



# Operating Procedure

<b>Effective Date</b>	April 1, 2017	<b>Number</b>	735.1
<b>Amended</b>	10/26/17, 7/1/19	<b>Operating Level</b>	Department
<b>Supersedes</b>	Operating Procedure 735.1 (4/1/14)		
<b>Authority</b>	COV §9.1-900 et seq., §19.2-390.1, §53.1-23.2, §53.1-116.1 §53.1-160.1		
<b>Subject</b>	<b>SEX OFFENDER AND CRIMES AGAINST MINORS REGISTRATION</b>		
<b>ACA/PREA Standards</b>	None		
<b>Incarcerated Offender Access</b>	<b>Public Access</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Office of Primary Responsibility</b>	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Attachments</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Director of Offender Management Services	

## I. PURPOSE

This operating procedure provides guidance for Department of Corrections compliance with the Code of Virginia §9.1-900 et seq., which establishes the Virginia State Police *Sex Offender and Crimes Against Minors Registry*.

## II. COMPLIANCE

This operating procedure applies to all units operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

## III. DEFINITIONS

All offenders convicted, confined, or under community supervision on or after July 1, 1994 for the following offenses shall register and re-register in the Virginia State Police *Sex Offender and Crimes Against Minors Registry*.

### **Offenses requiring re-registration every 90 days:**

**Sexually Violent Offense** - a violation or attempted violation of Code of Virginia, Sections:

- 18.2-48(ii)(iii) Abduction for immoral purposes or of a child for prostitution
- Former 18.1-38
- Former 18.1-39 (2)(3)
- 18.2-61 Rape
- Former 18.1-44
- 18.2-63 Carnal knowledge of minor between Victim ages 13-14, perpetrator 5 years older than victim
- 18.2-67.1 Forcible sodomy
- 18.2-67.2 Object sexual penetration
- 18.2-67.3 Aggravated sexual battery
- Former 18.1-215 Sexual Contact (Victim under 13)
- 18.2-67.4 Sexual battery where the perpetrator is 18 years of age or older and the victim is under the age of 6
- 18.2-67.5(A)(B) Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery
- 18.2-370 Taking indecent liberties with minor
- Former 18.1-213 (1)(2)(4)
- Former 18.1-214
- 18.2-370.1 Taking indecent liberties with minor by person in custodial or supervisory relationship
- 18.2-374.1 Production, distribution, financing, etc. of child pornography

**OR** violation of:

- Chapter 117 (18 USC §2421 et seq.) of Title 18 of the United States Code
- Or sex trafficking (18 USC §1591)

**OR** a second or subsequent conviction, where the offender was at liberty between such convictions, for violation or attempted violation of Code of Virginia, Sections:

- 18.2-63 Carnal knowledge of minor (Victim ages 13-14)
- 18.2-64.1 Carnal knowledge of minor (Victim 15 and older) supervisory relationship
- 18.2-67.2:1 Marital sexual assault (Statute repealed 2005)
- 18.2-90 Enter dwelling house etc. with intent to rape

**OR** a second or subsequent conviction, where the individual was at liberty between such convictions *and* where the victim is a **minor or physically helpless or mentally incapacitated** as defined in Code of Virginia §18.2-67.10, for violation or attempted violation of Code of Virginia, Sections:

- 18.2-47(A) Abduction
- 18.2-48(i) Abduction with the intent to extort money or pecuniary benefit
- 18.2-67.4 Sexual battery
- 18.2-67.5(C) Attempted sexual battery
- 18.2-361 Crimes against nature (sodomy)
- 18.2-366 Adultery and fornication by person forbidden to marry; incest
- 18.2-374.1:1(C) Possess child pornography

**OR** if the offense was committed on or after July 1, 2006, and if the offender has been convicted or adjudicated delinquent of any two or more such offenses, provided that offender had been at liberty between such convictions or adjudications

- 18.2-91 Enter dwelling house etc. with intent to commit any felony offense listed in 9.1-902

**Offenses requiring annual re-registration:**

**Sexual offense** - a violation or attempted violation of Code of Virginia, Sections:

- 18.2-31 / 18.2-32 Murder (Victim is under 15) or (Victim is 15-17 and murder is related to an offense under 9.1-902)
- Former 18.1-21
- 18.2-63 Carnal knowledge of minor (Victim ages 13-14), if perpetrator is less than 5 years older than victim
- 18.2-64.1 Carnal knowledge of minor (Victim 15 and older), supervisory relationship
- 18.2-67.2:1 Marital sexual assault (Statute repealed 2005)
- 18.2-346 Solicitation of prostitution from a minor (Felony violation)
- 18.2-348 Aiding prostitution or illicit sexual intercourse, etc. by a minor (Felony violation after July 1, 2019)
- 18.2-349 Using vehicles to promote prostitution or unlawful sexual intercourse by a minor (Felony violation after July 1, 2019)
- 18.2-355(4) Taking, detaining a minor for prostitution
- 18.2-356 Receiving money for procuring person (Victim under 18)
- 18.2-357 Receiving money from earnings of prostitute (Victim under 18)
- 18.2-357.1(C) Commercial sex trafficking
- 18.2-51.2 Aggravated malicious wounding (where the perpetrator is 18 years of age or older and victim is under 13)
- 18.2-67.4 Sexual battery (*3 or more convictions*)
- 18.2-67.4:2 Sexual abuse of a child under 15 (*3 or more convictions*)
- 18.2-67.5(C) Attempted sexual battery (*3 or more convictions*)
- 18.2-90 Enter dwelling house etc. with intent to rape
- Former 18.1-88
- 18.2-370.6 Penetration of the mouth of a child with lascivious intent
- 18.2-374.1.1(B,C,D) Possession of child pornography
- Former 18.2-374.1:1(D) Possession of child pornography (*as it was in effect 7/1/94-6/30/07*)
- 18.2-386.1 Unlawful filming, videotaping or photographing of another (*3 or more convictions*)
- 18.2-374.3(B,C,D) Use of communication systems to solicit a minor to violate 18.2-370, Indecent liberties with a minor

Former 18.2-374.3(B)(iv) Use of communication systems to solicit a minor to violate 18.2-370, Indecent liberties with a minor (*as it was in effect 6/30/07*)

18.2-67.5:1 Third misdemeanor sexual offense, Felony

**OR** if the offense was committed on or after July 1, 2006, violation or attempted violation of Code of Virginia, Sections:

18.2-91 Enter dwelling house etc. with intent to commit any felony offense listed in §9.1-902

18.2-374.1:1(A) Possession of child pornography

18.2-67.5:1 Third misdemeanor sexual offense, Felony

**OR** where the victim is a **minor or physically helpless or mentally incapacitated** as defined in Code of Virginia §18.2-67.10, violation or attempted violation Code of Virginia, Sections:

18.2-47(A) Abduction

18.2-48(i) Abduction with the intent to extort money or pecuniary benefit

18.2-67.4 Sexual battery

18.2-67.5(C) Attempted sexual battery

18.2-361 Crimes against nature (sodomy)

18.2-366 Adultery and fornication by person forbidden to marry; incest

Former 18.1-191

**OR** any criminal homicide in conjunction with (when the offenses arise out of the same incident) a violation of

18.2-371 (i) Contributing to the delinquency of a minor

18.2-371.1 Abuse and neglect of children

**OR** any offense similar to those listed in subdivisions 1 through 4 of §9.1-902 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 Minors Registry* is required under the laws of the jurisdiction where the offender was convicted.

#### IV. PROCEDURE

##### A. Potential Registration While Incarcerated

1. Facilities should contact the Virginia State Police (VSP) to obtain the most current Virginia State Police Registration Form (**SP-236**).

2. Facility Intake Registration Investigation

a. 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 Virginia State Police 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.

b. Refusal to complete **SP-236** form

i. 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 shall enter required information.

ii. On the "signature of person registering" line, staff shall write "*refused to sign*" and enter the signature of staff person completing the form.

iii. Staff shall distribute as indicated below for completed registration forms.

iv. Upon confirmation from the Virginia State Police that the offender is required to register, staff shall 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), and the offender shall be placed in a class level earning no good time until such time as the offender complies with registration requirements.

- c. Upon completion of the **SP-236**:
    - i. The Facility Unit Head will designate facility staff responsible to enter the date of the completion of the **SP-236** form in VACORIS.
    - ii. The Department of Corrections' copy shall be uploaded in VACORIS.
    - iii. The offender shall be given the offender copy.
    - iv. The Virginia State Police copy of the form, the fingerprint card, and photograph (digital) shall be mailed to the Virginia State Police for further investigation.
  - d. 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.
  - e. 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 shall be uploaded in VACORIS.
  - f. Offenders are not required to re-register while incarcerated until ready to discharge.
  - g. 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 State Police Registration Form (**SP-236**).
3. Facility Pre-Release Registration
- a. The Facility Records Manager will notify designated staff of pending discharges of offenders convicted of a crime that requires registration.
  - b. 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.
  - c. For offenders that have a registration on file with the Virginia State Police, ten days prior to the offender's release, designated facility staff shall assist the offender in completing the **SP-236** form using the Home Plan address and employment.
  - d. 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 Virginia State Police Registration Form (**SP-236**) shall be completed and submitted in accordance with the *Facility Intake Registration Investigation* section of this operating procedure.
  - e. Refusal to register
    - i. 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 shall enter required information.
    - ii. On the "signature of person registering" line, staff shall write, "*Refused to sign*" and enter the signature of staff person completing the form.
    - iii. Staff shall distribute the form as indicated above for completed registration forms.
    - iv. Staff shall advise the offender that they are required to register within three days of release from a facility, or be subject to criminal prosecution.
    - v. The Virginia State Police shall 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 or Sex.Offender.Notification@vsp.virginia.gov.**

#### B. Offender Responsibility to Re-Register

1. Every person required to register shall register in person within three days of their release from confinement in a state correctional facility. The local law-enforcement agency shall obtain from the person who presents himself 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.

2. Offenders shall 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. (COV §9.1-903)
3. Offenders registering due to a Sex Offense as defined in this operating procedure shall 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.
4. Per COV §9.1-908, 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.

#### C. Registration under Community Supervision

##### 1. Initial Registration

- a. 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.
- b. Initial registration including 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.

##### 2. Re-Registration

- a. The registrant offender must report to the local law enforcement agency or State Police for re-registration in accordance with the schedule above.
- b. 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 shall notify the State Police forthwith upon learning of any change in electronic mail or internet identification any probationer or parolee required to register.
- c. 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:
  - i. Residence and any changes
  - ii. Employer and any changes
  - iii. School and any changes
- d. 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:
  - i. Written documentation of residence, employment, or school and a personal visit with the registrant at the location
  - ii. Written documentation of residence, employment, or school corroborated by a credible 3<sup>rd</sup> party.
  - iii. Personal visit to the location with the registrant
  - iv. Personal visit to the location with the reported information corroborated by a credible 3<sup>rd</sup> party
- e. Each case must be verified within 30 days of the official *Registry* change and every 180 days thereafter.
- f. The P&P Officer must document completed verification in the *Sex Offender Verification System*.
- g. Physical Verification when the registrant's work or school is out-of-District or out-of-state
  - i. The supervising P&P District in which the registrant resides has primary verification

responsibility. Other P&P Districts should assist swiftly as needed.

- ii. The registrant must advise if they wish to relocate and register upon arrival in the receiving P&P District or State. They must register 10 days prior to relocating Out-of-State. The receiving P&P District handles verification and the other State will follow up according to its requirements.

#### V. REFERENCES

Virginia Department of State Police Form SP-236, *Sex Offender and Crimes Against Minors Registry*

#### VI. FORM CITATIONS

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

#### VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

*The office of primary responsibility reviewed this operating procedure in April 2018 and no changes are needed at this time.*

*The office of primary responsibility reviewed this operating procedure in April 2019 and no changes are needed at this time.*

*Signature Copy on File*

*2/2/17*

A. David Robinson, Chief of Corrections Operations

Date