | 0.0                       | 0.0         | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Contractual                   | 0.0                       | 0.0         | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Supplies                      | 0.0                       | 0.0         | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Equipment                     | 0.0                       | 0.0         | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Land & Structures             | 0.0                       | 0.0         | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Grants & Claims               | 0.0                       | 0.0         | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Miscellaneous                 | 0.0                       | 0.0         | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| <b>TOTAL OPERATING</b>        | <b>0.0</b>                | <b>0.0</b>  | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                            |            |            |            |            |            |            |            |            |
|----------------------------|------------|------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts      | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| 1003 GF Match              | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| 1004 GF                    | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| 1005 GF/Program Receipts   | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| 1037 GF/Mental Health      | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Other Interagency Receipts | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| <b>TOTAL</b>               | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

|           |   |   |   |   |   |   |   |   |
|-----------|---|---|---|---|---|---|---|---|
| Full-time | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Part-time | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Temporary | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

**ANALYSIS:** (Attach a separate page if necessary)

Passage of this legislation should have no fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Director  
 Division: Administrative Services  
 Approved by: Dwayne Peoples, Deputy Commissioner  
Department of Corrections

Phone (907) 465-3339  
 Date/Time 2/15/08 2:13 PM  
 Date 2/15/2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 265  
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name): SB265-DOA-DMV-02-13-08 Dept. Affected: Administration  
 Title: "Drivers' licenses and ID cards issued to sex offenders..." RDU: Division of Motor Vehicles  
 Component: Motor Vehicles  
 Sponsor: Sen. McGuire  
 Requester: (S) TRA Component Number: 2348

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

|                               | Appropriation<br>Required | Information |            |            |            |            |            |            |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|------------|
|                               |                           | FY 2009     | FY 2009    | FY 2010    | FY 2011    | FY 2012    | FY 2013    | FY 2014    |
| <b>OPERATING EXPENDITURES</b> |                           |             |            |            |            |            |            |            |
| Personal Services             |                           |             |            |            |            |            |            |            |
| Travel                        |                           |             |            |            |            |            |            |            |
| Contractual                   | 155.0                     |             |            |            |            |            |            |            |
| Supplies                      |                           |             |            |            |            |            |            |            |
| Equipment                     |                           |             |            |            |            |            |            |            |
| Land & Structures             |                           |             |            |            |            |            |            |            |
| Grants & Claims               |                           |             |            |            |            |            |            |            |
| Miscellaneous                 |                           |             |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b>        | <b>155.0</b>              | <b>0.0</b>  | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|--|

|                               |            |  |  |  |  |  |  |  |
|-------------------------------|------------|--|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> | <b>0.0</b> |  |  |  |  |  |  |  |
|-------------------------------|------------|--|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                                 | FY 2009      | FY 2009    | FY 2010    | FY 2011    | FY 2012    | FY 2013    | FY 2014    |
|---------------------------------|--------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts           |              |            |            |            |            |            |            |
| 1003 GF Match                   |              |            |            |            |            |            |            |
| 1004 GF                         |              |            |            |            |            |            |            |
| 1005 GF/Program Receipts        |              |            |            |            |            |            |            |
| 1037 GF/Mental Health           |              |            |            |            |            |            |            |
| 1156 Receipt Supported Services | 155.0        |            |            |            |            |            |            |
| <b>TOTAL</b>                    | <b>155.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

|           | FY 2009 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
|-----------|---------|---------|---------|---------|---------|---------|---------|
| Full-time |         |         |         |         |         |         |         |
| Part-time |         |         |         |         |         |         |         |
| Temporary |         |         |         |         |         |         |         |

**ANALYSIS:** (Attach a separate page if necessary)

This bill would require the Division of Motor Vehicles' database to interface with the Department of Public Safety database to determine sex offender status. It would also require a change to DMV's computer program to allow for an alternate expiration date.

The fiscal note reflects the cost of a contract programmer for 650 hours for analysis, review, security, planning, and implementation of the interface, and an additional 120 hours for interface implementation and automatic 1-year expiration date programming.

Prepared by: Whitney H. Brewster, Director  
 Division: Motor Vehicles  
 Approved by: Kevin Brooks, Deputy Commissioner  
Department of Administration

Phone 907-269-5574  
 Date/Time 2/14/08 12:00 AM  
 Date 2/14/2008

# LEGAL SERVICES

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## MEMORANDUM

February 20, 2008

**SUBJECT:** Sex offender registration and permanent fund dividends  
(Work Order No. 25-LS1538)

**TO:** Senator Lesil McGuire  
Chair of the Senate State Affairs Committee  
Attn: Trevor Fulton

**FROM:** Tamara Brandt Cook  
Director *TBC*

*Would there be a constitutional issue with withholding a sex offender's permanent fund dividend if the offender fails to comply with sex offender registration requirements?*

A convicted sex offender is required to comply with the registration requirements of AS 12.63.010 which are fairly detailed. Failing to comply with the registration requirements is, itself, a criminal offense. Under AS 11.56.830, failure to register as a sex offender in the first degree is a class C felony. Under AS 11.56.840, failure to register as a sex offender in the second degree is a class A misdemeanor. So, the state has already established the penalty for failure to comply with the registration requirements. Consequently, it is possible that an equal protection challenge could be brought against the state if it treats people who are convicted of failing to register as sex offenders differently from people who are convicted of other crimes that carry the same penalties.

However, in most cases a person who fails to register as a sex offender already loses eligibility for permanent fund dividends. AS 43.23.005(d) provides:

- (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is not eligible for a permanent fund dividend for a dividend year when
- (1) during the qualifying year, the individual was sentenced as a result of conviction in this state of a felony;
  - (2) during all or part of the qualifying year, the individual was incarcerated as a result of the conviction in this state of a
    - (A) felony; or
    - (B) misdemeanor if the individual has been convicted of
      - (i) a prior felony as defined in AS 11.81.900; or
      - (ii) two or more prior misdemeanors as defined in AS 11.81.900.

Senator Lesil McGuire

February 20, 2008

Page 2

Note that if an individual, during the dividend qualifying year, has been sentenced as a result of conviction of failure to register as a sex offender in the first degree or was incarcerated for that crime, the individual does not qualify for a permanent fund dividend. If an individual, during the dividend qualifying year, was incarcerated as a result of conviction of failure to register as a sex offender in the second degree, that individual will not qualify for a permanent fund dividend because, essentially, all persons who are required to register have already been convicted of prior offenses that trigger the ineligibility provision of AS 43.24.005(d)(2)(B).

TBC:med  
08-125.med

January 2008

# CONVICTED SEX OFFENDERS

Factors That Could  
Affect the Successful  
Implementation of  
Driver's License-  
Related Processes to  
Encourage  
Registration and  
Enhance Monitoring





Highlights of GAO-08-116, a report to congressional committees

## CONVICTED SEX OFFENDERS

### Factors That Could Affect the Successful Implementation of Driver's License-Related Processes to Encourage Registration and Enhance Monitoring

#### Why GAO Did This Study

To enhance public safety, all states have laws requiring convicted sex offenders to register with law enforcement authorities. Because ensuring compliance is a challenge, in part because offenders may move frequently, policy makers are considering a role for motor vehicle agencies. In response to section 636 of the Adam Walsh Child Protection and Safety Act of 2006 (the Walsh Act) and as discussed with congressional committees, this report identifies (1) the various driver's license-related processes that states are using to encourage registration or provide additional monitoring of convicted sex offenders; (2) the level of modifications to states' information technology (IT) capabilities that would be needed, and the key cost factors involved, if a federal law were to require the screening of individuals against the respective state's sex offender registry and the Federal Bureau of Investigation's (FBI) National Sex Offender Registry before issuing a driver's license; and (3) other factors that could affect successful implementation of this type of screening program.

To accomplish these objectives, GAO reviewed state statutes and surveyed motor vehicle and public safety agencies in 26 states. The 26 states reflect regional representation, among other factors. GAO also interviewed officials from various components in the Department of Justice (DOJ) and the American Association of Motor Vehicle Administrators (AAMVA). GAO is not making any recommendations in this report.

To view the full product, including the scope and methodology, click on GAO-08-116. For more information, contact Robert Goldenkoff at (202) 512-8777 or [goldenkoffr@gao.gov](mailto:goldenkoffr@gao.gov).

#### What GAO Found

As of July 2007, 22 of the nation's 50 states were using some form of driver's license-related process to encourage registration or provide additional monitoring of convicted sex offenders. For example, nine states specifically require convicted sex offenders to obtain a driver's license, an identification card, or a sex offender registration card issued through driver's license-related processes, and five of these nine states also label the respective document with an annotation that identifies the person as a sex offender. One of the 22 states—Nevada—has a process for screening every driver's license applicant against the state's sex offender registry before issuing a license. However, no state has a screening process whereby all applicants are screened against both the respective state's sex offender registry and the FBI's national registry before being issued a driver's license.

To establish this type of screening process, most of the motor vehicle agencies and sex offender registries in the 26 states surveyed by GAO said that moderate to major modifications to their current IT systems would be needed, with software modifications being a key cost factor. Many of the responding state agencies indicated that before reliable cost estimates for this type of screening process could be developed, operational or functional requirements must be clearly defined. Moreover, a recurring observation by motor vehicle agency officials was that given competing demands for programming resources, the agencies were not positioned to handle additional projects during the next several years.

In addition to addressing IT and cost issues, successful implementation of a driver's license screening program for sex offenders will also hinge on how well the program incorporates key design considerations. Developing an effective "one-size-fits-all" screening program could be a daunting challenge given the different processes, procedures, databases, and operational environments among the motor vehicle and law enforcement agencies across the nation. If the federal government were to require this type of screening process, several key design factors could affect the outcomes of the process. Among other considerations cited by federal, state, and AAMVA officials, particularly important are design factors aimed at minimizing the burden on states, maintaining customer service at motor vehicle agencies, and mitigating unintended consequences. Although not an exhaustive list, these design considerations could affect the results from and the costs of a nationwide screening program. Decisions on the most optimal approach to pursue—and, if applicable, how best to integrate the design considerations discussed in GAO's report—likely would necessitate collaboration among various stakeholders, including interested states, AAMVA, and the FBI, which manages the national sex offender registry.

In commenting on a draft copy of this report, DOJ and AAMVA provided technical clarifications, which GAO incorporated where appropriate.

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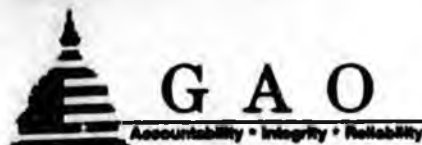
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## Abbreviations

|       |  |
|-------|--|
| AAMVA | American Association of Motor Vehicle Administrators                         |
| CJIS  | Criminal Justice Information Services  |
| DMV   | department of motor vehicles   |
| DOJ   | Department of Justice  |
| DPS   | Department of Public Safety  |
| FBI   | Federal Bureau of Investigation  |
| IT    | information technology   |
| NSOR  | National Sex Offender Registry   |
| SMART | Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking |
| SORNA | Sex Offender Registration and Notification Act                               |

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**United States Government Accountability Office**  
Washington, DC 20548

January 30, 2008

The Honorable Patrick J. Leahy  
Chairman  
The Honorable Arlen Specter  
Ranking Member  
Committee on the Judiciary  
United States Senate

The Honorable John Conyers, Jr.  
Chairman  
The Honorable Lamar Smith  
Ranking Member  
Committee on the Judiciary  
House of Representatives

Nationwide, more than 600,000 convicted sex offenders are either incarcerated, on probation, or residing freely in localities across the United States, according to an estimate by the National Center for Missing and Exploited Children. This large and growing population of convicted sex offenders has raised public concerns in part because the victims of sexual assaults are more likely to be children, most perpetrators live in communities rather than in prison, and some sex offenders, particularly those who go without treatment, are at greater risk of committing another offense.<sup>1</sup>

Beginning with Congress' enactment of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act in 1994, there have been national standards for sex offender registration programs in the United States.<sup>2</sup> The Adam Walsh Child Protection and Safety Act of 2006 (the Walsh Act) enacted a new comprehensive set of minimum national standards for sex offender registration and notification, replacing

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<sup>1</sup>The center was established in 1984 as a private, nonprofit organization to provide services nationwide for families and professionals in the prevention of abducted, endangered, and sexually exploited children. The center receives funding from the Office of Juvenile Justice and Delinquency Prevention, a component of the Department of Justice's Office of Justice Programs.

<sup>2</sup>Pub. L. No. 103-322, 108 Stat. 2038 (1994).

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the previously applicable standards under the Wetterling Act.<sup>3</sup> In addition to defining the current national standards for state sex offender registration programs, the Walsh Act requires that states submit information concerning their registrants and updates thereto to the Attorney General for inclusion in the National Sex Offender Registry (NSOR). Maintained by the Federal Bureau of Investigation (FBI), NSOR is a national database that compiles information about registered sex offenders obtained under the various state programs and makes that information available to law enforcement agencies on a nationwide basis. The data used to populate NSOR are provided to the Attorney General by officials in the 50 states, each of which operates a computerized sex offender registry.<sup>4</sup> Most states' registries are centrally maintained by a state criminal justice agency, such as the state police or a department of public safety.

To be fully effective, sex offender registries need to be routinely updated with current information on offenders' addresses and other required information. However, maintaining complete and accurate information can be problematic, as sex offenders may move frequently and not comply with self-reporting requirements. To encourage greater compliance with sex offender registration requirements, federal and state policy makers have considered various mechanisms, such as screening individuals against a state's sex offender registry database when they apply for or renew a driver's license.<sup>5</sup>

Section 636 of the Walsh Act mandated that we study the feasibility of using driver's license-related processes to improve the level of compliance with sex offender registration requirements for change of address upon relocation and other related updates of personal information. It also required that we determine the potential costs to states to implement a process whereby all driver's license applicants are prescreened against both the respective state's sex offender registry and the FBI's NSOR. The information technology (IT) system requirements necessary to implement such a screening process are not yet defined. Thus, at the time of our study, the states did not have enough information on what would be

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<sup>3</sup>Pub. L. No. 109-248, 120 Stat. 587 (2006).

<sup>4</sup>The District of Columbia and U.S. territories also contribute records to NSOR.

<sup>5</sup>As used in this report, the term "driver's license" may include commercial driver's license and identification card, as applicable.

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required of them to provide reliable cost data. Therefore, in accordance with the congressional mandate and as discussed with your offices, this report addresses the following questions:

- In what ways are states using driver's license-related processes to encourage registration or provide additional monitoring of convicted sex offenders?
- If a federal law were enacted requiring states to screen individuals against the respective state's sex offender registry and the FBI's NSOR before issuing a driver's license, (a) what level of modifications would states need to make to their IT capabilities to comply with such a federal law and (b) what would be the key cost factors to implement and maintain this screening capability?
- What other factors could affect the successful design and implementation of a process for screening individuals against a state's sex offender registry and the FBI's NSOR before issuing a driver's license?

As further discussed with your offices, because the congressional mandate mentioned Nevada's screening process as an example, this report includes information on Nevada's approach for screening driver's license applicants against the state's sex offender registry. To obtain an understanding of Nevada's screening process, we contacted officials at the state's Department of Motor Vehicles and Department of Public Safety.

To determine ways that states are using driver's license-related processes to encourage registration or provide additional monitoring of convicted sex offenders, we conducted research of the statutory requirements for all 50 states, and we reviewed the Web sites of agencies responsible for either maintaining the respective state's sex offender registry or issuing driver's licenses. Also, we interviewed motor vehicle agency and sex offender registry officials in states that we surveyed (see below).

To determine the capability of states' IT systems to screen individuals against the respective state's sex offender registry and the FBI's NSOR before issuing a driver's license and to determine the key cost factors in implementing and maintaining this screening capability, we surveyed motor vehicle agency and sex offender registry officials in 26 states by sending them a questionnaire and following up with telephone interviews. We selected these states to obtain regional representation across the nation and a range in the number of sex offender registrants (as this would affect the screening workload) as well as states with and without a driver's license-related process for monitoring sex offenders. Also, we made site

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visits to 3 of the 26 states (Delaware, Georgia, and Maryland) where we interviewed officials of the state motor vehicle agencies and sex offender registries. We selected these three states because Delaware has a driver's license-related screening process while Georgia and Maryland do not, and we wanted to obtain additional perspectives on factors affecting the decisions to implement or not implement a screening process. Overall, we received responses from 38 state agencies (motor vehicle agencies and/or sex offender registries) in 25 of the 26 states. Because these states constitute a nonprobability sample, the responses cannot be viewed as representative of the entire nation.

To determine what other factors could affect designing and implementing a process to screen individuals against a state's sex offender registry and the FBI's NSOR before issuing a driver's license, we contacted officials at the FBI and Nevada's Department of Motor Vehicles and Department of Public Safety. Also, in surveying the 26 other states, we obtained perspectives from motor vehicle agency and sex offender registry officials in these states.

In addition, to address all three objectives, we interviewed officials from the American Association of Motor Vehicle Administrators (AAMVA).<sup>6</sup>

We conducted this performance audit from July 2006 through December 2007 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix I presents more details about our objectives, scope, and methodology.

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## Results in Brief

As of July 2007, 22 of the nation's 50 states were using some form of driver's license-related process to encourage registration or provide additional monitoring of convicted sex offenders. For example, nine states specifically require convicted sex offenders to obtain a driver's license, an identification card, or a sex offender registration card issued through

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<sup>6</sup>AAMVA is a tax-exempt, nonprofit organization that represents the state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws. The association strives to develop model programs in motor vehicle administration, police traffic services, and highway safety.

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driver's license-related processes, and five of these nine states also label the respective document with an annotation that identifies the person as a sex offender. In seven states, the duration of time between driver's license renewals for convicted sex offenders is 1 year. One of the 22 states—Nevada—has a real-time process for screening every driver's license applicant against the state sex offender registry before issuing a license. However, no state has the type of real-time screening process discussed in section 636 of the Walsh Act—that is, a system whereby all applicants are screened against both the respective state's sex offender registry and the FBI's NSOR before being issued a driver's license.<sup>7</sup>

If a federal law were enacted requiring states to establish this type of real-time screening system, moderate to major modifications to states' current IT systems would be needed, with software modifications being one of several key cost factors, according to most of the responding motor vehicle agencies and sex offender registries in the 26 states we surveyed. For example, motor vehicle agency officials in one state explained that software modifications would be needed in seven of the agency's interrelated systems and that making the modifications would be a major effort and require a project manager and both internal resources and contractor support. Similarly, another state's motor vehicle agency officials commented that the types of software used to issue various types of driver's licenses and to account for the respective fees are intertwined, with each governed by complex rules and procedures. Also, these officials added that given competing demands for programming resources, the agency was not positioned to handle another project during the next several years. Further, 22 of the responding state agencies indicated that before reliable cost estimates can be made, the prospective screening system's operational requirements must be clearly defined. For instance, the responses indicated that the system's business rules should fully describe the software functionality to be delivered, including what algorithm to use in determining whether a driver's license applicant is matched to a person listed in the sex offender registry and what happens

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<sup>7</sup>Generally, a "real-time" system is designed to respond to an event within a predetermined time. For example, in screening an individual against sex offender registries before issuing a driver's license, the system would provide for a query and response during the time that the individual is at the motor vehicle agency and applying for the license to be issued over-the-counter by customer-service staff.

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when an applicant is matched to more than one record in the sex offender registry.<sup>8</sup>

Beyond IT and cost issues, successfully implementing a driver's license-screening program for convicted sex offenders would also depend on how well the program incorporates key design considerations. Given the different processes, procedures, databases, and operational environments in the motor vehicle and law enforcement agencies across the nation, developing an effective nationwide screening program could be a significant challenge. To the extent the government moves forward in this area, our interviews with federal, state, and AAMVA officials indicated the importance of designing the screening program to (1) minimize the burden on states, (2) maintain customer service at motor vehicle agencies, (3) mitigate unintended consequences (e.g., causing offenders to go "underground" and drive without a valid license), and (4) communicate timely and actionable information on noncompliant offenders to law enforcement personnel. For example, in minimizing the burden on states, a consideration is whether the existing IT infrastructure that connects all states' motor vehicle agencies and is managed by AAMVA could be expanded or leveraged to support screening against sex offender registries rather than creating an entirely new infrastructure. Also, using a batch-processing mode to periodically screen or cross-check motor vehicle agency records (driver's license records as well as vehicle registration records) against applicable sex offender registries may be less costly and more practical than a real-time screening system, according to several of the states we surveyed.<sup>9</sup> Although not an exhaustive list, these design considerations could affect the results from and the costs of a nationwide screening program.

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<sup>8</sup>Business rules are used to define the requirements that system developers and programmers use to design, develop, and acquire an information system. An "algorithm" is a prescribed set of well-defined, unambiguous rules or processes for the solution of a problem in a finite number of steps.

<sup>9</sup>A batch-processing mode is one where programs and data are collected together in a batch before processing starts. Batch jobs can be placed in a queue and subsequently executed during the evening or other less-busy times. The opposite of batch processing is real-time processing, sometimes referred to as transaction processing or interactive processing. As mentioned previously, a real-time system is designed to respond to an event within a predetermined time.

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In commenting on a draft copy of this report, the Department of Justice and AAMVA provided technical clarifications, which we incorporated where appropriate.

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## Background

All states, the District of Columbia, U.S. territories, and some Indian tribes have laws and/or codes requiring convicted sex offenders to register with local or state law enforcement authorities, the purpose of which is to enhance public protection and provide an additional investigative tool to law enforcement agencies.<sup>10</sup> As mentioned previously, in most states, the sex offender registry is centrally maintained by a state criminal justice agency, such as the state police or a department of public safety.

Between 1994 and 2003, Congress passed a series of laws requiring states to establish sex offender registries to be eligible to receive certain federal funds.<sup>11</sup> More recently, in 2006, Congress passed the Walsh Act to provide more consistency nationwide among the states' sex offender registration programs and to make it more difficult for sex offenders to evade monitoring. The Walsh Act requires states to modify their registration systems in accordance with a comprehensive set of minimum standards, or risk losing a percentage of certain federal grant program funds. These minimum standards include who must register, what information must be in the registries, how often registrants must reappear in person to verify their registration information and have new photographs taken, the number of years that offenders must maintain their registration, and the penalties for failure to register.<sup>12</sup>

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<sup>10</sup>Prior to the enactment of the Walsh Act, jurisdictions to which the national standards applied included the states, the District of Columbia, and the U.S. territories. Section 127 of the Walsh Act adds provisions concerning Indian tribal jurisdictions, which generally afford Indian tribes an election between functioning as registration jurisdictions or delegating those functions to the states in which the tribes are located.

<sup>11</sup>Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, Pub. L. No. 103-322, 108 Stat. 2038 (1994); Megan's Law, Pub. L. No. 104-145, 110 Stat. 1345 (1996); Pam Lychner Sexual Offender Tracking and Identification Act of 1996, Pub. L. No. 104-236, 110 Stat. 2053 (1996); Campus Sex Crimes Protection Act, Pub. L. No. 106-986, 114 Stat. 1537 (2000); and PROTECT Act, Pub. L. No. 108-21, 117 Stat. 650 (2003).

<sup>12</sup>The new requirements are specified in the Sex Offender Registration and Notification Act (sometimes referred to as "SORNA"), which is title I of the Walsh Act. In May 2007, the Department of Justice issued proposed guidelines for implementing the new requirements, which are applicable to all 50 states, the District of Columbia, the principal U.S. territories, and federally recognized Indian tribes.

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To be useful, sex offender registry information must be current and complete. Under the Walsh Act, sex offenders who change their name, residence, or employment or student status must, within 3 business days, appear in person in at least one jurisdiction involved and provide notice of all changes. That jurisdiction must immediately provide updated information to all other jurisdictions in which the sex offender is required to register.<sup>13</sup> To monitor the interstate movement of offenders, states participate in NSOR, which was activated in 1999 as a component of the FBI's National Crime Information Center. NSOR enables law enforcement agencies to share information across states. For instance, law enforcement can run name checks against NSOR to identify sex offenders who have failed to register after moving from one state to another. NSOR is available to law enforcement only and allows for the use of extensive personal identifying information, including alias identifications, in queries for potential matches. According to the FBI, to meet the needs of law enforcement in dealing with offenders who may provide false information upon being arrested, each NSOR record can contain up to 100 names, 10 Social Security numbers, and 10 dates of birth.

Convicted sex offenders who fail to satisfy registration requirements are subject to state or federal prosecution. The Walsh Act requires states to impose criminal penalties (including a maximum term of imprisonment that is greater than 1 year) on sex offenders who fail to comply with registration requirements. In addition, the Walsh Act makes failure to comply with registration requirements a federal crime (punishable by up to 10 years in prison) for sex offenders who travel between states or Indian tribal jurisdictions, or whose registrable offenses are for federal, D.C., Indian, or territorial crimes.<sup>14</sup> Noncompliance by offenders released to community supervision generally may also be punishable by revocation of release. Despite the potential for prosecution or revocation of release, ensuring compliance with registration requirements is a significant challenge. According to the Center for Sex Offender Management, every

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<sup>13</sup>Pub. L. No. 109-248, 120 Stat. 587, 594 (2006).

<sup>14</sup>Pub. L. No. 109-248, 120 Stat. 587, 594, 602 (2006).

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state is grappling with problems regarding the accuracy of their sex offender registries.<sup>15</sup>

To better ensure compliance with registration requirements, some observers have called for more interagency collaboration—to include, in particular, a role for motor vehicle agencies. The National Center for Missing and Exploited Children has advocated flagging driver-license and vehicle registration files of sex offenders as a way to keep law enforcement updated on address changes and other personal data.<sup>16</sup> In addition, following establishment of NSOR in 1999, the FBI encouraged states to take advantage of the national registry. For instance, in guidance distributed in 1999 to all states' sex offender registry points of contacts, the FBI noted that, upon issuing new driver's licenses, motor vehicle agencies could initiate a check of NSOR and provide the results (i.e., possible hits) to an authorized criminal justice agency for investigation to verify the identity of the individuals and determine whether they were required to register as sex offenders under the applicable state's laws.<sup>17</sup>

Aside from the prospective screening process discussed in section 636 of the Walsh Act, the states say they are faced with extensive demands in implementing other federal legislation, the REAL ID Act, which creates national standards for the issuance of state driver's licenses and identification cards.<sup>18</sup> For example, the REAL ID Act contemplates the use

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<sup>15</sup>Established in June 1997, the Center for Sex Offender Management's goal is to enhance public safety by preventing further victimization through improving the management of adult and juvenile sex offenders who are in the community. The Center for Sex Offender Management is sponsored by the Office of Justice Programs, U.S. Department of Justice, in collaboration with the National Institute of Corrections, State Justice Institute, and the American Probation and Parole Association.

<sup>16</sup>National Center for Missing and Exploited Children, *A Model State Sex-Offender Policy* (2003).

<sup>17</sup>Letter (dated Jan. 8, 1999) from the FBI's Criminal Justice Information Services Division to all control terminal officers and sex offender registry points of contact.

<sup>18</sup>On May 11, 2005, Congress passed the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 302, as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Pub. L. No. 109-13, 119 Stat. 231). The REAL ID Act creates national standards for the issuance of state driver's licenses and identification cards. States are to implement the national standards created by the REAL ID Act by May 11, 2008; however, the Act gives the Secretary of Homeland Security authority to extend this deadline if the state provides adequate justification for noncompliance. Pub. L. No. 109-13, 119 Stat. 302, 312, 315 (2005).

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of five national electronic systems to facilitate verification, but currently only one of these systems is available on a nationwide basis.<sup>19</sup>

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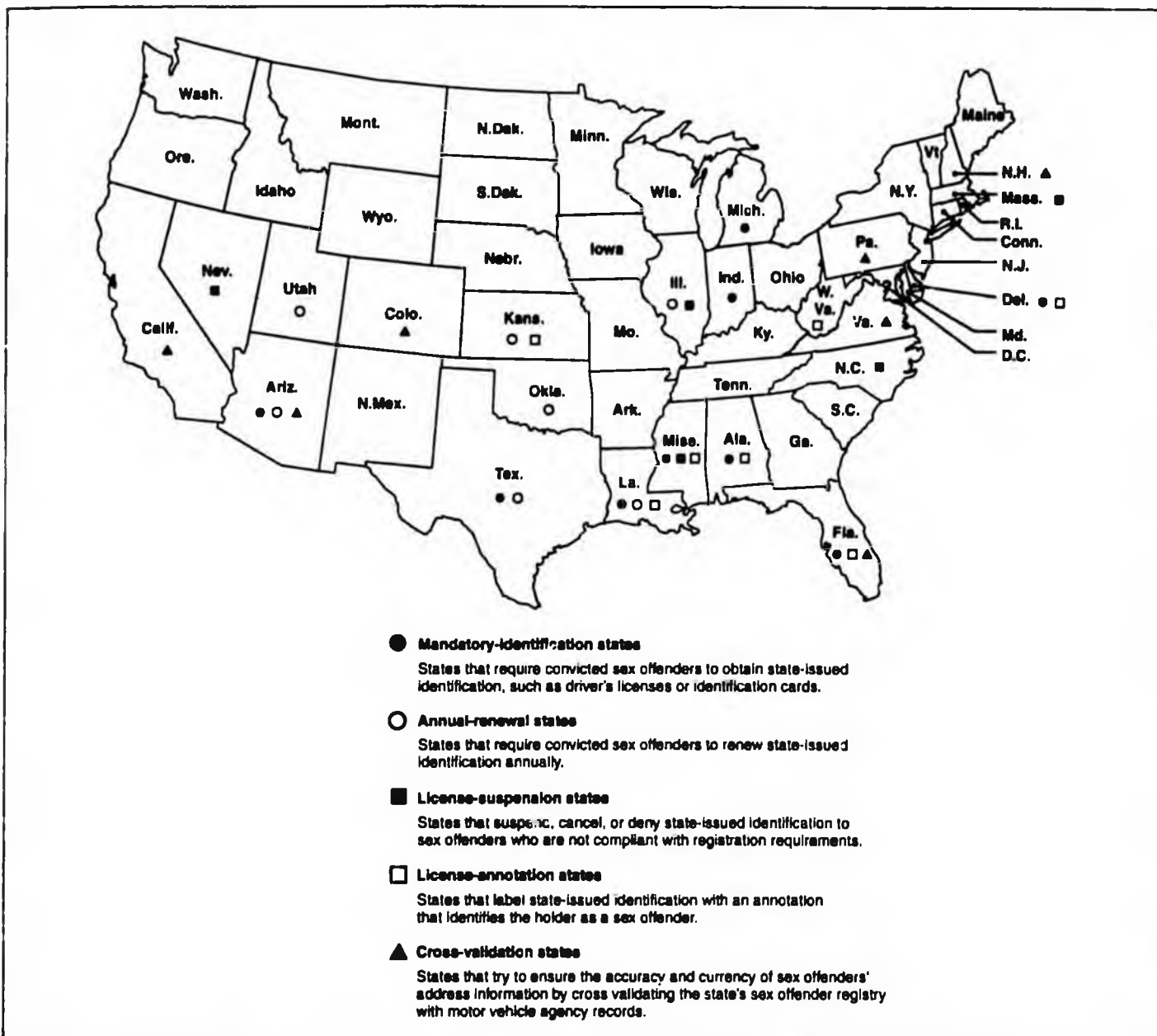
**States Are Using a Variety of Driver's License-Related Processes to Encourage Registration or Provide Additional Monitoring of Convicted Sex Offenders**

As of July 2007, 22 of the nation's 50 states were using some form of driver's license-related process to encourage registration or provide additional monitoring of convicted sex offenders. Generally, as indicated in figure 1, these states and processes can be grouped among five categories—(1) mandatory-identification states, (2) annual-renewal states, (3) license-suspension states, (4) license-annotation states, and (5) cross-validation states.

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<sup>19</sup>Generally, to verify the validity of applicants' identification documents, states must be able to contact (1) all issuers of birth certificates and other name records, (2) every other state motor vehicle administration, (3) the Social Security Administration, (4) U.S. Citizenship and Immigration Services, and (5) the U.S. Department of State.

**Figure 1: States That Have Driver's License-Related Processes to Encourage Registration or Provide Additional Monitoring of Convicted Sex Offenders**



Sources: GAO analysis of motor vehicle agency data, Coral Corp (map).

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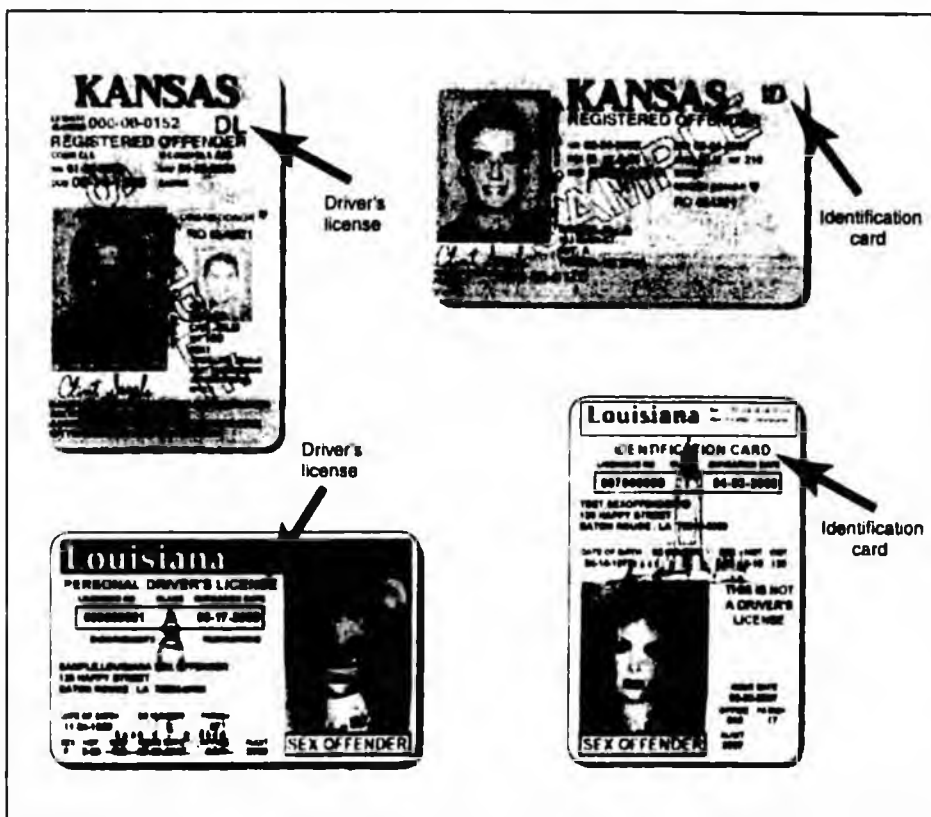
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As shown in figure 1, nine states—Alabama, Arizona, Delaware, Florida, Indiana, Louisiana, Michigan, Mississippi, and Texas—specifically require convicted sex offenders to obtain either a driver's license, an identification card, or a sex offender registration card issued through driver's license-related processes. Further, five of these nine states—Alabama, Delaware, Florida, Louisiana, and Mississippi—also label the applicable driver's license, identification card, or registration card with an annotation that identifies the person as a sex offender.<sup>20</sup> Two other states, Kansas and West Virginia, also have an annotation requirement, although these states do not specifically require convicted sex offenders to obtain either a driver's license, an identification card, or a sex offender registration card. Two of the seven "annotation" states, Kansas and Louisiana, provided us examples of their annotated driver's licenses and identification cards (see fig. 2).

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<sup>20</sup>As mentioned previously, under a model policy developed by the National Center for Missing and Exploited Children, a driver's license would not be annotated on the face of the license to identify an individual as a registered sex offender, but the driver's license and vehicle registration records/files of convicted sex offenders would be flagged as a means of keeping law enforcement updated on address changes and other personal data.

**Figure 2: Examples of Kansas and Louisiana Driver's Licenses and Identification Cards Issued to Convicted Sex Offenders**



Source: Sample driver's licenses and identification cards from state motor vehicle agencies.

In seven states, the duration of time between driver's license renewals for convicted sex offenders is 1 year (in contrast to a multiyear duration period typical for other residents). The renewal requirement can be more frequent, for example, Mississippi law requires renewals every 90 days for convicted sex offenders. And, under Florida law, within 48 hours after any change of address in permanent or temporary residence (or a change of name because of marriage or other legal process), convicted sex offenders are required to report in person to a driver's license office of the Florida Department of Highway Safety and Motor Vehicles to update either a driver's license or an identification card.

Mississippi was one of the first states in the nation to have a sex offender registration process that broadly utilizes motor vehicle agency or driver's license services. Since 2005, Mississippi has required convicted sex

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offenders to personally appear every 90 days at any driver's license office in the state and obtain a sex offender registration card (similar to a driver's license) with updated information (e.g., photograph and address), which is then forwarded to the state's sex offender registry. According to state officials, this process works efficiently in part because the Mississippi Highway Patrol (which is responsible for driver services) and the Mississippi Bureau of Investigation (which is responsible for maintaining the sex offender registry) are under a single agency, the Mississippi Department of Public Safety. Also, the officials noted that the capability to use driver's license offices to register offenders was particularly feasible, given that offices are located in 80 of the state's 82 counties—and all offices are equipped to enter data, update records, take photographs, and issue cards.

For additional information about the 22 states' driver's license-related processes to encourage registration or provide additional monitoring of convicted sex offenders, see appendix II.

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### **Nevada's Approach Is Unique but Does Not Screen against the National Sex Offender Registry**

Nevada is the one state that screens all applicants against a state sex offender registry before issuing a driver's license or identification card; however, Nevada does not screen against the FBI's NSOR. Thus, while Nevada's screening process most closely reflects the potential screening capability discussed in section 636 of the Walsh Act, Nevada's screening process would not detect a sex offender who moved to Nevada from another jurisdiction without permission and did not register in the state (an "absconder"). Absent other cross-validation information, the offender could possibly receive a regular driver's license (or identification card) with a 4-year expiration term.

Nevada's screening process is based on state law enacted in 2005—Nevada Senate Bill 341, Chapter 507 of Statutes of Nevada 2005. Pursuant to this law, beginning July 1, 2006, the Department of Motor Vehicles may not issue or renew a driver's license to a convicted sex offender until the Department of Motor Vehicles has received information from the Department of Public Safety's central repository or other satisfactory evidence indicating that the convicted sex offender is in compliance with registration requirements. Under the process subsequently developed and used to implement the requirements of this statute, all individuals applying for an initial driver's license, requesting a driver's license renewal, or requesting other services (e.g., a duplicate license or an update of information) from the Nevada Department of Motor Vehicles are screened against the state's sex offender registry. To initiate the screening process,

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the Department of Motor Vehicles electronically transmits a query to the Department of Public Safety's central repository, which conducts a search against the state's sex offender registry records.<sup>21</sup> The data elements used in the screening or matching process to determine if the applicant is a sex offender are the applicant's last name, first name, date of birth, and Social Security number—and, if applicable, a previously issued operator license number (driver's license number), including the state of issuance.<sup>22</sup>

Using these data elements, the Department of Public Safety conducts the search and provides a single-digit response (0, 1, or 2) to the Department of Motor Vehicles—normally within 15 seconds, according to state officials. The applicable single-digit responses and related actions are as follows (see fig. 3):

- **0:** No definitive match to a single record in the sex offender registry. The Department of Motor Vehicles follows its normal procedures and issues the individual a 4-year license.
- **1:** Positive match to a record in the sex offender registry, and the person is in compliance with registration requirements. The Department of Motor Vehicles issues the individual a 1-year license (versus the standard 4-year license).
- **2:** Positive match to a record in the sex offender registry, and the person is not in compliance with registration requirements. A driver's license is not issued. Rather, the Department of Motor Vehicles gives the noncompliant offender a standardized, 1-page printout of instructions that outlines how to resolve the matter.

Nevada's automated process does not require customer-service employees at the Department of Motor Vehicles to review or interpret responses to the query. For example, when an applicant is identified as a compliant sex offender, the system software automatically adjusts the driver's license

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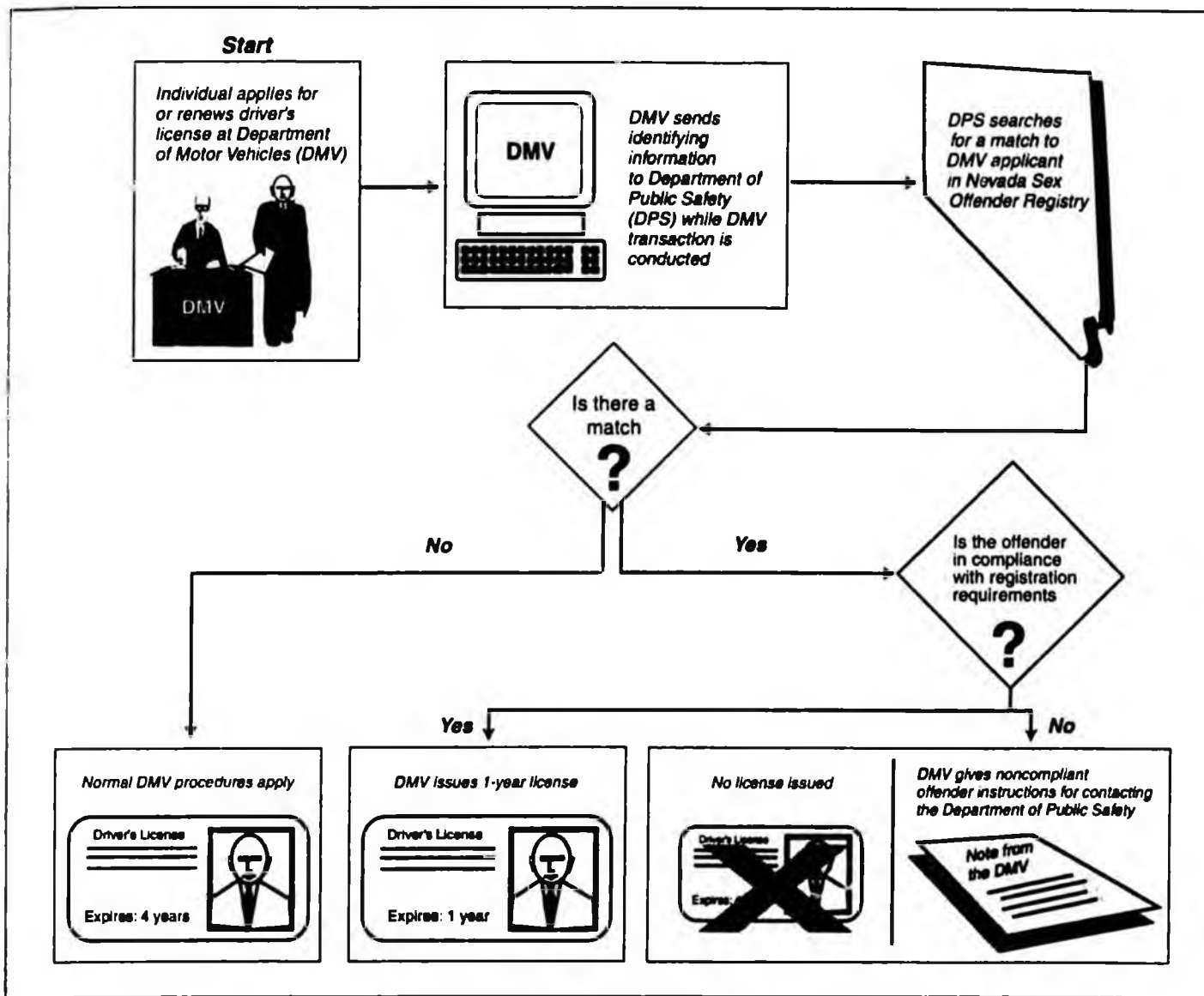
<sup>21</sup>The Records Bureau in the Department of Public Safety's Records and Technology Division houses the central repository as well as the state's sex offender registry program. The central repository collects, maintains, and arranges all records of criminal history submitted to it, as well as exchanges or shares criminal history information with various entities. The "central repository" is the term typically used to reference both the criminal history repository and the sex offender registry.

<sup>22</sup>For jurisdictions' publicly accessible Internet sites with sex offender information, the jurisdiction shall exempt the Social Security number of the sex offender from disclosure, per section 118(b)(2) of the Walsh Act.

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expiration date to 1 year. On the other hand, when the system identifies an individual as a noncompliant sex offender, it produces the standardized printout of instructions rather than a driver's license.

**Figure 3: Overview of Nevada's Driver's License-Related Process as a Means for Improving Compliance of Convicted Sex Offenders with Registration Requirements**



Source: GAO analysis of information provided by Nevada Department of Motor Vehicles and Department of Public Safety.

Note: The term "driver's license" includes commercial driver's license and identification card, as applicable; and, the screening process covers most transactions or services conducted by the Department of Motor Vehicles (e.g., issuing an initial license, renewing a license, issuing a duplicate license, and updating of information).

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In Nevada, convicted sex offenders must appear in person at a Department of Motor Vehicles office to conduct all driver's license-related services. Offenders are not permitted to obtain or renew a license by mail or Internet, nor by use of interactive computers (kiosks) available at licensing locations. To ensure that convicted sex offenders do not circumvent the in-person requirement, all mail, Internet, and kiosk transactions are screened against the state's sex offender registry. If a positive match results, the individual is informed that the transaction must be conducted in person at a Department of Motor Vehicles location, irrespective of whether the individual is or is not in compliance with registration requirements.

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**Most States We Surveyed Report They Would Need to Modify Their Information Technology Systems to Screen Individuals against Sex Offender Databases before Issuing Driver's Licenses; Software Modifications Would Be a Key Cost Factor**

In our survey of 26 states, most of the responding motor vehicle agencies and sex offender registries reported that (1) moderate or major modifications to their current IT systems would be needed to screen driver's license applicants against the respective state's sex offender registry and the FBI's NSOR before issuing a license and (2) the most significant cost factor would be software modifications.<sup>23</sup> Also, the agencies generally indicated that reliable cost estimates for establishing the prospective screening system discussed in section 636 of the Walsh Act cannot be calculated until the system's operational requirements or business rules are clearly defined.<sup>24</sup>

As figure 4 shows, 30 of 38 state agencies (in the 25 states that responded to our survey) reported that moderate or major modifications to their current IT systems would be needed to establish the type of real-time screening process discussed in section 636 of the Walsh Act. Moreover, most of the responding state agencies identified development of software, telecommunications, and business rules as key factors that could affect the overall costs of the modifications—and that each of these factors could have a moderate or major impact on the overall costs (see fig. 5).

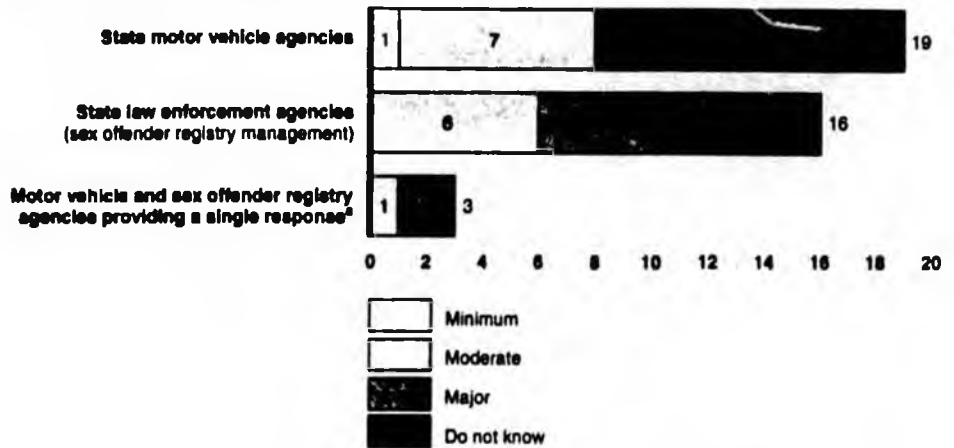
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<sup>23</sup>In determining the extent of system modifications, generally accepted definitions for minimal, moderate, and major categorizations do not exist. Therefore, we asked states to consider the choice of modification level based on factors such as level of effort and implementation time schedules (see app. I).

<sup>24</sup>As mentioned earlier in this report, business rules are used to define the requirements that system developers and programmers use to design, develop, and acquire an information system.

**Figure 4: Most State Agencies Reported That Moderate or Major Modifications to Information Technology Systems Would Be Needed to Establish the Screening Process Discussed in Section 636 of the Walsh Act**

Responding state agencies (38)



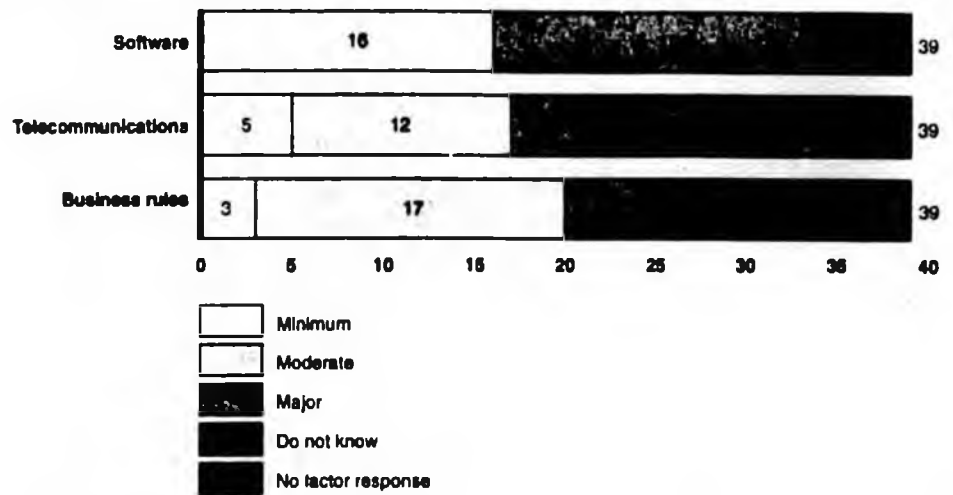
Source: GAO analysis of state agency survey responses.

Note: The 25 states that responded to our survey provided a total of 41 responses, which consisted of responses from 20 motor vehicle agencies and 17 sex offender registry agencies, plus responses from 4 states that each presented the combined views of the respective state's agencies. However, as noted in appendix I, some of the 41 respondents did not complete every part of the questionnaire. Thus, the data presented in figure 4 cover 38 respondents.

\*One of the four states that provided a single response did not complete the questionnaire section that is the basis for figure 4.

**Figure 5: State Agencies Identified Key Cost Factors That Might Affect Modifications to Information Technology Systems Needed to Establish the Screening Process Discussed in Section 636 of the Walsh Act**

Potential cost factor categories



Source: GAO analysis of state agency survey responses.

Note: The 25 states that responded to our survey provided a total of 41 responses, which consisted of responses from 20 motor vehicle agencies and 17 sex offender registry agencies, plus responses from 4 states that each presented the combined views of the respective state's agencies. However, as noted in appendix I, some of the 41 respondents did not complete every part of the questionnaire. Thus, the data presented in figure 5 cover 39 respondents.

Generally, 33 of the responding agencies indicated that software modifications would be the most significant cost factor. For example, in responding to our survey, officials from a West Coast state's motor vehicle agency emphasized that major software modifications—i.e., replacing or upgrading information system programming—would be needed to establish the capability to screen driver's license applicants against the state's sex offender registry and the FBI's NSOR. The officials explained that software modifications to support logic changes in calculations of expiration dates (e.g., 1-year versus 5-year)—as well as calculations of the applicable fees to collect—would be needed in seven automated systems, which are interrelated. For example, according to the officials, two of the interrelated systems are (1) the automated system that supports driver's license and identification card issuance, revenue processing, and workload reporting and (2) the data warehouse where activity to driver records is stored and used for analysis and statistical reporting.

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Thus, because numerous automated systems would be affected, the state officials reiterated that establishing the proposed screening process would be a major effort, requiring a project manager and both internal resources and contractor support. Moreover, given competing demands, the officials expressed concerns about taking on another major project. For instance, the officials noted that the agency was in the process of implementing various other IT projects, in addition to efforts related to implementing REAL ID Act requirements.

Similarly, officials from another state's motor vehicle agency responded that the proposed screening process would necessitate major software modifications to the agency's automated systems. The officials explained that the software used to issue licenses and the software used to account for fees collected are intertwined, and each is governed by complex rules and procedures that are not easily changed without affecting the entire program. Among other complexities, the officials noted that the state issues various types of driver's licenses (e.g., private licenses, commercial and non-commercial licenses, conditional licenses, ignition interlock licenses, etc.) and that the fees vary by type of license. Further, the state officials commented that—given competing demands for programming resources, most notably demands generated by the REAL ID Act—the agency would be in no position for several more years to even begin making the needed software modifications associated with the prospective screening system.

To support the prospective screening process discussed in section 636 of the Walsh Act, state motor vehicle agencies said they would need an electronic telecommunication interface not only with the respective state's sex offender registry agency, but also with the FBI's NSOR. In 23 of the 26 states we surveyed, separate organizational entities are responsible for issuing driver's licenses and maintaining the respective state's sex offender registry—and, these states reported that no electronic telecommunication interface currently exists to facilitate the real-time exchange of data.<sup>45</sup> Thus, they reported that the interface capability would have to be established and would be another key cost factor.

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<sup>45</sup>In each of the other three states, these functions are organizationally aligned within one agency. For example, as mentioned previously, the Mississippi Highway Patrol (which is responsible for driver services) and the Mississippi Bureau of Investigation (which is responsible for maintaining the sex offender registry) are under a single agency, the Mississippi Department of Public Safety.

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As figure 5 further indicates, the state agencies also reported that another key cost factor is the prospective screening system's business rules, which should specify operational and functional requirements. Further, the states indicated that reliable cost estimates for establishing the prospective screening system discussed in section 636 of the Walsh Act cannot be calculated until the system's business rules are clearly defined. For example, regarding the prospective screening system, states said that business rules should fully describe the software functionality to be delivered, including what algorithm to use in determining whether a driver's license applicant is a person listed in the sex offender registry and what happens when an applicant is matched to more than one record in the sex offender registry. We have found in past work that establishing well-defined business rules is critically important in being able to make reliable cost estimates for any IT system or project. Decisions made on business rules can have far-reaching impacts on all aspects of project delivery, including costs. Among other considerations, requirements should fully describe the software functionality to be delivered. Studies by GAO and others have shown that problems associated with requirements definition are key factors in software projects that do not meet their cost, schedule, and performance goals.<sup>26</sup>

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### **Key Design Considerations Could Affect the Success of Screening Programs Using Driver's License Processes**

Beyond the IT and cost issues discussed in the previous section, successful implementation of a driver's license screening program for sex offenders will also hinge on how well the program incorporates key design considerations. Developing an effective nationwide screening program could be a daunting challenge given the different processes, procedures, databases, and operational environments in the motor vehicle and law enforcement agencies across the nation.

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### **Operational Challenges Could Affect the Successful Implementation of the Screening Program**

In addition to the various IT issues noted earlier, our conversations with federal, state, and AAMVA officials identified key operational challenges that could affect the successful implementation of the type of screening program discussed in the Walsh Act. For example, a recurring observation by the motor vehicle agency officials we contacted is that their offices are

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<sup>26</sup>See, e.g., GAO, *Financial Management Systems: Additional Efforts Needed to Address Key Causes of Modernization Failures*, GAO-06-184 (Washington, D.C.: Mar. 15, 2006). Also, see Steve McConnell, *Code Complete, Second Edition* (Redmond, Wash.: Microsoft Press, 2004).

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already overburdened. Some states are still addressing earlier federal mandates such as the requirements of the Motor Carrier Safety Improvement Act of 1999,<sup>27</sup> while, as noted earlier in this report, implementing the requirements of the REAL ID Act is also proving difficult for states. At the same time, state legislatures are tasking motor vehicle agencies with new responsibilities that generate demands on programming and other resources, according to the state agencies we surveyed. Consequently, a key concern expressed by state and AAMVA officials is that a sex offender screening process could become an unfunded mandate and be difficult, if not impossible, for states to execute on their own because their budgets are already strained.

Moreover, the efficient operation of the screening process could be problematic given the different entities that would need to be integrated. For example, according to AAMVA, some state motor vehicle agencies are independent, while others are under a state's Department of Revenue, Department of Public Safety, or Department of Transportation. Likewise, in some jurisdictions, state-issued identification cards, which could be used to track those individuals who lack driver's licenses, are issued by non-motor vehicle agencies. Consequently, these different entities would need to coordinate with one another and share information for the screening process to function effectively. Individual motor vehicle offices within a particular state can differ as well, depending, for example, on whether they are located in urban or more remote locales. This in turn could affect the number of staff or physical space available to carry out the screening program.

Some populations could present unique screening challenges. For example, according to AAMVA, in urban locations such as Manhattan, a number of residents do not have driver's licenses and would need to obtain identification cards in order to be included in the screening process. Further, according to the director of the Department of Justice's Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office, Indian tribes differ as to how they handle driver's licenses. Some tribes issue their own driver's licenses, whereas other tribes rely on applicable state agencies. Another challenge noted by the director is that records of Indian tribal court convictions of sex offenders may not be readily accessible for screening because such

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<sup>27</sup>Pub. L. No. 106-159, 113 Stat. 1748 (1999).

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records generally are not contained in either state or national sex offender registries.<sup>28</sup>

State and AAMVA officials also underscored the importance of not adversely affecting the main mission of the motor vehicle agencies. Although they saw value in having the motor vehicle agencies support efforts to track and monitor sex offenders, and acknowledged that the public would feel safer knowing that states were taking these additional steps to ensure sex offenders were complying with state registration requirements, the officials were also concerned that taking on this role could divert resources from the agencies' core business functions and impair customer service.

A financial challenge we heard was that state motor vehicle agencies usually do not have access to sex offender registry or criminal history records because they are not considered to be law enforcement entities. As a result, legislative or administrative action at the state level would be needed to authorize that access.

At the federal level, FBI Criminal Justice Information Services Division officials explained that non-law-enforcement agencies (such as state motor vehicle agencies) traditionally have not been authorized by statute to access federal databases that contain criminal history records, such as the National Crime Information Center and NSOR. However, according to the Department of Justice's Office of Legal Policy, the Attorney General now has the authority under the Walsh Act to make determinations regarding access to NSOR. Still, the Office of Legal Policy commented that the department generally does not act unilaterally. Rather, the preference is to use the FBI Criminal Justice Information Services Division's advisory process, which includes obtaining input from the user community (federal, state, and local law enforcement).

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<sup>28</sup>Also, the director noted that Indian tribal courts have limited sentencing authority regarding felony prosecutions. Specifically, under the Indian Civil Rights Act of 1968, in exercising the powers of self-government, an Indian tribe shall not impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of 1 year and a fine of \$5,000, or both.

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## Key Design Considerations Could Help Mitigate Operational Challenges

The numerous challenges to implementing the sex offender screening program discussed in the Walsh Act highlight the importance of a sound design that can function effectively in the different operating environments found in the public safety agencies, motor vehicle agencies, and other offices across the nation that would be involved in the screening process. In particular, based on our interviews with federal, state, and AAMVA officials, to the extent the government moves forward with a sex offender screening program that employs driver's license processes, it will be important that the screening program be designed to (1) minimize the burden on states, (2) maintain customer service, (3) mitigate unintended consequences, and (4) communicate timely and actionable information on noncompliant offenders to law enforcement personnel. Also, another important design consideration, as indicated by our prior work on internal controls, is to provide a basis for assessing the effectiveness of the screening program. These design considerations could affect the successful implementation of the screening program and its costs.

### Minimize the Burden on States

State and AAMVA officials described various ways they believed would reduce the implementation and operational challenges that could result if the screening process discussed in the Walsh Act were executed nationwide. Their suggestions centered on exploring potential efficiencies that could be gained from leveraging existing IT infrastructure, batch processing agency records, and coordinating the implementation of a sex offender screening program with implementation of the REAL ID Act, to the extent feasible. Each is discussed in greater detail below.

***Leverage Existing IT Infrastructure:*** In response to our survey, nine states indicated that using driver's license processes to encourage convicted sex offenders to comply with registration requirements might be achieved more efficiently by expanding or leveraging IT systems used for existing administrative functions rather than by developing a new telecommunication system from the ground up to link motor vehicle offices, state law enforcement agencies, and the FBI's NSOR. In particular, AAMVA and state officials noted that AAMVA operates a secure, private data services network that already links the motor vehicle agencies of all 50 states and the District of Columbia. Although U.S. territories and Indian tribes are not part of this system and would need to be connected (thus incurring additional costs), and additional resources would be required to operate the system, AAMVA officials said the system possibly could form the needed conduit between state and federal agencies at a lower cost.

***Batch Process Agency Records:*** According to officials in three of the states we contacted, batch processing motor vehicle agency records

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against sex offender registries is a potentially less costly alternative to the real-time screening process currently performed in Nevada and discussed in the Adam Walsh Act. With batch processing, driver's license applications from multiple individuals would be bundled together into batches, and the screening process would be executed during the evening or other less-busy times. With a real-time screening process, each driver's license applicant is matched against the sex offender registry in the course of over-the-counter transactions.

Officials in one of the three states noted that batch processing could have several advantages, such as significantly simplifying IT requirements, reducing development and ongoing costs, and relieving motor vehicle agency employees from any direct confrontations with sex offenders. Officials from the FBI's Criminal Justice Information Services Division echoed this point, noting that batch processing could facilitate a more efficient allocation of resources because it does not require immediate attention by staff. In comparison, real-time screening requires staff to research each query, potentially interrupting their performance of other tasks.

***Coordination with Implementation of the REAL ID Act, to the Extent Feasible:*** As noted earlier in this report, motor vehicle agency officials frequently mentioned that their systems were already overburdened, and it will be difficult for them to take on new demands. In particular, states noted how implementing the REAL ID Act will be both expensive and technically challenging. For example, compliance with the REAL ID Act's standards would require states to (1) maintain a motor vehicle database that contains, among other information, all data fields printed on the license or identification card and (2) provide electronic access to all other states to information contained in the motor vehicle database.

Although the intent of the REAL ID Act and the sex offender screening process discussed in the Walsh Act are different, states we surveyed reported that they would need to modify their IT systems to implement both. Should the government move forward with the sex offender screening process, officials from both the Department of Justice and AAMVA noted the importance of identifying areas where the modifications needed to implement the screening process overlap with those needed to comply with the REAL ID Act so that both efforts could be integrated and, thereby, avoid requiring states to upgrade their IT systems a second time.

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**Maintain Customer Service**

Officials we contacted in 15 states, as well as AAMVA officials, were concerned that using driver's license-related processes to monitor sex offenders could divert resources from motor vehicle agencies' core business functions. Further, several of these states, as well as AAMVA officials, noted that this could in turn result in longer lines and increased workloads for staff. Additionally, offenders may be unruly or violent, a situation that could jeopardize the safety of staff and customers. Law enforcement personnel might be needed on site, a requirement that could be problematic for motor vehicle offices that are small or are located in remote locations. Agency staff might need special training because they would be assuming a law enforcement function. Also, providing explanations to noncompliant offenders may require more physical space for privacy than currently available in over-the-counter settings, which could take away space needed for other purposes.

During our study of Nevada's screening approach, agency officials told us that maintaining the traditional operations of the state's motor vehicle agency was both an important concern and significant challenge. For example, the Driver's Program Manager at the Nevada Department of Motor Vehicles noted that the department was opposed to any system that would have required its customer-service staff to function as enforcers of the law when interacting with convicted sex offenders, and the screening approach was designed accordingly. For example, under Nevada's approach, customer-service employees in the state's motor vehicle agency do not review or interpret the results of searches against the state's sex offender registry. Rather, Nevada's system automatically adjusts the driver's license expiration date to 1 year for a compliant sex offender or, for a potentially noncompliant offender, automatically prints a set of instructions of additional actions to take, rather than issue a driver's license.

**Mitigate Unintended Consequences**

Despite the potential benefits of driver's license-related processes for monitoring sex offenders, many of the state and AAMVA officials we contacted identified several unintended consequences that might result if not given adequate attention. For instance, they said that sex offenders could go "underground" and drive without a valid license, because they might view a 1-year license—which contrasts to the multiyear license typically issued to the general public—as being the equivalent of a "scarlet letter" as the holders would be identifiable to the public as sex offenders. Additionally, Nevada law enforcement officials noted that the state's new screening process could actually reduce compliance because it imposes additional registration costs on convicted sex offenders. According to these officials, compliant offenders need to pay the license renewal fee

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(\$21.25 for a driver's license or \$86.25 for a commercial driver's license) annually, rather than every 4 years as is the case with the general public.

Finally, while states such as Alabama and Arizona and six others require convicted sex offenders to obtain and have in their possession a driver's license or an identification card, other states, including Nevada, lack this requirement. Thus, in this latter group of states, an offender could simply choose not to apply for either document and, thus, not be subject to the screening process.

Currently, federal law does not specifically require convicted sex offenders to obtain and have in their possession either a driver's license or an identification card. However, under section 114 of the Walsh Act (codified at 42 U.S.C. § 16914), the jurisdiction in which a sex offender registers is to ensure that the state's registry includes "a photocopy of a valid driver's license or identification card issued to the sex offender by a jurisdiction."<sup>28</sup> This statutory provision, according to the Department of Justice, is not a mandate for all states to change their laws to require that every convicted sex offender have either a driver's license or an identification card. Rather, the Department of Justice said that if a convicted sex offender has been issued a driver's license or an identification card by any jurisdiction, a photocopy of it shall be included in the applicable registry.

At the same time, Department of Justice and FBI officials as well as state law enforcement officials noted that the use of names, dates of birth, and other non-biometric identifying information to screen driver's license applicants against sex offender registry records would undoubtedly result in some false-positive identifications—that is, mistakenly identifying some individuals as being convicted sex offenders. Consequently, procedures would be needed to address incorrect matches. The federal officials said that motor vehicle agencies cannot be expected to prevent or resolve such mistakes, especially if the agencies are provided only a coded, single-digit response to each search query against the FBI's NSOR. Rather, the federal officials commented that the prospective screening process, if implemented, must involve a law enforcement agency in each state—that is, an agency with sufficient investigative capacity to confirm identities and verify compliance with registration requirements.

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<sup>28</sup>Pub. L. No. 109-118, 120 Stat. 587, 594 (2006).

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The importance of some type of mechanism to review potentially incorrect matches was underscored by the results of a 2006 FBI audit, which found widespread problems with the quality of records that states submitted to NSOR.<sup>30</sup> Further, according to FBI officials, the NSOR database does not record whether a convicted sex offender is in compliance with the respective state's registration requirements. Moreover, compliance status can be difficult to determine because states use different definitions or terminology.

Because of these data limitations, the FBI stresses that NSOR is an information file only and does not provide a stand-alone basis for taking official action. As a result, it will be important to determine how to best minimize mistaken identifications and which agency—the motor vehicle office, law enforcement, the courts, or other entity—should manage an appeals process when such “false positives” occur.

**Communicate Timely and Actionable Information on Noncompliant Offenders to Law Enforcement**

Another design consideration is how to maximize the screening program's usefulness to law enforcement agencies when noncompliant offenders are identified. This is important because local law enforcement personnel generally have the primary responsibility for monitoring offenders and investigating possible failures to comply with registration requirements.

In one state, for example, local law enforcement officials told us that immediate notification once a noncompliant offender is identified could help to ensure efficient use of limited resources and enhance compliance with registration requirements. In another state, however, officials noted that knowing an offender's whereabouts and having the personnel to take action are two separate and distinct issues. The officials pointed out that many law enforcement agencies are already understaffed and would not be able to respond to “hits” without additional resources. In short, simply identifying noncompliant sex offenders will not necessarily result in their arrest or prosecution.

**Assess the Effectiveness of the Driver's License-Related Screening Program**

Regardless of the screening approach chosen, our prior work on federal internal controls suggests that it will be important to be able to assess its effectiveness. Indeed, performance measures and indicators are critical for evaluating and controlling operations, and managers need operational data

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<sup>30</sup>In September 2006, the FBI's Criminal Justice Information Services Division Audit Unit completed its first audit (a pilot audit) of the quality of records submitted to NSOR. The audit covered records submitted by 49 states.

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to determine if a specific program is achieving intended results.<sup>31</sup> That said, the screening program's influence on compliance could be difficult to measure because the screening program is but one of various factors that can affect sex offenders' behavior. Another factor, for example, is the extent to which convicted sex offenders are subject to specialized supervision in communities and the adequacy of such supervision. Indeed, directly attributing any change in compliance rates solely to a state's driver's license-related process is not possible without controlling for these other factors. Further, to ensure reliable data, key terms such as "compliance" and the methodology for calculating compliance rates would need to be articulated as well.

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## Concluding Observations

Driver's license-related screening processes could, in concept, help improve the level of compliance with state sex offender registration requirements as well as enhance monitoring. For example, if properly designed, such screening processes could help prevent sex offenders in one state from evading detection simply by moving to another state. However, whether the most feasible approach would be a real-time process similar to that discussed in the Adam Walsh Act or some other method such as batch processing, remains an open question. Indeed, no state currently has operational experience with the type of real-time screening process discussed in the Walsh Act—a process whereby all driver's license applicants would be screened against the respective state's sex offender registry and the FBI's NSOR before issuance of a license.

Moreover, our study found that designing and implementing such a screening process would require states to modify their IT systems and make other changes—changes that could be costly and divert resources from other priorities. Further, the screening process could have efficiency and other operational implications for motor vehicle offices at a time when they are facing other demands with finite resources.

Beyond basic design considerations, the results of our work highlight the many questions that surround the most cost-effective way of screening sex offenders using driver's license processes. As AAMVA and state officials have pointed out, before moving forward, business rules or functional requirements would need to be defined, initial and long-term costs would need to be more precisely estimated, and various operational challenges

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<sup>31</sup>See, for example, GAO, *Internal Control: Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: Nov. 1, 1999).

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would need resolution. To help shed more light on these issues, and inform decisions on how best to proceed, it will be important to have better data. Decisions on the most optimal approach to pursue—and, if applicable, how best to integrate the design considerations discussed in this report—likely would necessitate collaboration among various stakeholders, including interested states and AAMVA as well as relevant Department of Justice components—particularly the FBI, which manages NSOR, and the SMART Office, which is responsible for administering the standards for the sex offender registration and notification program set forth in the Walsh Act.

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## Agency Comments and Our Evaluation

We provided a draft of this report for comment to the Department of Justice. Also, we provided a draft of this report to the Nevada Department of Motor Vehicles, the Nevada Department of Public Safety, and AAMVA to review for accuracy and clarity. In its written response, the Department of Justice provided technical comments only, which we incorporated in this report where appropriate.

In its written response, the Nevada Department of Motor Vehicles stated that it had reviewed the draft for accuracy and clarity and had no comments. The Nevada Department of Public Safety orally informed us that it had no comments.

In its written response, AAMVA expressed appreciation that the draft report identified the IT and related costs of adding sex offender registration queries to state motor vehicle agency and AAMVA operations. However, AAMVA emphasized that the following points should be recognized if Congress were to decide to move forward with this type of screening process:

- A comprehensive study should first be conducted—with a report detailing, scoping out, and finalizing the requirements to build the system and the associated costs. In this regard, states and AAMVA will require funding, and these investments are necessary in advance of operating the system.
- Consideration should be given to leveraging or using, as a conduit, an existing system—namely, AAMVA's secure, private network (AAMVAnet), which connects the 50 states and the District of Columbia. Costs would be incurred to connect U.S. territories and Indian tribes, given that these entities currently are not part of AAMVAnet. Also, additional resources would be required to operate the system.

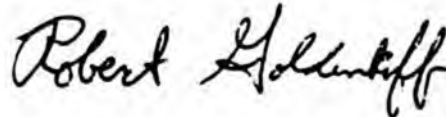
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Further, AAMVA provided various technical comments, which we incorporated in this report where appropriate.

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We are providing copies of this report to interested congressional committees, the Attorney General, and other interested parties. We will also make copies available to others on request. In addition, this report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report or wish to discuss the matter further, please contact me at (202) 512-8177 or [goldenkoffr@gao.gov](mailto:goldenkoffr@gao.gov). Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. Other key contributors to this report were Carla D. Brown, Willie Commons, Christine Davis, Michele Fejfar, Sally P. Gilley, Jeremy L. Hudgeons, Rebecca Kuhlmann Taylor, Marvin G. McGill, Linda S. Miller, James R. Russell, and Shana B. Wallace.



Robert N. Goldenkoff  
Acting Director, Homeland Security and Justice Issues

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# Appendix I: Objectives, Scope, and Methodology

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## Objectives

Section 636 of the Adam Walsh Child Protection and Safety Act of 2006 (the Walsh Act)—Public Law Number 109-248, enacted July 27, 2006—mandated that we conduct two studies regarding the use of driver's license-related processes to encourage registration and provide additional monitoring of convicted sex offenders:

- One mandated study was to focus on the approach recently implemented in the State of Nevada. Under Nevada law effective July 1, 2006, before a driver's license is issued to a convicted sex offender, the individual must be in compliance with offender registration requirements.<sup>1</sup> A consideration in implementing the new statutory provision in Nevada was the need to develop an electronic interface capability between the Department of Motor Vehicles and the Department of Public Safety, two principal but separate state agencies, in order to screen all applicants for a driver's license.
- The other mandated study (a "national" study) was to survey a majority of the states to assess their relative systems capabilities and the potential costs to implement a driver's license-related process that would screen each applicant against the respective state's sex offender registry before issuing a driver's license, as Nevada does, as well as against the national sex offender registry (NSOR), which is maintained by the Federal Bureau of Investigation (FBI).

Section 636 of the Walsh Act specified that we complete the Nevada study no later than February 1, 2007, and the national study no later than January 24, 2007, which is "180 days after the date of the enactment of this Act." To meet these mandated dates, we offered to provide a briefing in January 2007—summarizing the preliminary results to date of our ongoing studies—to the offices of the Chairmen and the Ranking Members of the House and Senate Committees on the Judiciary. Accordingly, during that month, we briefed interested congressional staff.

Going forward, as agreed with the offices of the Chairmen and the Ranking Members of the House and Senate Committees on the Judiciary, rather

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<sup>1</sup>Nevada Senate Bill 341, Chapter 507 of Statutes of Nevada 2005. The law specifies that the Nevada Department of Motor Vehicles shall not issue or renew a driver's license, a commercial driver's license, or an identification card to a sex offender or an offender convicted of a crime against a child if the offender is out of compliance with the state's sex offender registration requirements. Also, under the new law, a driver's license, commercial driver's license, or identification card issued to a convicted sex offender expires on the first anniversary date of the offender's birthday.

than issuing two separate final reports—i.e., a Nevada report and a national report—we incorporated information regarding Nevada's driver's license-screening approach into our survey of the majority of states. In sum, in accordance with the congressional mandate and as discussed with the offices of the Chairmen and the Ranking Members of the House and Senate Committees on the Judiciary, this report addresses the following key questions:<sup>2</sup>

- In what ways are states using driver's license-related processes to encourage registration or provide additional monitoring of convicted sex offenders?
- If a federal law were enacted requiring states to screen individuals against the respective state's sex offender registry and the FBI's NSOR before issuing a driver's license, (a) what level of modifications would states need to make to their information technology (IT) capabilities to comply with such a federal law and (b) what would be the key cost factors to implement and maintain this screening capability?
- What other factors could affect the successful design and implementation of a process for screening individuals against a state's sex offender registry and the FBI's NSOR before issuing a driver's license?

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## Scope and Methodology

In addressing these questions, we obtained perspectives regarding Nevada's driver's license-related process to encourage registration and provide additional monitoring of convicted sex offenders. We reviewed the legislative history of Chapter 507 of Statutes of Nevada 2005, and we discussed the statutory provisions with staff of the Nevada Legislative Counsel Bureau, the agency that provides research, fiscal information, and other services for the state legislature. Also, at the Nevada Department of Motor Vehicles and the Nevada Department of Public Safety, we obtained and analyzed pertinent documentation such as the state's IT system specifications regarding implementation of the law, and we interviewed responsible officials. Further, to obtain additional information regarding significant challenges or lessons learned in implementing Chapter 507 of Statutes of Nevada 2005, we contacted several local law enforcement agencies. Specifically, we contacted the district attorney's office and the

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<sup>2</sup>As used in this report, the term "driver's license" may include commercial driver's license and identification card, as applicable.

major city police department in Clark County and Washoe County. We chose these locations because they are the state's two most populous counties. Clark County includes the City of Las Vegas and is the most populous of Nevada's 17 counties, with 1.8 million residents and 70 percent of the state's population, and Washoe County includes Reno, which is the state's second largest city. Also, in conjunction with our site visit to the Nevada Department of Motor Vehicles and the Nevada Department of Public Safety in the state capital (Carson City), we contacted the Carson City Sheriff's Department.

We also surveyed 26 other states to obtain additional perspectives on the screening process discussed in section 636 of the Walsh Act. Specifically, we contacted motor vehicle agency and sex offender registry officials in 26 states, a nonprobability sample, selected to reflect regional representation across the nation and a range in the number of sex offender registrants (e.g., small, medium, and large), as well as states with and without some type of driver's license-related process for monitoring sex offenders (see table 1). Information obtained from the states we surveyed cannot be generalized to all states.

**Table 1: States That GAO Surveyed to Obtain Perspectives on the Screening Process Discussed in Section 636 of the Walsh Act**

| Number | States surveyed | Geographic region <sup>a</sup> | Criteria for selecting states to survey                                   |                       |   |    |
|--------|-----------------|--------------------------------|---|-----------------------|---|----|
|        |                 |                                | Sex offender population: Number of offenders and population size category |                       | Does the state have a driver's license-related process for monitoring sex offenders? <sup>b</sup> |    |
|        |                 |                                | Number <sup>c</sup>   | Category <sup>d</sup> | Yes   | No |
| 1      | Alabama         | South                          | 7,480   | Medium                | X   |    |
| 2      | Alaska          | West                           | 4,279   | Medium                |   | X  |
| 3      | Arizona         | West                           | 13,449  | Large                 | X   |    |
| 4      | California      | West                           | 66,038  | Large                 | X   |    |
| 5      | Colorado        | West                           | 9,594   | Medium                | X   |    |
| 6      | Connecticut     | East                           | 4,219   | Medium                |   | X  |
| 7      | Delaware        | East                           | 3,086   | Medium                | X   |    |
| 8      | Florida         | South                          | 37,897  | Large                 | X   |    |
| 9      | Georgia         | South                          | 12,424  | Large                 |   | X  |
| 10     | Illinois        | Midwest                        | 22,124  | Large                 | X   |    |
| 11     | Kansas          | Midwest                        | 4,373   | Medium                | X   |    |
| 12     | Kentucky        | South                          | 5,740   | Medium                |   | X  |
| 13     | Louisiana       | South                          | 7,068   | Medium                | X   |    |

**Appendix I: Objectives, Scope, and Methodology**

| Number | States surveyed | Geographic region <sup>a</sup> | Criteria for selecting states to survey                                   |                       |   |    |
|--------|-----------------|--------------------------------|---|-----------------------|---|----|
|        |                 |                                | Sex offender population: Number of offenders and population size category |                       | Does the state have a driver's license-related process for monitoring sex offenders? <sup>d</sup> |    |
|        |                 |                                | Number <sup>b</sup>   | Category <sup>c</sup> | Yes   | No |
| 14     | Maryland        | East                           | 4,366   | Medium                |   | X  |
| 15     | Michigan        | Midwest                        | 38,936  | Large                 | X   |    |
| 16     | Mississippi     | South                          | 3,896   | Medium                | X   |    |
| 17     | New Hampshire   | East                           | 2,079   | Small                 | X   |    |
| 18     | New York        | East                           | 23,000  | Large                 |   | X  |
| 19     | North Dakota    | West                           | 1,520   | Small                 |   | X  |
| 20     | Rhode Island    | East                           | 1,300   | Small                 |   | X  |
| 21     | South Dakota    | West                           | 2,140   | Small                 |   | X  |
| 22     | Tennessee       | South                          | 9,113   | Medium                |   | X  |
| 23     | Texas           | South                          | 45,128  | Large                 | X   |    |
| 24     | Utah            | West                           | 6,826   | Medium                | X   |    |
| 25     | Washington      | West                           | 18,959  | Large                 |   | X  |
| 26     | Wyoming         | West                           | 980   | Small                 |   | X  |

Source: FBI's Criminal Justice Information Services Division and GAO-derived information.

<sup>a</sup>The number of selected states by region are west (9), south (8), east (6), and midwest (3).

<sup>b</sup>The sex offender population figures are those reported by the FBI's NSOR database (as of April 2007).

<sup>c</sup>We categorized the sex offender population sizes as small (less than 3,000 registered offenders), medium (3,000 to 10,000 registered offenders), or large (more than 10,000 registered sex offenders).

<sup>d</sup>See appendix II for a discussion of how we identified states that have driver's license-related processes for monitoring sex offenders.

More details about the scope and methodology of our work in addressing each of the three key questions are presented in the following sections, respectively.

**Ways That States Are Using Driver's License-Related Processes to Encourage Registration or Provide Additional Monitoring of Convicted Sex Offenders**

To identify states that have statutory requirements for using driver's license-related processes to encourage registration or provide additional monitoring of convicted sex offenders, we reviewed states statutes through the end of July 2007. Thus, this report does not reflect any state statutory provisions enacted after July 2007. Also, in identifying states that have driver's license-related processes for monitoring convicted sex offenders, we did not include any state whose motor vehicle agency's only role was notification, such as use of a driver's license application form that contains a statement informing convicted sex offenders of the duty to

register. In addition, because we did not confirm our statutory research by interviewing state officials, our interpretation of the statutory requirements does not include any information on how states may be implementing these requirements.

In addition to identifying states that have statutory requirements for using driver's license-related processes for monitoring convicted sex offenders, we also identified some states that have agency-initiated processes by reviewing the Web sites of agencies responsible for either maintaining the respective state's sex offender registry or issuing driver's licenses. Further, we reviewed documentation obtained from and interviewed officials at the American Association of Motor Vehicle Administrators (AAMVA) and the National Conference of State Legislatures.<sup>3</sup> These identifications may not be exhaustive because we did not contact motor vehicle and law enforcement agencies in all 50 states to specifically inquire about the availability or use of agency-initiated processes. Rather, our identification of the agency-initiated processes was an ancillary result of the work we conducted to identify states that have statutory requirements for using driver's license-related processes and to otherwise address the objectives of our mandated study.

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**Level of Modifications to States' Information Technology Capabilities and Key Cost Factors Regarding Prospective Federal Law**

To determine what level of modifications would be needed to states' IT capabilities to comply with a prospective federal law that would require screening individuals against the respective state's sex offender registry and the FBI's NSOR before issuing a driver's license and to determine the key cost factors in implementing and maintaining this screening capability, we conducted a survey of a majority (26) of the states, which involved contacting motor vehicle agency and sex offender registry officials in each of the states (see table 1). In surveying the 26 states, we developed, pretested, and implemented a telephone questionnaire to collect information. To help ensure substantive discussions, we distributed the questionnaire to applicable state officials in advance of our meetings with them. Most of these meetings were conducted by telephone conference,

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<sup>3</sup>As noted earlier, AAMVA is a tax-exempt, nonprofit organization that represents the state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws. The association strives to develop model programs in motor vehicle administration, police traffic services, and highway safety. The National Conference of State Legislatures is a bipartisan organization that serves legislators and staffs in 50 states, commonwealths, and territories. The organization is an advocate for state governments before the Congress and federal agencies and also provides research and technical assistance to its members.

although we made in-person visits to Nevada and three other states (Delaware, Georgia, and Maryland). We selected these three states because Delaware has a driver's license-related screening process while Georgia and Maryland do not. We also wanted to obtain additional perspectives on factors affecting the state's decisions to implement or not implement a screening process.

The questionnaire asked motor vehicle agency and sex offender registry officials for their perspectives on the level of modifications to IT systems—minimum, moderate, or major—that would be needed to establish the screening process discussed in section 636 of the Walsh Act.<sup>4</sup> Also, the questionnaire solicited information regarding the various cost factors that might affect the modification and the relative impact that each factor might have on the overall cost of the modification. We received responses to the questionnaire from motor vehicle agencies and/or sex offender registries in 25 of the 26 states. In total, the 25 states provided 41 responses, which consisted of responses from 20 motor vehicle agencies and 17 sex offender registry agencies, plus responses from 4 states that each presented the combined views of the respective state's motor vehicle and sex offender registry agencies. Some of the 41 respondents did not answer every item in the questionnaire, so not all reported responses are based on 41 agencies' information. For example, the data presented in figure 4 were based on answers from 38 respondents, and the data in figure 5 from 39 respondents.

Further, as an additional source for obtaining perspectives on IT capabilities and costs regarding the screening process discussed in section 636 of the Walsh Act, we interviewed officials from the Department of Justice's Office of Justice Programs. Also, we contacted AAMVA to explore options for expanding or leveraging existing IT capabilities to screen sex offender registries before issuing driver's licenses.

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<sup>4</sup>In categorizing the extent of systems modifications, there are no specific or broadly accepted definitions of "minimal," "moderate," or "major." However, as explained in the instructions that accompanied our questionnaire, various factors generally can be considered, such as level of effort, implementation time schedules, etc. Regarding level of effort, for example, the instructions stated that a modification that replaces or substantially replaces an existing system could be considered "major." Regarding implementation time schedules, the instructions noted that a modification could be considered (a) "minimal" if the time is 6 months or less, (b) "moderate" if more than 6 months but not more than 12 months, and (c) "major" if more than 12 months but not more than 24 months.

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**Other Design and Implementation Factors That Could Affect the Results from Any Sex Offender Screening Program Using Driver's License Processes**

To determine what other factors, in addition to IT capabilities and costs, could affect the successful design and implementation of a process for screening individuals against a state's sex offender registry and the FBI's NSOR before issuing a driver's license, we relied largely on the information we obtained during our review of Nevada's driver's license screening process and from our contacts with motor vehicle agency and sex offender registry officials in the 26 survey states (see table 1). For instance, in contacting motor vehicle agencies, we obtained perspectives regarding the potential effects of the proposed screening process on the traditional operations of the agencies—as well as the implications of other demands, particularly the requirements of the REAL ID Act, which creates national standards for the issuance of state driver's licenses and identification cards.<sup>5</sup>

Also, we contacted the FBI's Criminal Justice Information Services (CJIS) Division, which is responsible for managing NSOR and other component files of the National Crime Information Center. In contacting the CJIS Division, we interviewed program managers and reviewed documentation regarding the capacity or capability of the National Crime Information Center and NSOR to handle the volume of searches that could be anticipated if a federal law were enacted, the potential for and implications of false negatives or false positives stemming from name-based searches, and other relevant issues or concerns. Regarding the quality and completeness of NSOR records, we reviewed the results of the most recent audits conducted by the FBI's CJIS Audit Unit. These audits—conducted in a two-part cycle that ended in April 2005 and September 2006, respectively—covered records submitted by 49 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.<sup>6</sup>

Moreover, from the FBI's CJIS Division, we obtained views regarding periodic batch processing of motor vehicle agency records against sex offender registries as a possible alternative to the real-time screening of

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<sup>5</sup>On May 11, 2005, Congress passed the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 302, as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act of 2005 (Pub. L. No. 109-13, 119 Stat. 231).

<sup>6</sup>According to the FBI, records from the one remaining state had been submitted but were not available in time to be included in the audit.

driver's license applicants.<sup>7</sup> We followed up with applicable states to discuss the potential advantages and disadvantages of such batch processing versus real-time processing.

Further, to obtain additional law enforcement perspectives on the screening process discussed in section 636 of the Walsh Act, we contacted the U.S. Marshals Service. Among other responsibilities, under section 142 of the Walsh Act, the Attorney General is required to use the resources of federal law enforcement, including the U.S. Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements.

We conducted this performance audit from July 2006 through December 2007 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>7</sup>A batch-processing mode is one where programs and data are collected together in a batch before processing starts. Batch jobs can be placed in a queue and subsequently executed during the evening or other less-busy times. The opposite of batch processing is real-time processing, sometimes referred to as transaction processing or interactive processing.

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# Appendix II: Overview of States' Processes for Encouraging Registration or Providing Additional Monitoring of Convicted Sex Offenders

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This appendix presents an overview of driver's license-related processes that states use for encouraging registration or providing additional monitoring of convicted sex offenders. Such processes may be based on statutory requirements or on agency initiatives, as indicated in the following respective sections.

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## States with Statutory Requirements for Using Driver's License-Related Processes for Encouraging Registration or Providing Additional Monitoring of Convicted Sex Offenders

To identify states that have statutory requirements for using driver's license-related processes for encouraging registration or providing additional monitoring of convicted sex offenders, we reviewed state statutes through the end of July 2007. Table 2 presents the results of our research. As shown, we identified a total of 20 relevant state statutes as of July 2007. Given the degree of legislative interest in monitoring sex offenders, as indicated by the relatively recent effective dates of many of the state statutes, table 2 should be considered a snapshot of state information as of July 2007, with changes likely to occur in the future. In addition, because we did not confirm our statutory research by interviewing state officials, table 2 reflects our interpretation of the statutory requirements we identified and does not include any information on how states may be implementing these requirements.

As table 2 indicates, the 20 states reflect various types of driver's license-related processes for encouraging registration or providing additional monitoring of convicted sex offenders.<sup>1</sup> Generally, these processes can be grouped within the following five categories:

- *Mandatory-Identification States:* Alabama, Arizona, Delaware, Florida, Indiana, Louisiana, Michigan, Mississippi, and Texas require convicted sex offenders to obtain identification in the form of a driver's license, an identification card, or a sex offender registration card issued through driver's license-related processes. Of these states, Alabama, Arizona, Indiana, and Louisiana explicitly require convicted sex offenders to carry their identification.
- *Annual-renewal States:* In Arizona, Illinois, Kansas, Louisiana, Oklahoma, Texas, and Utah, the driver's licenses or identification cards of convicted sex offenders expire annually and are subject to annual

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<sup>1</sup>We did not include in table 2 any state whose motor vehicle agency's only role was notification, such as use of a driver's license application form that contains a statement informing convicted sex offenders of the duty to register.

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renewal.<sup>2</sup> Of these states, Arizona, Louisiana, and Texas mandate that sex offenders obtain a driver's license or an identification card, making the annual renewal process mandatory. In the remaining states, annual renewal is contingent upon the sex offender's decision to maintain a valid driver's license or identification card, though penalties would apply for driving with an invalid license.

- *License-Suspension States:* In Illinois, Massachusetts, Mississippi, Nevada, and North Carolina, the motor vehicle agency must suspend, cancel, or refuse to issue or renew the driver's license or identification card of a sex offender who is not in compliance with registration requirements.<sup>3</sup>
- *License-Annotation States:* Alabama, Delaware, Florida, Kansas, Louisiana, Mississippi, and West Virginia label the applicable driver's license, identification card, or registration card with an annotation that identifies the holder as a sex offender.<sup>4</sup>
- *Cross-Validation States:* State law enforcement entities in Arizona, Colorado, Florida, New Hampshire, and Virginia use motor vehicle agency records to help ensure the accuracy or currency of addresses in the respective state's sex offender registry.

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<sup>2</sup>We did not include Mississippi in this list because, while Mississippi requires sex offenders to renew their sex offender registration cards every 90 days at a driver's license office, the state has no comparable accelerated or annual-renewal requirement for driver's licenses or identification cards issued to sex offenders; these documents are subject to the standard 4-year expiration in Mississippi. Miss. Code Ann. §§ 63-1-47, 45-35-7.

<sup>3</sup>We did not include Texas on this list because, unlike the other states, Texas does not base suspension on the sex offender's failure to register but on the sex offender's failure to renew a driver's license or personal identification certificate in person. Tex. Transp. Code Ann. §§ 521.101(h)(i), 521.348.

<sup>4</sup>We did not include South Dakota on this list because, unlike the other states, South Dakota's statute authorizes but does not require a visible or readily distinguishable annotation of "sex offender" on applicable driver's licenses. Specifically, South Dakota's statute permits the use of bar codes on driver's licenses to enable the electronic retrieval of certain information such as Social Security numbers. If bar codes are used, the Secretary of the Department of Public Safety may encrypt information in the bar code identifying the licensee as a sex offender who is required to register. S.D. Codified Laws § 32-12-17.7.

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**Table 2: Overview of States That Have Statutory Requirements for Using Driver's License-Related Processes for Encouraging Registration or Providing Additional Monitoring of Convicted Sex Offenders**

| State    | Summary of statutory requirements for using driver's license-related processes  |
|----------|---|
| Alabama  | In Alabama, every adult criminal sex offender who is a resident of Alabama shall obtain and always have in his or her possession either a valid driver's license or an identification card issued by the Alabama Department of Public Safety. If any criminal sex offender is indigent or ineligible to be issued a driver's license or identification card, the Department of Public Safety will provide some other form of identification or documentation that, if kept in the offender's possession, will satisfy the requirement. Any criminal sex offender who knowingly violates this provision is guilty of a class C felony. Whenever the Department of Public Safety issues or renews a driver's license or identification card to an adult criminal sex offender, the license or card will have a designation that enables law enforcement to identify the holder as a criminal sex offender. <i>Ala. Code § 15-20-26.2 (Effective date: September 1, 2006).</i>   |
| Arizona  | Arizona supplements its sex offender registration requirements by requiring sex offenders, at their initial registration and every year thereafter, to obtain and carry a new driver's license or a nonoperating identification license from the Department of Transportation's Motor Vehicle Division. The license is valid for one year from the date of issuance, and the offender must submit proof of address and place of residence to obtain it. The Motor Vehicle Division, in turn, must annually update the offender's address and photograph, provide any address updates to the Arizona Department of Public Safety (which maintains the state's sex offender registry) and make a copy of the offender's photograph available to the Department of Public Safety or to any law enforcement agency. An offender who fails to comply with Arizona's license requirement is guilty of a class 6 felony that carries, in addition to any other penalties, a mandatory \$250 assessment. <i>Ariz. Rev. Stat. Ann. §§ 13-3821(J), 13-3824 (Effective Date: May 1, 1996).</i> |
| Colorado | The Colorado Bureau of Investigation, which maintains the state's sex offender registry, is required to maintain one or more interactive database systems to provide, at a minimum, cross validation of a registrant's known names and addresses with information maintained by the department of revenue concerning driver's licenses and identification cards. The bureau must report any discrepancies to each local law enforcement agency that has jurisdiction over the location of the person's last-known residences. <i>Colo. Rev. Stat. Ann. § 16-22-110 (3)(a) (Effective date: July 1, 2002).</i>   |
| Delaware | Convicted felony sex offenders who are required to register in Delaware must surrender their driver's license to the sentencing court and receive a temporary driver's license. The sentencing court directs the convicted sex offender to report to the Department of Transportation's Division of Motor Vehicles and obtain a replacement driver's license, with a code restriction indicating that the person is a sex offender. <i>Del. Code Ann. Tit. 21, § 2718(e) (Effective date: April 20, 1998).</i>  |

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| State         | Summary of statutory requirements for using driver's license-related processes   |
|---------------|--|
| Florida       | <p>In Florida, within 48 hours of initially registering with state or local law enforcement, convicted sexual predators and sexual offenders must report in person to the driver's license office of the Department of Highway Safety and Motor Vehicles to present proof of registration, to be photographed, and to secure or renew a valid Florida driver's license or identification card. Similarly, at the time of renewal, or within 48 hours after any change of address in permanent or temporary residence or any change of name because of marriage or other legal process, these individuals must report in person to be photographed and to update and maintain a valid Florida driver's license or identification card. The Department of Highway Safety and Motor Vehicles must forward the person's photograph and any updated information to the Department of Law Enforcement, which maintains Florida's sex offender registry. An offender's failure to comply with any of these license provisions is a third degree felony. <i>Fla. Stat. Ann. §§ 775.21(6)(f), (6)(g), (10)(a), 943.0435(3), (4), (9)(a) (Effective date: July 1, 2000).</i></p> <p>In addition to the above requirements, Florida imposed new license requirements on sexual predators and sexual offenders under a statute enacted June 20, 2007. Effective August 1, 2007, all driver's licenses or identification cards issued to sexual predators and sexual offenders must have certain markings on the front that designate the person as a sexual predator or sexual offender. Effective February 1, 2008, sexual predators and sexual offenders who possess a driver's license or identification card without the required marking on it are guilty of a third degree felony. <i>See 2007 Fla. Sess. Law Serv. Ch. 2007-207 (C.S.S.B. 988 §§ 1,2) (WEST).</i></p> |
| Illinois      | <p>In Illinois, convicted sex offenders must renew their driver's license annually. The Secretary of State is authorized to cancel any license or permit upon determining that the holder has been convicted of a sex offense as defined in the Sex Offender Registration Act. The driver's license shall remain cancelled until the driver registers as a sex offender as required by the Sex Offender Registration Act and provides proof of registration and current address to the Secretary. If the convicted sex offender drives without a license and the license was taken away because of nonregistration as an offender, the person is guilty of a class A misdemeanor. 625 Ill. Comp. Stat. Ann. 5/6-101(b-5), 5/6-201(a)(9), 730 Ill. Comp. Stat. Ann. 5/5-5-3(o) (Effective date: January 1, 2007).</p>   |
| Indiana       | <p>In Indiana, sex offenders who are residents of Indiana must obtain and keep in their possession a valid Indiana driver's license or identification card. Sex offenders who are required to register in Indiana but who are not residents must obtain and keep a valid driver's license or identification card issued by the state where they reside. A person who knowingly or intentionally violates this requirement to possess identification commits a class A misdemeanor. Under certain circumstances, such as if the person is a sexually violent predator, the offense is a class D felony. <i>Ind. Code Ann. § 11-8-8-15 (Effective date: July 1, 2006).</i></p>   |
| Kansas        | <p>In Kansas, the Department of Revenue's Division of Vehicles is to issue readily distinguishable driver's licenses or identification cards to persons required to register as sex offenders. Licenses and identification cards issued to sex offenders expire every year on the offender's birthday and are to be renewed annually. <i>Kan. Stat. Ann. §§ 8-1325a, 8-243(d), 8-247(a)(1)(D), (d) (Effective date: July 1, 2006).</i></p>   |
| Louisiana     | <p>In Louisiana, any person who is required to register as a sex offender with the Bureau of Criminal Identification and Information must obtain a special identification card issued by the Department of Public Safety and Corrections, which contains the words "sex offender" in orange, capitalized letters. The card is valid for 1 year from the date of issuance, and the sex offender must personally appear at a motor vehicle field office to renew it annually, but only after re-registering as a sex offender as confirmed by the bureau. The sex offender must carry a valid special identification card at all times or face up to a \$500 fine and/or 6 months in jail. If the sex offender obtains a driver's license, the license is subject to essentially the same coding and renewal requirements that apply to the mandatory special identification card. <i>La. Rev. Stat. Ann. §§ 32:412(I), 40:1321(J) (Effective date: June 29, 2006).</i></p>  |
| Massachusetts | <p>In Massachusetts, if the sex offender registry board notifies the Registrar of Motor Vehicles that a sex offender has failed to comply with registration requirements, the registrar must suspend, or refuse to issue or renew, the sex offender's driver's license or vehicle registration until receiving notice or proof that the sex offender is in compliance. <i>Mass. Gen. Laws Ann. ch. 90, § 22(j) (Effective date: July 1, 2003)</i></p>  |

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| State          | Summary of statutory requirements<br>for using driver's license-related processes   |
|----------------|---|
| Michigan       | In Michigan, an individual who must register as a sex offender is required to maintain a valid operator's or chauffeur's license or an official state personal identification card with the individual's current address. <i>Mich. Comp. Laws § 28.725a(8) (Effective date: January 1, 2006).</i>   |
| Mississippi    | Sex offenders who are temporary or permanent residents of Mississippi must personally appear at a Department of Public Safety driver's license station to obtain a sex offender registration card within 10 days after they register with the required judicial or law enforcement entity. This registration card must designate the person as a sex offender, as must the person's driver's license or state identification card if one is issued or renewed. The sex offender registration card must be renewed in person at a driver's license station every 90 days, or earlier if the sex offender's name, address, employment or school changes. At each re-registration visit, the sex offender must submit current information and a photograph. If a sex offender violates any of these registration provisions, the Department of Public Safety is to notify the local sheriff's office and suspend the offender's driver's license; the punishment is up to a \$5,000 fine or 5 years in prison or both. <i>Miss. Code Ann. §§ 45-33-27, 45-33-29, 45-33-31, 45-33-33, 45-35-3(2), 63-1-35(3) (Effective date: July 1, 2007).</i>  |
| Nevada         | In Nevada, the Department of Motor Vehicles must check with the Central Repository for Nevada Records of Criminal History before issuing or renewing a driver's license or identification card to a person who must register for a sex offense or a crime against a child. If the department receives information from the central repository or other satisfactory evidence that the sex offender has complied with registration requirements, the department issues a 1-year license or card (versus the standard 4-year license or card); otherwise, a noncompliant offender is given instructions to contact the central repository for resolution. <i>Nev. Rev. Stat. §§ 483.283, 483.380, 483.875 (Effective date: July 1, 2006). 2005 Nev. Laws. Ch. 507.</i>  |
| New Hampshire  | In New Hampshire, public registry information, including the qualifying offenses committed by a sex offender or an offender against children, must be available to law enforcement through the offender's criminal record and motor vehicle record. If an offender's obligation to register terminates for any reason, the Department of Safety shall notify the Division of Motor Vehicles of the change and the offender's motor vehicle record shall no longer reflect that the person is required to register as a sexual offender or offender against children. <i>N.H. Rev. Stat. Ann. § 651-B:2 (Effective date: January 1, 2007).</i>   |
| North Carolina | In North Carolina, the Division of Motor Vehicles is required to search the National Sex Offender Public Registry before issuing a driver's license or a special identification card to any applicant who has resided in North Carolina for less than 12 months. If the division finds that the applicant is currently registered as a sex offender in another state, the division shall not issue a driver's license or a special identification card until the person submits proof of registration in North Carolina. If the applicant does not appear on the National Sex Offender Public Registry or if the division is unable to access all states' information contained in the registry, the division may nevertheless issue a driver's license or special identification card based on the person's affidavit to the effect that he or she has no duty to register because he or she is not on the National Sex Offender Public Registry. If the person does appear in the National Sex Offender Public Registry after access is restored, the division shall immediately revoke the driver's license or special identification card and shall promptly notify the sheriff of the county where the person resides. <i>N.C. Gen. Stat. Ann. §§ 20-9(i), 20-37.7(b1) (Effective date: December 1, 2006).</i> |
| Oklahoma       | In Oklahoma, a driver's license or identification card obtained by person who must register as a sex offender is valid for 1 year from the month of issuance but may be renewed yearly during the time the person is registered as an offender. <i>Okla. Stat. Ann. tit. 47, §§ 6-105.3, 6-115 (Effective date: July 1, 2006).</i>  |

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| State         | Summary of statutory requirements<br>for using driver's license-related processes   |
|---------------|---|
| Texas         | <p>In Texas, a person who is required to register as a sex offender must apply in person with the Department of Public Safety for a new or renewed driver's license, personal identification certificate, or commercial driver's license within 30 days after the person is released from custody or after the department sends written notice of the requirement to obtain the license or identification certificate. The initial license or identification certificate issued to a sex offender expires on his or her second birthday occurring after the application. Thereafter, the license or identification certificate expires annually and must be renewed in person at the Department of Public Safety, which is to maintain records of the person's duty to register as a sex offender. Failure to renew the license or identification certificate in person will result in its revocation. <i>Tex. Code Crim. Proc. Ann. arts. 42.016, 62.060; Tex. Transp. Code Ann. §§ 521.101(h)(i), 521.103, 521.272; 521.348, 522.033 (Effective date: September 1, 2000).</i></p> |
| Utah          | <p>In Utah, for persons required to register as sex offenders, the driver's license or identification card will expire on the person's next birth date beginning on July 1, 2006. The person required to register as a sex offender must surrender the license or card to the Department of Public Safety's Division of Motor Vehicles on or before that birth date. The person may then apply for a driver's license or identification card that expires annually on the offender's next birth date, as opposed to the standard 5-year driver's license or identification card. A sex offender who knowingly fails to surrender a driver's license or identification card in accordance with these requirements is guilty of a class A misdemeanor. <i>Utah Code Ann. §§ 53-3-205(8)(h), 53-3-216(3), (6)(b), 53-3-807(4), (8)(b), (9) (Effective date: July 1, 2006).</i></p>   |
| Virginia      | <p>At the time of issuance of a driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card, and at the time of the renewal of a driver's license, the Department of Motor Vehicles is to electronically transmit application information to the Department of State Police for comparison with information contained in the Virginia Criminal Information Network and the FBI's National Crime Information Center's Convicted Sexual Offender Registry File. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment in the appropriate Virginia city or county. <i>Va. Code Ann. §§ 46.2-323(E), 46.2-330(F), 46.2-345(L) (Effective date: January 1, 2007).</i></p>   |
| West Virginia | <p>West Virginia requires a code to be placed on any driver's license or nondriver identification card issued to a person who must register as a sexually violent predator. If a sexually violent predator possesses a driver's license or nondriver identification card without the required code, he must surrender it for cancellation and may obtain a new one that is properly coded to denote that the person is a sexually violent predator. A sexually violent predator who possess an uncoded driver's license or nondriver identification card may be fined up to \$500 and/or jailed up to 1 year. <i>W. Va. Code Ann. § 17B-2-3(b)-(e) (Effective date: October 1, 2006).</i></p>   |

Source: GAO summary based on review of state statutes

Note: For each of the states shown in table 2, the "effective date" represents when the state started to use the statutory driver's license-related process, as opposed to the effective date of any amendments to the enabling statute.

**Appendix II: Overview of States' Processes for Encouraging Registration or Providing Additional Monitoring of Convicted Sex Offenders**

**States with Agency Initiatives for Using Driver's License-Related Processes for Encouraging Registration or Providing Additional Monitoring of Convicted Sex Offenders**

Generally, as discussed in appendix I, our identification of states that have agency-initiated processes for using driver's license-related processes for encouraging registration or providing additional monitoring of convicted sex offenders was an ancillary result of the work we conducted to (1) identify states that have statutory requirements for such processes and (2) otherwise address the objectives of our mandated study. Thus, the listing in table 3 is not intended to be exhaustive because we did not contact motor vehicle and law enforcement agencies in all 50 states to specifically inquire about the availability or use of agency-initiated processes. One of the three states listed in table 3—Florida—is also included in table 2. We found that Florida supplements its statutory cross-validation procedures with additional agency-initiated cross-validation procedures, as discussed in table 3. Further, table 3 identifies two additional states that have non-statutory, agency-initiated processes: California and Pennsylvania are "cross-validation" states.

**Table 3: Overview of States with Agency Initiatives for Using Driver's License-Related Processes for Encouraging Registration or Providing Additional Monitoring of Convicted Sex Offenders**

| State      | Summary of agency initiatives for using driver's license-related processes   |
|------------|--|
| California | The California Department of Justice's Violent Crime Information Network database is the state's central repository for sex offender registration information. From this database, the Department of Justice provides identifying information (e.g., name and date of birth) to the Department of Motor Vehicles for use in setting a flag on applicable driver's license files. The flag-setting process enables the Department of Motor Vehicles to subsequently notify the Department of Justice when a new address or other type of update occurs against a flagged record. The electronic interface technology between the two departments does not provide for real-time exchanges of information. However, information updates are shared daily by electronic batch processing—a capability that the state established in 2001. |
| Florida    | The Florida Department of Law Enforcement uses batch processing to periodically match records obtained from the Florida Department of Highway Safety and Motor Vehicles against criminal history records. Specifically, according to state officials, records of new and updated licenses are run against the Florida Crime Information Center's files. Also, the officials reported that, as an investigative tool, the Florida Department of Law Enforcement periodically runs a list of all Florida licenses against the FBI's national sex offender registry to identify any offenders who may have moved from another state to Florida and have failed to register.   |

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**Appendix II: Overview of States' Processes  
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| <b>State</b> | <b>Summary of agency initiatives for<br/>using driver's license-related processes</b>   |
|--------------|---|
| Pennsylvania | In Pennsylvania, the Department of Transportation (Driver and Vehicle Services) notifies the State Police (manager of the state's sex offender registry) when an offender changes his or her address with the department. According to the State Police, this notification procedure was established in 2005. |

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Source: GAO summary based on a review of agency Web sites and information provided by agency officials.

In one sense, Nevada's screening process (see fig. 3) can be categorized as an agency-initiated process. That is, Nevada's statute does not specifically require prescreening, but prescreening against the state's sex offender registry is the method Nevada has adopted to implement the statutory prohibition on issuing driver's licenses or identification cards to sex offenders who are not in compliance with registration requirements. In terms of the implementation information we developed, it appears that Nevada is unique in being the only state that uses its motor vehicle agency to prescreen all applicants against a sex offender registry before issuing a driver's license or identification card.<sup>6</sup>

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<sup>6</sup>North Carolina's statute requires prescreening of all applicants who have resided in North Carolina for less than 12 months against the National Sex Offender Public Registry.

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## GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

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## Sex Offender Licensing

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### ● General Information

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Beginning July 1, 2006, convicted sex offenders and persons convicted of a crime against a child are required to renew their driver's license or identification card every year. Applicants must be in compliance with offender registration requirements before a license or ID will be issued or renewed.

This new program was established by Senate Bill 341 of the 2005 Nevada Legislature. See also NRS 483.283 and Nevada Revised Statutes Chapter 179D.

### ● How It Works

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The DMV and the Nevada Department of Public Safety have a new program that searches all non-commercial and commercial driver's licenses and ID cards to determine if the applicant is a registered sex offender within the State system.

The search takes place automatically upon the original issuance and each renewal of a license. If the offender is in compliance with registration requirements, the license or ID card will be valid until the applicant's birthday one year ahead. There is no other notation on the license.

If the individual is not in compliance, the DMV will not issue or renew the license. The DMV will refer the applicant to the Sex Offender Registry at (775) 684-6262. An existing license or ID will expire on its normal expiration date.

Each year, the applicant will receive a mailed renewal notice. The notices are mailed approximately 45 days in advance for ID cards and non-commercial licenses and 90 days in advance for commercial licenses. Renewals must be completed in-person at a DMV Full-Service or Express Office. Offender licenses cannot be renewed by Internet or mail.

Nevada residents who move must complete and submit a DMV Change of Address Application (DLD-22) within 30 days of the move, even if they are moving out of state. The DMV does not receive updated address information from the Registry or from postal forwarding orders. See [Address Changes](#).



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E-Mail: [info@dmv.state.nv.us](mailto:info@dmv.state.nv.us)  
 Please include your plate number or other  
 information needed to research your request.  
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**Amanda Hernandez, Reporter**  
**Nevada Praised For Rules on Sex Offenders**

Updated Jan 30, 2008 08:57 PM

Hundreds of sex offenders in our valley are breaking the law by refusing to register. Now a federal report cites Nevada as a role model for the way the DMV cracks down on offenders – by refusing them drivers licenses if they're unregistered.

But the report also reveals some flaws in the accountability of sex offenders.

"We're only state that checks every license application and renewal against the sex offender registry," said DMV Spokesman Kevin Malone.

In 2006, state law changed for sex offenders, requiring them to go in person to the DMV rather than renew online.

"We reduced the amount of time. Most people keep a driver's license for four years. Sex offenders now only keep it for 1 year. And once they go in for that renewal they're checked right on the spot to make sure their registration is up to date," said State Senator Dina Titus.

Titus sponsored the bill after she realized sex offenders were constantly going unregistered and unchecked. "There are two problems – one is making sure that sex offenders register and second is tracking them once they're registered. So if we're at least handling one end of it we've come a long way."

Now the national government is looking at Nevada as a model for implementing stricter rules and checks for sex offenders across the country.

"I'm glad we're on the top of a good list for a change – even if it is dealing with a bad subject," said Titus.

New federal rules will go further than Nevada, checking the federal registry instead of just the state one. So sex offenders moving from state to state will still have to comply.

"That is going to take a while because it is expensive. You have to bring 50 states into it and make all the information compatible. But certainly this is a priority across the country," said Titus.

New rules would also require sex offenders who don't have a driver's license to still get an ID so they will not be exempt from the check. It is something Nevada's laws don't require yet.

Email your comments to Reporter Amanda Hernandez



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## More specific sex offender info becoming available

Updated: July 3, 2006 06:00 AM



Finding information about sex offenders living in our valley is about to get a whole lot easier. On Saturday, our new state sex offender law goes into effect, which means you will be able to get the exact home addresses of Tier 2 and 3 offenders.

The state considers Tier 2 offenders moderately likely to re-offend and Tier 3 offenders highly likely to re-offend. *The Crime Tracker 3* is watching out for your safety. We sat down with a convicted sex offender to get his take on this new law and why he fears for his safety.

"In the public's eye, a sex offender is a sex offender, regardless of the severity. We're all monsters and I just don't think that's true."

He asked us not to reveal his identity, but this man is a Tier 2 sex offender, convicted in 2000 for attempted sexual assault.

"I've really come to accept the restrictions they put on and all the hoops that you have to jump through. You know it's better than prison and you take it where you can and you just keep trying."

As a Tier 2 offender, he has strict rules he will live by for the rest of his life. He has to notify the state every time he moves and is required to tell his employer, school and whomever he lives with about his convictions.

He's also limited in what he can do.

"I can't go to movies, any movie theater, I can't go to parks, I can't take my daughter to the toy store even with supervision. I can't leave the county."

As of July 1 when Senate Bill 341 goes into effect, there will be even more guidelines he'll have to follow.

"For the offenders themselves, it's going to change their drivers license. It will expire every year. If they're not in compliance with the state, they cannot renew their drivers license, their work card will expire every year, their gaming card will expire every year, again they must be in compliance to renew these cards," says Metro's Sergeant Troy Barrett.

Sergeant Barrett says the law is getting tougher to help law enforcement keep a better eye on offenders. But it's also going to allow the public to see exactly who's living next door.

"Ignorance is sometimes bliss, but you'd be very upset if something happened and you knew there was a tool available that you chose not to use to make sure to ensure your safety. Check, find out who's there and just be smart," says Sergeant Barrett.

The state sex offender registry website will tell you the exact address of the nearly 2,000 Tier 2 sex offenders, and the 60 Tier 3 offenders living in Las Vegas. You'll also be able to get more information about the crimes they committed and the 100 block of where they work.

"People are so disgusted with it and so scared of it and it's such a horrific crime. I understand, I mean, I completely do," says the offender.

He understands, but is also worried about what may happen when this information becomes public.

"I'm scared, I'm terrified, not just for myself, but my family members and the people that do live with me being ridiculed. Being, you know, I don't know whether it's discriminated against, egged house, whatever, the issue may be somebody's got a grudge against something that's not with me, that I've been grouped into."

Metro doesn't want people to use this information to take the law into their own hands. "This information is there strictly for a tool so they can be informed of whose in their neighborhood and ensure the safety of their loved ones," says Sergeant Barrett.

This Tier 2 offender has gone through hundreds of hours of treatment and says society shouldn't be afraid of him. But he does admit there are offenders out there he's afraid of.

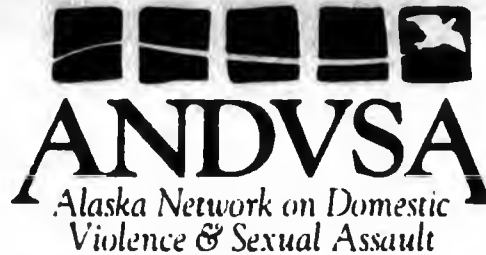
"I mean, I surely wouldn't want to send my wife out door to door knocking on sex offenders addresses, it would scare me."

Tracking the sex offenders can be a difficult task. New grant money from the Bureau of Justice Assistance recently helped create the Southern Nevada Sex Offender Task Force. It's a group made up of 12 local agencies, including Metro, North Las Vegas and Henderson police departments. Their goal is to make sex offender management attainable.



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February 27, 2008

Senator McGuire  
State Capitol, Room 125  
Juneau, AK 99801-1182

Dear Senator McGuire:

On behalf of the nineteen member domestic violence and sexual assault programs throughout the state that comprise the Alaska Network on Domestic Violence and Sexual Assault, thank you for introducing SB 265. This bill would help ensure that convicted sex offenders keep their registration information up to date.

In its current form, the bill would require that the DMV screen all applicants for driver's licenses against the state sex offender registry (SOR) and, if an applicant for a driver's license is found to be non-compliant with the registry, to withhold granting the license until the convicted sex offender updates his registration information. In addition, the DMV would set the expiration date for one year from the date issued, thereby compelling the convicted sex offender to register and/or update information at least once per year.

Sen. McGuire, you have made us aware of your plans to introduce a significant change to the bill, which would remove the DMV from the equation and use instead the Permanent Fund Dividend application as a screening tool for SOR compliance. The new bill proposes that a convicted sex offender indicate a past conviction (via a yes/no question) on the application. The PFD office would then screen those applicants against the SOR, and refrain from processing the PFD application of any convicted sex offender not in compliance with the state registry until that individual's information had been updated with the SOR.

The Alaska Network on Domestic Violence and Domestic Assault fully supports legislation that reduces the rate of non-compliance with the SOR among convicted offenders and that, by extension, helps to keep survivors of sexual violence apprised of the whereabouts of convicted offenders. Thank you for sponsoring this bill.

Regards,

Peggy Brown  
Executive Director

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# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: **SB 265**  
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name): **SB265-DPS-R&I-02-22-08** Dept. Affected: **Public Safety**  
 Title: **"An Act relating to drivers' licenses and identification cards issued to sex offenders and child kidnappers."** RDU: **Statewide Support**  
 Sponsor: **Senator McGuire** Component: **Records & Identification**  
 Requester: **Senate Transportation Committee** Component Number: **1190**

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

|                               | Appropriation<br>Required | Information |            |            |            |            |            |            |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|------------|
|                               |                           | FY 2009     | FY 2009    | FY 2010    | FY 2011    | FY 2012    | FY 2013    | FY 2014    |
| <b>OPERATING EXPENDITURES</b> |                           |             |            |            |            |            |            |            |
| Personal Services             |                           |             |            |            |            |            |            |            |
| Travel                        |                           |             |            |            |            |            |            |            |
| Contractual                   | 20.0                      |             |            |            |            |            |            |            |
| Supplies                      |                           |             |            |            |            |            |            |            |
| Equipment                     |                           |             |            |            |            |            |            |            |
| Land & Structures             |                           |             |            |            |            |            |            |            |
| Grants & Claims               |                           |             |            |            |            |            |            |            |
| Miscellaneous                 |                           |             |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b>        | <b>20.0</b>               | <b>0.0</b>  | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                            | FY 2009     | FY 2009    | FY 2010    | FY 2011    | FY 2012    | FY 2013    | FY 2014    |
|----------------------------|-------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts      |             |            |            |            |            |            |            |
| 1003 GF Match              |             |            |            |            |            |            |            |
| 1004 GF                    | 20.0        |            |            |            |            |            |            |
| 1005 GF/Program Receipts   |             |            |            |            |            |            |            |
| 1037 GF/Mental Health      |             |            |            |            |            |            |            |
| Other Interagency Receipts |             |            |            |            |            |            |            |
| <b>TOTAL</b>               | <b>20.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

|           | FY 2009 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
|-----------|---------|---------|---------|---------|---------|---------|---------|
| Full-time |         |         |         |         |         |         |         |
| Part-time |         |         |         |         |         |         |         |
| Temporary |         |         |         |         |         |         |         |

**ANALYSIS:** (Attach a separate page if necessary)

This legislation requires the Division of Motor Vehicles (DMV) to verify that a person required to register as a sex offender or child kidnapper under AS 12.63 is in compliance with the registration requirements under that chapter as a condition of issuing or renewing the person's identification card or driver's license. It also requires sex offenders and child kidnappers to renew their identification card or driver's license annually rather than every five years as is the current requirement. (Continued)

Prepared by: David Schade, Director  
 Division: Statewide Services  
 Approved by: Walt Monegan, Commissioner  
Department of Public Safety

Phone (907) 269-0202  
 Date/Time 2/25/08 5:14 PM  
 Date \_\_\_\_\_

**FISCAL NOTE**

**STATE OF ALASKA  
2008 LEGISLATIVE SESSION**

**BILL NO. SB 265**

**ANALYSIS CONTINUATION**

To implement the screening requirements of this legislation, the DMV will need to compare information from their database against information from the Department of Public Safety's (DPS) sex offender registry database to determine 1) whether the person is someone required to register as a sex offender or child kidnapper and therefore subject to a one-year renewal, and 2) if so, whether the person is in compliance with the registration requirements.

Currently, there is no electronic telecommunications interface between DMV's database (Alaska License and Vehicle Information Network (ALVIN)) and DPS's database (Alaska Public Safety Information Network (APSIN)) that would facilitate the real-time screening process that this legislation proposes.

An interface will need to be built that will electronically submit a query from ALVIN to APSIN to conduct a search against specific data elements in the sex offender registry (e.g., name, social security number, date of birth, etc.) and provide a response back.

The cost to build an electronic interface that allows APSIN to receive the query from ALVIN and return a response is estimated to be \$20,000. This estimate includes the cost of a contract programmer for 200 hours at \$100 per hour for analysis, review, security, planning, testing, and implementation.