



Virginia Department of Corrections

Mental Health 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. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

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DEFINITIONS

Offenses Requiring Registration - All offenders 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 or Murder" means:	
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 6	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	
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

OR	
A <u>SECOND</u> or subsequent conviction, where the individual was at liberty between such convictions, of the following:	
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 <u>SECOND</u> 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 of any Child for Extortion	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 (2 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
<u>Offenses Requiring Annual Re-Registration:</u>	
2. "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>	
3. "Tier I" means:	
Charge	Section
Carnal Knowledge of Minor (Victim Ages 13 - 14) if the perpetrator is less than 5 years older than the victim	18.2-63
Solicitation of Prostitution from a Minor (Felony Violation)	18.2-346
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
Marital Sexual Assault (Repealed in 2005)	18.2-67.2:1
Sexual Battery (3 or more convictions)	18.2-67.4
Sexual Abuse Against Child under 15 (3 or more convictions)	18.2-67.4:2
Attempted Sexual Battery (3 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 (3 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	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 of any Child for Extortion	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
OR	Former 18.1-191
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.	
OR "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	
OR Any offense for which registration in a Sex Offender and Crimes Against Minor Registry is required under the laws of the jurisdiction where the offender was convicted.	

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.

PURPOSE

This operating procedure provides guidance for Department of Corrections 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 should 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. Reception staff must research each offender's conviction history on intake to the DOC, including out-of-state offenders serving Virginia sentences. If the offender 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 Virginia State Police database shows fingerprints are on file), palm prints (if Virginia State Police database does not show palm prints are on file), and a photograph.
 2. Refusal to complete **SP-236** form
 - a. If an offender refuses to comply with any aspect of registration after being informed of their potential responsibility to register with the Virginia State Police 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 staff person completing the form.
 - c. Staff will distribute as indicated below for completed registration forms.
 - d. Upon confirmation from the Virginia State Police that the offender is required to register:
 - i. Staff must charge the offender 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, *Offender Discipline, Institutions*.
 - ii. The offender must be placed in a Class Level earning no good time until such time as the offender complies with registration requirements; see Operating Procedure 830.2, *Good Time Awards*.
 3. Upon completion of the **SP-236**:
 - a. The Facility Unit Head will designate facility staff responsible to enter the date of the completion of the **SP-236** form in VACORIS.
 - b. The Department of Corrections' copy will be uploaded in VACORIS.
 - c. The offender will be given the offender copy.
 - d. The Virginia State Police copy of the form, the fingerprint card, and photograph (digital) must be mailed to the Virginia State Police for further investigation.
 4. Once the VSP receives the initial registration (**SP-236** form), the VSP will evaluate the registration to determine if the offender 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 offender listing the offender's registry requirement and the classification level associated with the registration. The facility copy will be uploaded in VACORIS.
 6. Offenders are not required to re-register while incarcerated until ready to discharge.
 7. Offenders 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 offenders convicted of a crime that requires registration.
2. Prior to an offender's release from incarceration, designated facility staff will review VACORIS to determine if the Virginia State Police has provided a *Registry* requirement letter.
3. For offenders that have a registration on file with the Virginia State Police, ten days prior to the offender's release, designated facility staff will assist the offender in completing the **SP-236** form using the Home Plan address and employment.
4. For offenders that are potentially required to register, but there is no letter on file from the Virginia State Police listing the offender'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 offender refuses to comply with any aspect of registration after being informed of their responsibility to register with the Virginia State Police, and of the penalty for failing to do so, corrections staff will enter 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 form as indicated above for completed registration forms.
 - d. Staff must advise the offender that they are required to register within three days of release from a facility, or be subject to criminal prosecution.
 - e. The Virginia State Police must be informed in writing of this offender's release and of the offender's refusal to register. The Virginia State Police 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. Offender Responsibility to Re-Register

- A. Every person required to register must register in person within three days of their release from confinement in a state correctional facility. The local law-enforcement agency will obtain from the person who appears for registration or re-registration one set of fingerprints, electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, one set of palm prints, place of employment information, motor vehicle, watercraft and aircraft registration, information for all motor vehicles, watercraft and aircraft owned by the registrant, proof of residency, and a photograph of a type and kind specified by the State Police for inclusion in the *Registry* and advise the person of their duties regarding re-registration.
- B. Offenders must be advised of the requirement to re-register within three days after any change in name; address; employment; motor vehicle, watercraft, and aircraft registration; or any new convictions and to re-register within 30 minutes after any change in electronic mail or internet identification; see COV §9.1-903, *Registration procedures*.
- C. Offenders 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*.
- D. Per COV §9.1-908, *Duration of registration requirement*, any failure to re-register will cause the offender to need to re-register more frequently and extend the period during which re-registration is required.

III. Registration under Community Supervision

A. Initial Registration

1. Only offenders receiving suspended sentences and offenders transferring from out-of-state with requirements to register in their previous state or convictions that would require registration in Virginia including Federal sex offenses should need initial registration while under supervision.
2. Initial registration including *Sex Offender and Crimes Against Minors Registration Form (SP-236)*, fingerprints, palm prints, photograph, and DNA sample should be conducted at the local law enforcement agency or State Police within three days of the offender being sentenced or establishing residence in Virginia.

B. Re-Registration

1. The registrant offender must report to the local law enforcement agency or State Police for re-registration in accordance with the schedule above.
2. The P&P Officer or Community Corrections Alternative Program staff are required to submit to the Virginia State Police a [Change of Address by Registered Sex Offender \(SP-237\)](#) 735_F11 forthwith upon becoming aware of a registrant's change in name, residence, employment, or school. The P&P Officer must notify the State Police forthwith upon learning of any change in electronic mail or internet identification of any probationer or parolee required to register.
3. The P&P Officer must physically verify the information on any registrant under supervision including persons on conditional release from a state civil commitment program for sexually violent predators. State Police 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 and may 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 case must be verified within 30 days of the official *Registry* change and every 180 days thereafter.
6. The P&P Officer must document completed verification in the *Sex Offender Verification System*.
7. Physical Verification 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 should assist swiftly as needed.
 - b. The registrant must advise if they wish to relocate and register upon arrival in the receiving P&P District or State.
 - i. They must register 10 days prior to relocating Out-of-State.
 - ii. The receiving P&P District handles verification and the other State will follow up according to its requirements.

REFERENCES

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

COV §9.1-903, *Registration procedures*

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

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

Operating Procedure 830.2, *Good Time Awards*

Operating Procedure 861.1, *Offender Discipline, Institutions*

ATTACHMENTS

None

FORM CITATIONS

[Change of Address by Registered Sex Offender \(SP-237\)](#) 735_F11

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