

DELAWARE SEX-OFFENDER REGISTRATION AND NOTIFICATION

CONTACT INFORMATION

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NUMBER OF REGISTERED SEX OFFENDERS

2,283 as of February 26, 2003.

1. WHO IS REQUIRED TO REGISTER?

Any sex offender who is released, discharged, or paroled from any Level-IV or Level-V facility or other custodial institution after he or she has completed a sentence imposed following a conviction for any sex offense is required to register as a sex offender.

(Del. Code Ann. tit. 11, § 4120(b)(1))

Registration is also required whenever a sex offender is released from any Level-V facility to any Level-IV facility, and again when the offender is released from the Level-IV facility.

(Del. Code Ann. tit. 11, § 4120(b)(1))

Any sex offender who is sentenced to Level-IV home confinement or to a period of probation at Level III or below, or who is required to pay a fine of any amount following a conviction for any sex offense is required to register as a sex offender.

(Del. Code Ann. tit. 11, § 4120(c))

2. WHO IS A "SEX OFFENDER"?

A "sex offender" is any person who is, or has been:

- (1) convicted after June 27, 1994, of any of the following offenses:
 - (a) first-degree indecent exposure;
 - (b) incest;
 - (c) unlawful sexual contact in the first, second, or third degree;
 - (d) rape in the first, second, third, or fourth degree;
 - (e) sexual extortion;
 - (f) bestiality;
 - (g) dealing in children;
 - (h) sexual exploitation of a minor;
 - (i) unlawfully dealing in child pornography;
 - (j) possession of child pornography;
 - (k) sexual solicitation of a minor;
 - (l) tape recording, photographing, filming, videotaping, or otherwise reproducing the image of another person who is getting dressed or undressed or has his or her genitals, buttocks, or her breasts exposed, without consent, in any place where persons normally disrobe including a fitting room, dressing room, locker room, or bathroom, where there is a reasonable expectation of privacy except when done by a parent or guardian inside of his or her dwelling, or upon his or her real

property, when the subject of such acts is intended to be any minor of such parent or guardian who has not yet reached his or her 18th birthday and whose primary residence is in or upon the dwelling or real property of the parent or guardian, unless the acts done by the parent or guardian are intended to produce sexual gratification for any person;

- (m) secretly or surreptitiously videotaping, filming, photographing, or otherwise recording another person under or through his or her clothing for the purpose of viewing the body of or the undergarments worn by him or her;
- (n) advancing or profiting from prostitution of a person under 18; or
- (o) advancing or profiting from prostitution of a person under 16;
- (2) convicted after September 1, 1998, of “unlawfully restraining another person with the purpose of inflicting physical injury upon the victim, or to violate or abuse the victim sexually,” if the purpose of the offense was to commit an offense enumerated in (1) above, or if a similar offense was committed in another jurisdiction;
- (3) convicted after June 27, 1994, of any offense specified in the laws of another state, the United States or any territory of the United States which is the same as, or equivalent to, any of the offenses listed in (1) or (2) above;
- (4) charged by complaint, petition, information, or indictment with any of the offenses listed in (1), (2), or (3) above, and who thereafter pleads guilty to any offense included in the originally charged offense, if the person is thereafter designated a sex offender by the sentencing judge and the guilty plea occurs after September 1, 1998;
- (5) convicted on or before June 27, 1994, of any of the offenses listed in (1), (2), or (3) above, or of any offense that is the same as or equivalent to offenses defined under the laws of Delaware existing at the time of the conviction and who was, as of September 1, 1998, serving a sentence of probation or parole as part of the sentence imposed for such conviction; who thereafter is deemed by a court of competent jurisdiction to have violated the terms or conditions of his or her probation or parole; and who is thereafter designated as a sex offender by the sentencing judge; or
- (6) any person convicted after June 27, 1994, of second-degree indecent exposure if the person had previously been convicted of the same offense or any other offense listed in (1) through (5) above, and the previous conviction occurred within five years of the date of the conviction for the current offense.

(Del. Code Ann. tit. 11, § 4121(4))

3. ARE JUVENILE OFFENDERS REQUIRED TO REGISTER?

A juvenile who is adjudicated delinquent after June 27, 1994, of any offense that would constitute an offense for which he or she would have to register if he or she had been charged as an adult is required to register.

(Del. Code Ann. tit. 11, § 4121(4)(b))

4. WHEN AND WHERE DOES AN OFFENDER REGISTER?

Registration is completed during the Level-IV or Level-V sentence, but not more than 90 days, nor less than 45 days, prior to the offender’s release, discharge, or parole.

(Del. Code Ann. tit. 11, § 4120(b)(1))

If an offender is released to a treatment program by the Division of Youth Rehabilitative Services and the date of release could not have been determined 45 days prior to release, registration must be completed within 48 hours of determining the release date or upon release, whichever is earlier.

(Del. Code Ann. tit. 11, § 4120(b)(2))

Any person convicted of any offense specified in the laws of another state, the United States, or any territory of the United States which is the same as, or equivalent to, any of Delaware's sex offenses, and who is a permanent or temporary resident of Delaware on the date of his or her conviction must register as a sex offender within seven business days of conviction, unless he or she is confined in a penal institution located outside of Delaware at the time of conviction, in which case he or she must register as a sex offender within seven business days of his or her first return to Delaware after release from custody. Any such person must register at a designated Delaware State Police facility.
(*Del. Code Ann. tit. 11, § 4120(e)(1)*)

5. WHAT INFORMATION MUST AN OFFENDER PROVIDE AT THE TIME OF REGISTRATION?

Registration forms include the following information:

- (1) the sex offender's:
 - (a) legal name and any previously used names, aliases, or nicknames;
 - (b) age;
 - (c) gender;
 - (d) race;
 - (e) physical description and all other known identifying factors;
 - (f) offense history; and
 - (g) anticipated place of future residence, study, and/or employment;
- (2) a statement of any relevant conditions of release, discharge, parole, or probation applicable to the sex offender; and
- (3) the age of the victim(s) of the offense(s) and the victim's relationship to the sex offender.

(*Del. Code Ann. tit. 11, § 4120(d)(2)*)

6. WHAT HAPPENS IF AN OFFENDER CHANGES HIS OR HER ADDRESS OR OTHER REGISTRATION INFORMATION DURING THE REGISTRATION PERIOD?

Any sex offender who is required to register and who changes his or her home address or place of employment and/or study must re-register with the Delaware State Police within seven business days of the change.

(*Del. Code Ann. tit. 11, § 4120(f)(1)*)

7. WHAT HAPPENS IF AN OFFENDER MOVES FROM DELAWARE TO ANOTHER STATE?

If a sex offender changes residence to another state, the new address must be registered with the Delaware State Police and with the law-enforcement agency having jurisdiction over the offender's new residence within seven days of the change. The offender must comply with any registration requirements in his or her new state of residence.

(*Del. Code Ann. tit. 11, §§ 4120(f)(1), (4)*)

A sex offender must also comply with any sex-offender-registration requirements in any state where he or she is employed, carries on a vocation, or is a student.

(*Del. Code Ann. tit. 11, § 4120(f)(4)*)

8. IS AN OFFENDER WHO MOVES FROM ANOTHER STATE TO DELAWARE REQUIRED TO REGISTER?

Any person convicted of any offense specified in the laws of another state, the United States, or any territory of the United States which is the same as, or equivalent to, any of Delaware's sex offenses, who is not a permanent or temporary resident of Delaware on the date of his or her conviction, and who thereafter becomes a permanent or temporary resident of Delaware must register as a sex offender

within seven business days of establishing permanent or temporary residency within Delaware. Any such person must register at a designated Delaware State Police facility.

(Del. Code Ann. tit. 11, § 4120(e)(2))

9. IS REGISTRATION A LIFETIME REQUIREMENT?

Any person designated a sex offender must comply with the registration provisions as follows:

- (1) for life, if the offender is designated to Risk Assessment Tier III, or if the offender is designated to Risk Assessment Tier I or II, and has previously been convicted of any offense requiring registration; or
- (2) for 15 years following the offender's release from Level-V custody, or for 15 years following the effective date of any sentence to be served at Level IV or below, if the offender is designated to Risk Assessment Tier II or I, and is not otherwise required to register for life, except that any time spent at any subsequent period of Level-V custody will not be counted against such 15 year period.

(Del. Code Ann. tit. 11, § 4121(f)(1))

Risk Assessment Tier III is for any sex offender convicted or adjudicated delinquent of any of the following offenses:

- (1) rape in the first or second degree;
- (2) rape in the third degree, if the offense involved a minor under 12, force, or a threat of physical violence;
- (3) unlawful sexual contact in the first degree;
- (4) unlawful sexual intercourse in the first or second degree;
- (5) unlawful sexual penetration in the first or second degree;
- (6) unlawful sexual contact in the first degree;
- (7) continuous sexual abuse of a minor;
- (8) sexual exploitation of a minor;
- (9) kidnapping in the first or second degree, if the purpose of the offense was to facilitate the commission of any offense listed in Question Two, paragraph (1) above, where the defendant is not a parent, stepparent, or guardian of the victim;
- (10) any attempt to commit any of the offenses listed in (1) through (9) above;
- (11) any offense specified in the laws of another state, the United States, or any territory of the United States which is the same as, or equivalent to, any offense set forth in (1) through (10) above; or
- (12) upon motion of the state, any person convicted of:
 - (a) a sexual offense;
 - (b) sexual exploitation of a minor;
 - (c) unlawfully dealing in child pornography;
 - (d) possession of child pornography; or
 - (e) sexual solicitation of a minor,if the victim of the offense had not yet reached his or her 14th birthday at the time of the offense, and if the sentencing court determines by a preponderance of the evidence, after it weighs all relevant evidence that bears upon the particular facts and circumstances of the offense and the character and propensities of the offender, that public safety will be enhanced by assigning the offender to Risk Assessment Tier III.

(Del. Code Ann. tit. 11, § 4121(e)(1))

Risk Assessment Tier II is for any sex offender convicted or adjudicated delinquent of any of the following offenses:

- (1) rape in the third degree, unless the offense involved a minor under 12, force, or a threat of physical violence;

- (2) rape in the fourth degree;
- (3) unlawful sexual contact in the second degree;
- (4) unlawful sexual intercourse in the third degree;
- (5) unlawful sexual penetration in the third degree;
- (6) sexual extortion;
- (7) bestiality;
- (8) a dangerous crime against a minor;
- (9) unlawfully dealing in child pornography;
- (10) sexual solicitation of a minor;
- (11) any attempt to commit any of the offenses listed in (1) through (10) above;
- (12) any offense specified in the laws of another state, the United States, or any territory of the United States which is the same as, or equivalent to, any of the offenses listed in (1) through (11) above; or
- (13) upon motion of the State, any person convicted of:
 - (a) sexual harassment;
 - (b) indecent exposure in the first or second degree;
 - (c) incest;
 - (d) unlawful sexual contact in the third degree;
 - (e) sexual exploitation of a minor;
 - (f) unlawfully dealing in child pornography;
 - (g) possession of child pornography;
 - (h) loitering or remaining in a public place for the purpose of engaging or soliciting another person to engage in sexual intercourse or deviate sexual intercourse;
 - (i) advancing or profiting from prostitution of a person under 18; or
 - (j) advancing or profiting from prostitution of a person under 16 years old, if the sentencing court determines by a preponderance of the evidence after it weighs all relevant evidence bearing upon the particular facts and circumstances or details of the commission of the offense and the character and propensities of the offender, that public safety will be enhanced by assigning the offender to Risk Assessment Tier II.

(Del. Code Ann. tit. 11, § 4121(e)(2))

Risk Assessment Tier I is for any sex offender not otherwise designated to Risk Assessment Tier II or III.

(Del. Code Ann. tit. 11, § 4121(e)(3))

10. ARE THERE ANY PENALTIES FOR FAILING TO REGISTER OR FOR PROVIDING FALSE INFORMATION?

Any sex offender who knowingly or recklessly fails to register or re-register or to otherwise comply with any registration requirement is guilty of a class G felony.

(Del. Code Ann. tit. 11, § 4120(k))

11. WHAT INFORMATION IS RELEASED TO THE PUBLIC ABOUT REGISTERED OFFENDERS?

Community notification provisions apply to persons convicted after February 28, 1999.

(Del. Code Ann. tit. 11, § 4121(u))

Community notification is notice provided by any method devised specifically to notify members of the public who are likely to encounter a sex offender. Methods of notification may include door-to-door appearances, mail, electronic mail, telephone, fax, newspapers, or any combination thereof, to schools, licensed daycare facilities, public libraries, and other accessible public facilities within the community.

(Del. Code Ann. tit. 11, § 4121(a)(1))

Community notification includes, when possible, all information required to be included in the “searchable records,” records pertaining to every sex offender convicted after June 27, 1994, who is subject to registration requirements and who is thereafter designated to Risk Assessment Tier II or III. Searchable records also include the last verified address for the offender, the specific sex offense(s) for which he or she was convicted, the date(s) of the convictions, and all information required for registration as is practicable given the method of community notification; however, the relationship to the victim is not a searchable record and the victim’s age is searchable only by age ranges “birth to 11 years,” “12 to 15 years,” “16 to 17 years,” and “18 and above.” Searchable records may also include other information designated for public access by the Superintendent of the Delaware State Police. These records are made available upon request through police agencies, public libraries, public schools, and the Internet.

(Del. Code Ann. tit. 11, §§ 4121(a)(1), (3))

When a sex offender assigned to Risk Assessment Tier II or III provides registration information, the chief law-enforcement officer of the local jurisdiction where the offender intends to reside or the Superintendent of the State Police if no local police agency exists must provide public notification as follows:

- (1) for sex offenders assigned to Risk Assessment Tier II, notification consists of searchable records available to the public and may also consist of community notification;
- (2) for sex offenders assigned to Risk Assessment Tier III, notification consists of searchable records available to the public and community notification;
- (3) for sex offenders assigned to Risk Assessment Tier II or III, notice is given to any school the offender plans to attend and/or to the chief law-enforcement officer of the local jurisdiction where the offender plans to be employed.

(Del. Code Ann. tit. 11, § 4121(j))

12. CAN I SEARCH THE INTERNET FOR OFFENDERS IN MY AREA?

Information on medium- and high-level offenders is available over the Internet. The Delaware Sex-Offender Central Registry is available at <http://www.state.de.us/dsp/sexoff/outage.htm>.

The Registry can be searched by last name, housing development, city, and zip code, or a complete list of registered sex offenders can be viewed. Information available on the site includes the offender’s:

- (1) full name and aliases used;
- (2) police jurisdiction;
- (3) risk level;
- (4) race;
- (5) ethnicity;
- (6) sex;
- (7) hair and eye color;
- (8) height and weight;
- (9) skin tone;
- (10) date of birth;
- (11) registered address;
- (12) sex offense conviction description and date; and
- (13) a photograph, if available.

13. WHAT IS THE PENALTY FOR MISUSE OF OFFENDER INFORMATION?

According to the Sex Offender Central Registry web site, anyone who uses public information concerning registered sex offenders to commit a criminal act against another person will be subject to criminal prosecution.