



Virginia Department of Corrections

Mental Health and Wellness Services

Operating Procedure 735.1

Sex Offender and Crimes Against Minors Registration

Authority:

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REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections (DOC). Practices and procedures must comply with applicable State and Federal laws and regulations, American Correctional Association (ACA) standards, Prison Rape Elimination Act (PREA) standards, and DOC directives and operating procedures.

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DEFINITIONS

Offenses Requiring Registration - All inmates/probationers/parolees convicted, confined, or under community supervision on or after July 1, 1994, for the following offenses must register and re-register in the Virginia State Police *Sex Offender and Crimes Against Minors Registry*.

Offenses Requiring Re-Registration Every 90 Days:

1. "Tier III"	
Charge	Section
Abduction for Immoral Purpose	18.2-48(ii)(iii) Former 18.1-38 Former 18.1-39 (2)(3)
Rape	18.2-61 Former 18.1-44
Carnal Knowledge of Minor (Victim ages 13-14) where the perpetrator is more than five years older than the victim	18.2-63
Forcible Sodomy	18.2-67.1
Object Sexual Penetration	18.2-67.2
Aggravated Sexual Battery	18.2-67.3
Sexual Contact (Victim under 13)	Former 18.1-215
Sexual Battery where the perpetrator is 18 years of age or older and the victim is under the age of six	18.2-67.4
Attempt Rape, Forcible Sodomy Object Sexual Penetration, Aggravated Sexual Battery	18.2.67.5 (A) (B)
Taking Indecent Liberties with Minor	18.2-370 Former 18.1-213 (1)(2)(4) Former 18.1-214
Taking Indecent Liberties with Minor by Person in Custodial or Supervisory Relationship	18.2-370.1
Production, Distribution, Financing, etc. of Child Pornography	18.2-374.1
OR	
Any Person Convicted under Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code	
Any Person Convicted for Sex Trafficking (Title 18, U.S.C. § 1591)	
OR	
<i>A <u>SECOND</u> or subsequent conviction, where the individual was at liberty between such convictions, of the following:</i>	
Carnal Knowledge of Minor (Victim Ages 13-14)	18.2-63

Carnal Knowledge of Minor (Victim 15 or older) Supervisory Relationship	18.2-64.1
Marital Sexual Assault (Repealed 2005)	18.2-67.2:1
Enter Dwelling House with intent to Rape	18.2-90
OR	
A SECOND or subsequent conviction, where the individual was at liberty between such convictions, and where the victim is a minor or is physically helpless or mentally incapacitated as defined in §18.2-67.10, a violation or attempted violation of:	
Abduction	18.2-47(A)
Abduction with the intent to extort money or pecuniary benefit	18.2-48 (i)
Sexual Battery	18.2-67.4
Attempted Sexual Battery	18.2-67.5 (C)
Crimes Against Nature (Sodomy)	18.2-361
Adultery & Fornication by Person Forbidden to Marry: Incest	18.2-366
Child Pornography (Two or more convictions)	18.2-374.1:1(C)
OR	
If the offense was committed on or after July 1, 2006, and if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications:	
Enter Dwelling House etc. with intent to Commit Felony	18.2-91
2. "Murder" means: Murder (Victim is under 15) or (Victim is 15-17) is related to an offense under 9.1-902	18.2-31, 18-2-32 Former 18.1-21
<u>Offenses Requiring Annual Re-Registration:</u>	
3. "Tier II" means:	
Charge	Section
Carnal Knowledge of Minor (Victim 15 and older) Supervisory Relationship	18.2-64.1
Child Pornography	18.2-374.1:1 (C)
Use of Communication System to Solicit a Minor to Violate §18.2-370, Indecent Liberties with a Minor	18.2-374.3 (C)(D)(E)
<u>Offenses Requiring Annual Re-Registration:</u>	
4. "Tier I" means:	
Charge	Section
Carnal Knowledge of Minor (Victim Ages 13 - 14) if the perpetrator is less than five years older than the victim	18.2-63
Marital Sexual Assault (Repealed in 2005)	18.267.2:1
Solicitation of Prostitution from a Minor (Felony Violation)	18.2-346
Prostitution; Solicitation, Commercial Exploitation of a Minor	18.2-346.01
Taking, Detaining a Minor for Prostitution	18.2-355 (4)
Receiving Money for Procuring Person (Victim under 18)	18.2-356
Receiving Money from Earnings of Prostitute (Victim under 18)	18.2-357



Commercial Sex Trafficking	18.2-357.1 (C)
Aggravated Malicious Wounding (Where perpetrator is 18 years of age or older and the victim is under the age of 13)	18.2-51.2
Sexual Battery (Three or more convictions)	18.2-67.4
Sexual Abuse Against Child under 15 (Three or more convictions)	18.2-67.4:2
Attempted Sexual Battery (Three or more convictions)	18.2-67.5 (C)
Enter Dwelling House etc. with intent to Rape	18.2-90
	Former 18.1-88
Penetration of the Mouth of a Child with Lascivious Intent	18.2-370.6
Child Pornography	18.2-374.1:1 (B)(D)
Child Pornography (As it was in effect 7/1/94 to 6/30/07)	Former 18.2-374.1:1 (D)
Unlawful Filming, Videotaping or Photographing of Another (Three or more convictions)	18.2-386.1
Use of Communication System to Solicit a Minor to Violate §18.2-370, Indecent Liberties with a Minor	18.2-374.3 (B)
Use of Communication System to Solicit a Minor to Violate §18.2-370, Indecent Liberties with a Minor (As it was in effect 6/30/07)	Former 18.2-374.3 (B)(iv)
Third Sexual Offense, Felony, as set forth in	18.2-67.5:1
OR	
If the offense is committed on or after July 1, 2006	
Enter Dwelling House etc. with intent to Commit Felony listed under §9.1-902	18.2-91
Child Pornography	18.2-374.1:1(A)
Third misdemeanor sexual offense as set forth in	18.2-67.5:1
OR	
If the offense is committed on or after July 1, 2019	
Aiding prostitution or illicit sexual intercourse, etc. (Victim under 18)	18.2-348
Using vehicles to promote prostitution or unlawful sexual intercourse (Victim under 18)	18.2-349
OR	
If the offense is committed on or after July 1, 2020	
Unlawful dissemination or sale of image of another (Third or subsequent conviction)	18.2-386.2
OR	
Where the victim is a minor or is physically helpless or mentally incapacitated as defined in §18.2-67.10, a violation or attempted violation of:	
Abduction	18.2-47 (A)
Abduction with the intent to extort money or pecuniary benefit	18.2-48 (i)
Sexual Battery	18.2-67.4
Attempted Sexual Battery	18.2-67.5 (C)
Crimes Against Nature (Sodomy)	18.2-361

<p>Adultery & Fornication by Person Forbidden to Marry: Incest</p> <p>OR</p> <p>Any Criminal Homicide in conjunction with a violation of clause (i) of §18.2-371 (Contributing to the delinquency) or §18.2-371.1 (abuse and neglect of children) when the offenses arise out of the same incident.</p>	<p>18.2-366</p> <p>Former 18.1-191</p>
<p>OR</p> <p>"Offense for which registration is required" includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof</p>	
<p>OR</p> <p>Any offense for which registration in a Sex Offender and Crimes Against Minor Registry is required under the laws of the jurisdiction where the inmate/probationer/parolee was convicted.</p>	

Persons convicted in other jurisdictions of substantially similar laws must register in Virginia. Also, persons required to register as a sex offender in the state of conviction must also register in Virginia if not otherwise required to under the Act.

P&P Officer - Any Chief P&P Officer, Deputy Chief P&P Officer, Senior P&P Officer, or P&P Officer authorized by a Circuit Court Judge.

PURPOSE

This operating procedure provides guidance for Department of Corrections (DOC) compliance with the Code of Virginia §9.1-900 et seq., *Sex Offender and Crimes Against Minors Registry Act*.

PROCEDURE

- I. Potential Registration While Incarcerated
 - A. Facilities must contact the Virginia State Police (VSP) to obtain the most current *Sex Offender and Crimes Against Minors Registration Form* (SP-236).
 - B. Facility Intake Registration Investigation
 1. Facility staff must research each inmate's conviction history on intake to the DOC, including out-of-state inmates serving Virginia sentences. If the inmate has been convicted of an offense that potentially requires registration, complete the *Sex Offender and Crimes Against Minors Registration Form* (SP-236) using the correctional facility address, providing fingerprints (only thumbprints are required if VSP database shows fingerprints are on file), palm prints (if VSP database does not show palm prints are on file), and a photograph.
 2. Refusal to complete *Sex Offender and Crimes Against Minors Registration Form* SP-236.
 - a. If an inmate refuses to comply with any aspect of registration after being informed of their potential responsibility to register with the VSP and of the penalty for failing to do so, corrections staff must enter required information.
 - b. On the "signature of person registering" line, staff will write "*refused to sign*" and enter the signature of the staff person completing the form.
 - c. Staff will distribute completed registration forms as indicated below.
 - d. Upon confirmation from the VSP that the inmate is required to register:
 - i. Staff must charge the inmate with offense code 119d, *Refusal to participate in required sex offender/crimes against minors registration* (Mandatory Penalty - 90 Days Loss of Accumulated Good Time); see Operating Procedure 861.1, *Inmate Discipline*.
 - ii. The inmate must be placed in a class level earning no good time until such time as the inmate complies with registration requirements; see Operating Procedure 830.3, *Good Time Awards*.
 3. Upon completion of the *Sex Offender and Crimes Against Minors Registration Form* SP-236:
 - a. The Facility Unit Head will designate facility staff responsible to enter the date of the completion of the *Sex Offender and Crimes Against Minors Registration Form* SP-236 form in VACORIS.
 - b. The DOC copy will be uploaded in VACORIS.
 - c. The inmate will be given the inmate copy.
 - d. The VSP copy of the form, the fingerprint card, and photograph (digital) must be mailed to the VSP for further investigation.
 4. Once the VSP receives the initial registration, *Sex Offender and Crimes Against Minors Registration Form* SP-236, the VSP will evaluate the registration to determine if the inmate meets the registry requirement and the classification level associated with the registration.
 5. After evaluation, the VSP will send a letter to the facility with a copy for the inmate listing the inmate's registry requirement and the classification level associated with the registration. The facility copy will be uploaded in VACORIS.
 6. Inmates are not required to re-register while incarcerated until ready to discharge.
 7. Inmates who have a legal name change are required to re-register under the new name. A copy of the Court order must be submitted with the *Sex Offender and Crimes Against Minors Registration Form* (SP-236).

C. Facility Pre-Release Registration

1. The Facility Records Manager will notify designated staff of pending discharges of inmates convicted of a crime that requires registration.
2. Prior to an inmate's release from incarceration, designated facility staff will review VACORIS to determine if the VSP has provided a *Registry* requirement letter.
3. For inmates that have a registration on file with the VSP, ten days prior to the inmate's release, designated facility staff will assist the inmate in completing the *Sex Offender and Crimes Against Minors Registration Form SP-236*, using the *Home Plan* address and employment. A *Sex Offender and Crimes Against Minors Registration Form SP-236*, must be mailed to the VSP three days prior to the inmate's release. If the inmate does not release, designated facility staff must submit another *Sex Offender and Crimes Against Minors Registration Form SP-236* indicating the inmate's address.
4. For inmates that are potentially required to register, but there is no letter on file from the VSP listing the inmate's registry requirement and the classification level associated with the registration, a *Sex Offender and Crimes Against Minors Registration Form (SP-236)* must be completed and submitted in accordance with the *Facility Intake Registration Investigation* section of this operating procedure.
5. Refusal to Register
 - a. If the inmate refuses to comply with any aspect of registration after being informed of their responsibility to register with the VSP and of the penalty for failing to do so, corrections staff will enter the required information.
 - b. On the "signature of person registering" line, staff must write, "*Refused to sign*" and enter the signature of staff person completing the form.
 - c. Staff will distribute the completed registration forms as indicated above.
 - d. Staff must advise the inmate that they are required to register within three days of release from a facility or be subject to criminal prosecution.
 - e. The VSP must be informed in writing of this inmate's release and of the inmate's refusal to register. The VSP can be contacted at the following addresses:

Virginia Department of State Police
P. O. Box 27472
Richmond, VA 23261-7472
Sex.Offender.Notification@vsp.virginia.gov

II. Inmate Responsibility to Register and Re-Register

- A. Inmates required to register must do so in person within three days of their release from confinement. The local law enforcement agency will obtain from the registrant:
 1. one set of fingerprints and one set of palm prints;
 2. electronic mail address information,
 3. any instant message, chat or other internet communication name or identity information that the person uses or intends to use;
 4. place of employment information;
 5. motor vehicle, watercraft and aircraft registration, information for all motor vehicles, watercraft and aircraft owned by the registrant,
 6. proof of residency; and
 7. a photograph of a type and kind specified by the VSP for inclusion in the *Registry*.
- B. The local law-enforcement agency will advise inmates of the requirement to re-register within three days after any of the following information changes:
 1. name;



2. address;
3. employment;
4. motor vehicle, watercraft, and aircraft registration; or
5. new convictions.

C. The local law enforcement agency will also advise inmates of the requirement to re-register within 30 minutes following any change of the electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, whether within or without the Commonwealth. see COV §9.1-903, *Registration and reregistration procedures*.

D. Inmates registering due to a sex offense as defined in this operating procedure will be required to re-register until the duty to register and re-register is terminated by a court order as set forth in COV §9.1-910, *Removal of name and information from Registry*.

E. Per COV §9.1-908, *Duration of registration requirement*, any failure to re-register will cause the inmate to re-register more frequently and extend the period during which re-registration is required.

III. Registration under Community Supervision

A. Initial Registration

1. Initial registration while under community supervision should only be needed for:
 - a. probationers/parolees receiving suspended sentences;
 - b. probationers/parolees transferring from out-of-state with requirements to register in their previous state; or
 - c. probationers/parolees transferring from out-of-state with state or federal convictions that require registration in Virginia.
2. Initial registration should be conducted at the local law enforcement agency or VSP within three days of the probationer/parolee being sentenced or establishing residence in Virginia. Initial registration includes the *Sex Offender and Crimes Against Minors Registration Form* (SP-236), fingerprints, palm prints, photograph, and DNA sample.

B. Re-Registration

1. The registrant probationer/parolee should either report to the local law enforcement agency or the VSP for re-registration upon release and thereafter as needed. Once the registrant starts receiving their re-registration letter, they must return the letter to the VSP as scheduled.
2. The P&P Officer or Community Corrections Alternative Program staff are required to submit to the VSP a *Change of Address by Registered Sex Offender* (SP-236C) 735_F24 forthwith upon becoming aware of a registrant's change in name, residence, employment, or school. The P&P Officer must notify the VSP forthwith upon learning of any change in electronic mail or internet identification of any probationer/parolee required to register.
3. The P&P Officer must physically verify the information on any registrant under community supervision, including persons on conditional release from a state civil commitment program for sexually violent predators. VSP will handle verification for non-DOC cases in the community. Information to be verified includes:
 - a. Residence and any changes.
 - b. Employer and any changes
 - c. School and any changes
4. Physical verification includes professionally discreet and confidential efforts to determine the truth and accuracy of the *Registry* information which must be documented. It may also include one or more of the following:
 - a. Written documentation of residence, employment, or school and a personal visit with the registrant

- at the location.
- b. Written documentation of residence, employment, or school corroborated by a credible third party.
 - c. Personal visit to the location with the registrant.
 - d. Personal visit to the location with the reported information corroborated by a credible third party.
5. Each residence and employment change must be verified within 30 days of the official *Registry* change. Residences are verified every 180 days thereafter.
 6. The P&P Officer must document completed verification in the *Virginia Sex Offender Management System*.
 7. Physical verification requirements are still required even when the registrant's work or school is out-of-district or out-of-state.
 - a. The supervising P&P District in which the registrant resides has primary verification responsibility. Other P&P Districts will assist swiftly, as needed.
 - b. The registrant must advise if they wish to relocate and must register upon arrival in the receiving P&P District or State.
 - i. If relocating out-of-state, they must register the new address with VSP 10 days prior to the move.
 - ii. If relocating within Virginia, the receiving P&P District handles the 30-day verification, and the other State will follow up according to its requirements.

REFERENCES

COV §9.1-900 et seq., *Purpose of the Sex Offender and Crimes Against Minors Registry*.

COV §9.1-903, *Registration and reregistration procedures*.

COV §9.1-908, *Duration of registration requirement*.

COV §9.1-910, *Removal of name and information from Registry*.

Operating Procedure 830.3, *Good Time Awards*

Operating Procedure 861.1, *Inmate Discipline*

ATTACHMENTS

None

FORM CITATIONS

Change of Address by Registered Sex Offender (SP-236C) 735_F24

Sex Offender and Crimes Against Minors Registration Form (SP-236)