

Chapter 07
Section 09.01 - Registration of the Sexual Offender

Authority: Criminal Procedure Article, §§ 11-701, *et seq.*
Annotated Code of Maryland

A. Purpose.

The purpose of this section is to establish procedures for:

(1) Determining whether a parolee, probationer, or mandatory supervisee is required to register as a sexual offender with:

- (a) The Central Registry;
 - (b) A local law enforcement unit; or
 - (c) Both (a) and (b); and
- (2) Initiating sexual offender registration.

B. Definitions.

(1) In this section and 07.09.02 ("Supervision of the Sexual Offender"), the following terms have the meanings indicated.

(2) Terms defined.

(a) "Central Registry" means the department's Crimes Against Children and Sexual Offender Registry.

(b) "Central Registry Unit" means the Information Technology and Communications Division unit which maintains the Central Registry.

(c) "Child sexual offender" means an individual who committed one of the following crimes after October 1, 1995 and who was subsequently convicted of the crime:

(i) Criminal Law Article, §3-602, involving sexual abuse of a child under the age of 18;

(ii) Criminal Law Article, §§ 3-303 through 3-307, a first or second degree rape or a sexual offense involving a child under the age of 15;

(iii) Criminal Law Article, § 3-308, a fourth degree sexual offense involving a child under the age of 15, if the sentencing court ordered the individual to register as a sexual offender; or

(iv) A crime in another state or in a federal, military, or Native American tribal court that, if committed in this State, would constitute a crime listed in item (i) or (ii) of this subparagraph.

(d) “Convicted” means a final judgment on a criminal charge for which an individual:

(i) Is found guilty;

(ii) Enters a plea of guilty or *nolo contendere*;

(iii) Is found not criminally responsible; or

(iv) Is granted probation before judgment after a finding of guilt if the court, as a condition of probation, orders the offender to register as a sexual offender.

(e) “County” means a Maryland county and the city of Baltimore.

(f) “Department” means the Department of Public Safety and Correctional Services.

(g) “Director” means the director of the Division of Parole and Probation.

(h) “Division” means the Division of Parole and Probation.

(i) “Individual” means a human being.

(j) “Intake” means the process, conducted by a divisional employee, of obtaining legal and personal information about an offender newly placed on parole, probation, or mandatory supervision, entering that information into a database, and assigning supervision of the offender to an agent or monitor.

(k) “Intake reviewer” means the divisional employee who conducts an intake.

(l) “Local law enforcement unit” means the primary law enforcement unit of the county where a sexual offender resides.

(m) “*Nolo contendere*” means a plea stating that a defendant will not contest a criminal charge but does not admit guilt or claim innocence.

(n) “Offender” means an individual who is under court order to register with the Central Registry as a result of having committed one of the following crimes on or after July 1, 1997:

(i) Criminal Law Article, § 3-503 (a)(2), for a crime involving the kidnapping of a child under the age of 16;

(ii) Criminal Law Article, § 3-503(a)(1), for a crime involving the abduction of a child under the age of 12;

(iii) Criminal Law Article, § 3-502, for the crime of kidnapping, if the victim is under the age of 18;

(iv) Criminal Law Article, § 3-308, for the crime of fourth degree sexual offense involving a victim under the age of 18;

(v) The common law crime of false imprisonment if the victim is under the age of 18 and the individual is not the victim's parent;

(vi) A crime involving the soliciting of a person under the age of 18 to engage in sexual conduct;

(vii) Criminal Law Article, § 11-207, for a crime involving child pornography;

(viii) Criminal Law Article, §§ 11-303 through 306, for pandering or prostitution if the intended prostitute or victim is under the age of 18;

(ix) Criminal Law Article, § 3-323, for the crime of incest if the victim is under the age of 18;

(x) Criminal Law Article, § 11-107, for the crime of indecent exposure if the victim is under the age of 18;

(xi) Criminal Law Article, § 3-321, for the crime of sodomy if the victim is under the age of 18;

(xii) Criminal Law Article, § 3-322, for the crime of unnatural or perverted sexual practice if the victim is under the age of 18;

(xiii) A crime that involves conduct that by its nature is a sexual offense against a person under the age of 18;

(xiv) An attempt to commit a crime listed in items (i)–(xiii) of this subparagraph;
or

(xv) A crime in another state or in a federal, military, or Native American tribal court that, if committed in this State, would constitute a violation listed in items (i)–(xiv) of this subparagraph.

(o) “Registration Statement” means the departmental form used for sexual offender registration.

(p) “Secretary” means the Secretary of the department.

(q) “Sexual offender” means an individual who:

(i) Regardless of the offense for which the individual is under supervision, is required, by law, to register with the Central Registry as a child sexual offender, an offender, a sexually violent offender or a sexually violent predator; or

(ii) Is not required to register with the Central Registry but is under supervision for a sexual offense.

(r) “Sexually violent offender” means an individual who committed one of the following crimes on or after July 1, 1997 and who was subsequently convicted of the crime:

(i) Criminal Law Article, § 3-303, first degree rape;

(ii) Criminal Law Article, § 3-304, second degree rape;

(iii) Criminal Law Article, § 3-305, first degree sexual offense;

(iv) Criminal Law Article, § 3-306, second degree sexual offense;

(v) Criminal Law Article, § 3-307, third degree sexual offense;

(vi) An attempt to commit a crime listed in items (i)-(v) of this subparagraph;

(vii) Assault with the intent to commit rape in the first or second degree, or assault with the intent to commit a sexual offense in the first or second degree as prohibited on or before September 30, 1996, under former Article 27, § 12; or

(viii) A crime in another state or in a federal, military, or Native American tribal court that, if committed in this State, would constitute a crime listed in items (i)-(vii) of this subparagraph.

(s) “Sexually violent offense” means a crime listed in subparagraph (r) of this paragraph.

(t) “Sexually violent predator” means an individual who:

(i) Committed a subsequent sexually violent offense on or after July 1, 1997 and was convicted of the offense; and

(ii) Was determined by a court, at the request of the State’s Attorney and with due notice to the individual, to be at risk of committing another sexually violent offense.

(u) “Supervising authority” means:

(i) The Secretary if the sexual offender is in the custody of a departmental correctional facility;

(ii) The Secretary if the sexual offender is in Maryland under the terms and conditions of the “Uniform Act for Out-of-State Parolee Supervision” or the “Interstate Corrections Compact”;

(iii) The Secretary if the sexual offender moves into Maryland and was convicted in another state of a crime that would require the sexual offender to register if the crime had been committed in Maryland;

(iv) The Secretary if the sexual offender moves into Maryland from another state where the sexual offender was required to register;

(v) The Secretary if the sexual offender is not a resident of Maryland; and

(vi) The Director if the sexual offender is under divisional supervision.

C. General Information.

(1) The Division shall initiate sexual offender registration at intake for an individual who:

(a) Meets the registration criteria listed in subsection D or E of this section; and

(b) Has not previously registered with the Central Registry and, if applicable, the local law enforcement unit, for the crime for which the individual is to be supervised.

(2) Except as provided in paragraph (3) of this subsection, a sexual offender is required to register with the Central Registry on or before the date that the sexual offender:

(a) Is released from a State correctional facility or local jail;

(b) Is granted probation before judgment;

(c) Is granted probation after judgment;

(d) Is granted a suspended sentence; or

(e) Receives a sentence that does not include a term of imprisonment.

(3) A sexual offender is required to register with the Central Registry not later than seven days after the sexual offender:

(a) Establishes a residence in the State; or

(b) Applies for a driver's license in the State.

(4) A child sexual offender is required to register with the:

(a) Central Registry, on or before the occurrence of one of the events listed in paragraph (2)(a)–(e) of this subsection;

(b) Local law enforcement unit, not later than seven days after the occurrence of one of the events listed in paragraph (2)(a)–(e) of this subsection; and

(c) Supervising authority, not later than seven days after the offender establishes a residence in this State.

D. Sexual Offender Registration Criteria.

(1) **Child sexual offender.** The Division shall register a parolee, probationer, or mandatory supervisee as a child sexual offender if the crime for which the parolee, probationer, or mandatory supervisee was convicted:

- (a) Is listed in subsection B(2)(c) of this section; and
- (b) Was committed after October 1, 1995.

(2) **Offender.** The Division shall register a parolee, probationer, or mandatory supervisee as an offender if the crime for which the parolee, probationer, or mandatory supervisee was convicted:

- (a) Is listed in subsection B(2)(n) of this section; and
- (b) Was committed on or after July 1, 1997.

(3) **Sexually violent offender.** The Division shall register a parolee, probationer, or mandatory supervisee as a sexually violent offender if the crime for which the parolee, probationer, or mandatory supervisee was convicted:

- (a) Is listed in subsection B(2)(r) of this section; and
- (b) Was committed on or after July 1, 1997.

(4) **Sexually violent predator.** The Division shall register a parolee, probationer, or mandatory supervisee as a sexually violent predator if the parolee, probationer, or mandatory supervisee was determined by a court to be a sexually violent predator.

(5) **Court-ordered registration.** A parolee, probationer, or mandatory supervisee who was convicted of an offense listed in subsection B(2)(n) of this section, or of a fourth degree sexual offense, may not be registered as a sexual offender unless a court has ordered the parolee, probationer, or mandatory supervisee to register.

E. Retroactive Registration Requirement.

(1) **Child sexual offender.** The Division shall retroactively register a parolee, probationer, or mandatory supervisee as a child sexual offender if the parolee, probationer, or mandatory supervisee:

- (a) Was convicted of a crime listed in subsection B(2)(c) of this section;
- (b) Committed the subsection B(2)(c) crime before October 1, 1995; and

(c) Was in the custody or under the supervision of a supervising authority on October 1, 2001.

(2) **Sexually violent offender.** The Division shall retroactively register a parolee, probationer, or mandatory supervisee as a sexually violent offender if the parolee, probationer, or mandatory supervisee:

(a) Was convicted of a crime listed in subsection B(2)(r) of this section;

(b) Committed the subsection B(2)(r) crime before July 1, 1997; and

(c) Was in the custody or under the supervision of a supervising authority on October 1, 2001.

F. Term of Registration and Re-Registration.

(1) The term of registration for a sexual offender shall be ten years unless, as set forth in paragraph (2) of this subsection, lifetime registration is required.

(2) The term of registration of a sexual offender shall be for life if the sexual offender was:

(a) Determined by a court to be a sexually violent predator; or

(b) Convicted of one of the following crimes:

(i) Criminal Law Article, § 3-303, first degree rape;

(ii) Criminal Law Article, § 3-304, second degree rape;

(iii) Criminal Law Article, § 3-305, first degree sexual offense;

(iv) Criminal Law Article, § 3-306, second degree sexual offense;

(v) Criminal Law Article, § 3-307, third degree sexual offense;

(vi) An attempt to commit a crime listed in items (i) through (v) of this subparagraph; or

(vii) Convicted of a prior crime which would require the offender to register as a sexual offender or child sexual offender.

(3) A child sexual offender, offender, and sexually violent offender shall re-register for the term of registration:

(a) Every six months; and

(b) In person with the local law enforcement unit.

(4) A sexually violent predator shall re-register for life:

(a) Every 90 days; and

(b) In person with the local law enforcement unit.

G. Supervising Agent: Initiating and Confirming Sexual Offender Registration.

(1) An agent shall initiate registration of a sexual offender who:

(a) Meets the criteria for registration or retroactive registration set forth, respectively, in subsections D or E of this section; and

(b) Is not registered as a sexual offender.

(2) **Determine registration status.** Upon receiving notice of a case assignment, an agent shall review the case notes and any other available information to:

(a) Determine if the sexual offender was directed at Intake to register as a sexual offender; and

(b) Confirm that registration occurred, or that the sexual offender was previously registered:

(i) By taking the steps outlined in paragraph (7) of this subsection; and

(ii) Not later than three workdays after receiving notice of a case assignment.

(3) If, pursuant to the review required under paragraph (2) of this subsection, an agent finds that Intake was unable to determine whether the offender is required to register as a sexual offender, the agent shall make that determination.

(a) By taking the steps outlined in paragraph (4) of this subsection.

(b) Not later than three workdays after receiving notice of a case assignment;

(4) To determine whether an unregistered offender is required to register with the Sexual Offender Registry Unit, an agent shall, as necessary, examine:

(a) Online judicial, correctional, and criminal records;

(b) OBSCIS I and II data;

(c) The offense report; and

(d) The court file.

(5) **Child Abuse.** For all child abuse cases, the agent shall confirm that the offender was convicted of sexual child abuse by:

(a) Reviewing the court file; or

(b) Contacting the state's attorney responsible for the prosecution of the case.

(6) Initiate registration process. If a determination is made pursuant to paragraph (4) of this subsection that an offender must register as a sexual offender, the agent shall initiate the registration process:

(a) By taking the steps outlined in chapter 05.03, subsections H through K; and

(b) Not later than five days after determining that the offender is required to register as a sexual offender.

(7) Confirm registration. If the registration process was initiated by an agent pursuant to paragraph (4) of this subsection, not later than seven days after initiating the registration process, the agent shall confirm that the process is complete by accessing the Maryland Online Sex Offender Registry at <https://www.dpscs.state.md.us/mosor/> and searching for the offender by:

(a) Name;

(b) SID number; or

(c) Both (a) and (b).

(8) The agent shall meet the requirement set forth in chapter 05.03.H(5) of this manual by entering the appropriate letter code in the special program block of the “Classification Data” section of OBSCIS II.

(9) If the agent cannot obtain a copy of the completed registration statement from the sexual offender pursuant to the requirements set forth in chapter 09.01.I, the agent shall send an electronic mail message to the Central Registry at websiteresponse@dpscs.state.md.us that:

(a) Includes the sexual offender’s name and SID number; and

(b) Requests a copy of the sexual offender’s registration statement.

(10) When an agent obtains a photocopy of a sexual offender’s completed registration statement, either from the Central Registry coordinator or from another source, the agent shall:

(a) Make a second photocopy;

(b) Place one photocopy in the case file; and

(c) Send one photocopy to the local law enforcement unit for the county in which the sexual offender resides.

(11) The agent shall meet the requirements set forth in paragraph (10)(c) of this subsection not later than the workday following the agent’s receipt of a completed registration statement.

(12) **Sexual offenders working or attending school in another state.** If a sexual offender who is being supervised by the Division works or attends school in another state, the sexual offender's agent shall:

(a) Contact that state's sexual offender registry unit to determine what, if any, registration or notification requirements exist in that state;

(b) Provide the sexual offender with the information obtained, and instruct the sexual offender to complete that state's sexual offender registration process; and

(c) Confirm that the sexual offender is compliant with the state's registration or notification requirements.

H. Review of Central Registry Listing.

(1) Not later than the 15th day of each month, an agent shall review for correctness the Central Registry listing for each sexual offender supervised by the agent.

(2) An agent shall conduct the review required under paragraph (1) of this subsection by accessing the "MOSOR Search" screen as set forth in chapter 05.03.G of this manual.

(3) An agent shall compare the information listed on the "MOSOR Search" screen with the following information contained in the case material: The sexual offender's:

(a) Name;

(b) Address;

(c) Employment status;

(d) Employer address;

(e) Crime; and

(f) Category of sexual offender.

(4) An agent shall notify the Central Registry Unit of any error found in any element of a registry listing.

(5) Following the monthly review of the sexual offender registry, an agent shall notify the Central Registry Unit of each registered sexual offender:

(a) Who is incarcerated;

(b) Who is homeless; or

(c) For whom a warrant is issued.

(6) An agent shall make the notification required under paragraphs (4) and (5) of this subsection by:

- (a) Electronic mail to websiteresponse@dpscs.state.md.us; and
- (b) Not later than one workday after finding the error or need for update.

I. Reporting a Sexual Offender's Change of Address and Other Information.

(1) Not later than five days after one of the following events occurs, a sexual offender is required to report, in writing, to the Central Registry Unit:

- (a) A change of address;
- (b) A change in the offender's legal name;
- (c) Enrollment or employment at an institution of higher education; or
- (d) A change in employment or employment status.

(2) Not later than the next workday after an agent learns or determines that an event listed in paragraph (1) occurred, the agent shall instruct the sexual offender to:

- (a) Complete form CJIS-016 ("Change of Address Card/Employment Card"); and
- (b) Mail the pre-addressed form CJIS-016 to the Central Registry Unit.

(3) An agent shall update the identification screen in OBSCIS II to reflect the change to be reported under paragraph (2).

J. Reporting a Violation of the Registration Law.

(1) An agent shall contact the police agency whose jurisdiction includes the agent's field office upon learning that a sexual offender failed to:

- (a) Register or re-register with the Central Registry;
- (b) Meet the time requirements for registration or re-registration; or
- (c) Meet the time requirement for reporting a change in address to the Central Registry.

(2) The contact required under paragraph (1) of this subsection shall be made:

- (a) By electronic mail or telephone; and
- (b) Not later than the next workday after the agent learns that a sexual offender failed to meet a registration requirement.

Note: If, pursuant to (2)(a), the contact is made by telephone, the agent shall enter a case note to document when and to whom the call was made.

(3) An agent who contacts a police agency as required by paragraph (1) of this subsection shall provide the police agency with:

(a) The date by which the sexual offender was to have registered or re-registered as a sexual offender or was to have reported a change of address to the Central Registry; and

(b) Any other information requested of the agent by the police agency.

(4) **Notification to Sexual Offender Registry Unit.** When an agent determines that a sexual offender is non-compliant with registration requirements (e.g., fails to register or re-register, as required by law; fails to give notice of a change in residence or employment), the agent shall immediately notify the Sexual Offender Registry Unit by sending an electronic mail message to websiteresponse@dpscs.state.md.us with a copy to the agent's supervisor.

K. Victim or Witness Request for a Registration Statement.

(1) An agent shall send a photocopy of a registration statement to an individual identified in paragraph (2) of this subsection if the individual's request:

(a) Is in writing; and

(b) Specifies a particular sexual offender.

(2) The following individuals may receive a copy of a registration statement:

(a) A victim of the crime for which a sexual offender was required to register;

(b) The parent or legal guardian of a victim if the victim is a minor;

(c) A witness who testified against a sexual offender in a trial or other court proceeding related to the conviction of a sexual offender; and

(d) An individual specified in writing by the State's Attorney to receive a copy of a registration statement.

(3) By law, an employee may not disclose any information about an individual who requests or receives a registration statement. The purpose of this prohibition is to protect personal information of victims and witnesses. Additional information regarding victim notification and security of victim information is contained in Chapter 06.02 of this manual.