

NORTH DAKOTA OFFENDER REGISTRATION

PROCEDURES MANUAL

**REQUIREMENTS ESTABLISHED BY
NORTH DAKOTA CENTURY CODE
SECTION 12.1-32-15**

**Prepared
by**

**Office of Attorney General
Bureau of Criminal Investigation**

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APPLICABLE OFFENSES

Registration applies to the following offenses:¹

Sexual Offender Statutes

N.D.C.C. Section	Offense
12.1-20-03	Gross Sexual Imposition
12.1-20-03.1	Continuous Sexual Abuse
12.1-20-04	Sexual Imposition
12.1-20-05	Corruption or Solicitation of Minors
12.1-20-05.1	Luring Minors by Computer
12.1-20-06	Sexual Abuse of Wards
12.1-20-07	Sexual Assault (Class C felony & Class A misdemeanor)
12.1-20-11	Incest
12.1-20-12.1	Indecent Exposure
12.1-20-12.2	Surreptitious Intrusion
12.1-20-12.3	Sexual Extortion
12.1-27.2	Sexual Performance by Children (All Offenses)
12.1-41	Sex Trafficking

Offenders Against Children Statutes

(offenses in which the victim is a child)

N.D.C.C. Section	Offense
12.1-16	Homicide (All Offenses)
12.1-17-01.1	Assault (Felony only)
12.1-17-02	Aggravated Assault
12.1-17-04	Terrorizing
12.1-17-07.1	Stalking (Felony only)
12.1-18-01	Kidnapping
12.1-18-02	Felonious Restraint
12.1-18-05	Removal of Child from State in Violation of Custody Decree
12.1-29	Prostitution (All Offenses)
12.1-41	Labor Trafficking
14-09-22	Child Abuse

¹ A person must also register if that person has pled guilty or nolo contendere to, or been found guilty of, an offense in a tribal court, municipal court, or a court of another state, country, or the federal government, which is equivalent to those offenses set forth above.

PERIOD OF REGISTRATION

A person required to register pursuant to N.D.C.C. § 12.1-32-15 must comply with the registration requirement for the following periods:

- a period of **fifteen years** after the date of sentence, after the date of order deferring or suspending sentence upon a plea or finding of guilt, or after incarceration, whichever is later; or
- a period of **twenty-five years** after the date of sentence, after the date of order deferring or suspending sentence upon a plea or finding of guilt, or after incarceration, whichever is later, if the offender is assigned a moderate risk level; or
- for the **life** of the individual if any one of three conditions listed in N.D.C.C. § 12.1-32-15(8) are present, or if the offender is assigned a high risk level.

Offenders Against Children Information

Individuals convicted of crimes that are not sex offenses but which involve, for example, force against or restraint of a child, are required to register as an "Offender Against Children." These individuals are not sex offenders, and are not listed on the sex offender website. The registration requirement is a minimum of 15 years. Current information about these offenders is at www.attorneygeneral.nd.gov.

ALLOCATION OF RESPONSIBILITIES

Responsibilities for carrying out the provisions of the law rest with the following as indicated (the specific subsection within N.D.C.C. § 12.1-32-15 is referenced at the end of each item):

The Courts

North Dakota courts shall:

- Impose the requirement that the individual register if that individual has pled guilty or been found guilty in accordance with the provisions of N.D.C.C. section 12.1-32-15 subsection 2, subdivision a through e. (Subsection 2)
- State the requirement to register on court records of sexual offenders and offenders against children. (Subsection 2)
- Inform the offender, who is released on probation or discharged upon payment of a fine, of the duty to register, and require that person to read and sign a form acknowledging the duty to register. (Subsection 6)
- Inform the offender that they are required to provide information regarding residence address, school enrollment, employment address, for registration purposes, and that any change in residence address, school enrollment, employment, must be reported to the law enforcement agency at which the offender is registered. (Subsection 6) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, and the Adam Walsh Child Protection and Safety Act of 2006.)
- Obtain the addresses of the offender, who is released on probation or discharged upon payment of a fine, where the offender expects to reside, attend school or work, and report those addresses to the Attorney General within three days. (Subsection 6) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, and the Adam Walsh Child Protection and Safety Act of 2006.)
- Impose a minimum term of ninety days in jail and one year probation on persons who willfully violate this section. If the violator is a juvenile, this minimum term does not apply. (Subsection 9)
- Order the probation revoked for persons released on probation who are required to register but fail to do so within three days of release. (Subsection 10)
- May deviate from requiring an individual to register in a misdemeanor case if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the offender has not previously been convicted as a sexual offender or of a crime against a child, and the offender did not exhibit mental

abnormality or predatory conduct in the commission of the crime. (Subsection 2, subdivision b)

- Determine, for purposes of discretionary deviation for juvenile offenders guilty of Gross Sexual Imposition, when the victim is less than fifteen years old, or for juvenile misdemeanor sexual offenders, whether the juvenile offender has been previously convicted as a sexual offender or of a felony crime against a child, and whether the offender exhibited mental abnormality or predatory conduct in the commission of the crime. (Subsection 2, subdivision c)
- Determine, for purposes of discretionary deviation when the adult or juvenile offender is guilty of a felony crime against a child, whether the offender has been previously convicted as a sexual offender or for a felony crime against a child, and whether the offender exhibited mental abnormality or predatory conduct in the commission of the crime. This determination is not necessary if the offense was 1) facilitating prostitution, or 2) kidnapping/felonious restraint by a person not the parent of the victim. (Subsection 2, subdivision d)
- Determine, in any other crime not otherwise specified in 12.1-32-15(2), if registration is warranted by the nature of the crime. (Subsection 2, subdivision e)
- In consideration of mental abnormality or predatory conduct, consider the ages of the offender and victim and the differences between those ages, circumstances and motive of the crime, the relationship of victim and offender, and the mental state of the offender. (Subsection 4)
- In consideration of mental abnormality or predatory conduct, may order evaluation of the offender by qualified counselor, psychologist, or physician, before sentencing, if the court chooses. (Subsection 4)
- State on the record in open court the court's affirmative finding for not requiring an offender to register, if the court has chosen to deviate from requiring an individual to register. (Subsection 4)
- Apply a risk assessment tool to juvenile sex offenders who are required to register, and provide the Attorney General any information, including the offender's risk score supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community. (The juvenile court system has contracted with DOCR's Division of Juvenile Services to score risk assessment tools on all juvenile offenders.) (Subsection 12, subdivision c)
- Consider, if petitioned, whether to relieve an offender of the registration requirements, if registration is no longer mandatory due to changes in section 12.1-32-15 or 27 20 52.1 made in the 1999 Legislative Assembly. (Subsection 17)

Attorney General

The Attorney General shall:

- Prepare forms for use in the registration process. (Subsections 5 and 7)
- Receive and forward a copy of the registration acknowledgement to the law enforcement agency where the person will actually register. This is intended to alert the law enforcement agency to the anticipated registration of the offender in that jurisdiction. If the offender does not appear for the purposes of registration within three days of the relocation date indicated by the offender, the law enforcement agency is expected to attempt to locate the offender. If the Bureau of Criminal Investigation has not received registration documents within 10 days of the expected relocation date, the BCI will contact the law enforcement agency in that jurisdiction regarding a possible delinquent registration.
 - The BCI will notify campus police departments and/or law enforcement agencies having institutions of higher education in their jurisdictions of any registerable offenders who intend to either be enrolled in, or employed by, such institutions of higher education. (Subsections 5, 6, and 7) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.)
- Forward a copy of the registration acknowledgement to the court in which the person was prosecuted and to the prosecutor. (Subsection 5)
- Receive the statement, biometric data, and photograph of each registered person, enter this information in the automated system on a daily basis, and file such. (Subsection 7)
- Transmit registration information and fingerprints to the Federal Bureau of Investigation, upon receipt of that information from local agencies. (As a matter of administrative policy, the BCI will forward registration information to the FBI within three working days of receipt of the information.)
- Receive name change information, or address change information for changes in residence address, school enrollment, and/or employment address, and forward address change information to the FBI and to the law enforcement agency in the new place or state of residence, school enrollment, and/or employment.
 - The BCI will notify campus police departments and/or law enforcement agencies having institutions of higher education in their jurisdictions of any offenders enrolled in, or employed by, such institutions of higher education who have indicated a change in their enrollment or employment situation or status. Additionally, any information received by the BCI regarding unanticipated enrollment or employment by registerable offenders in institutions of higher education will be shared with the law enforcement agencies in those jurisdictions. (As a matter of administrative policy, the Bureau of Criminal Investigation will forward address change information to

the new place or state of residence and to the FBI, within three working days of receipt of the information, on State Form Number 18094 Change of Registration Information form.) (Subsection 7) (Notification of changes is also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.)

- Develop guidelines for the risk assessment of sexual offenders who are required to register, with a low risk, moderate risk, or high risk level being assigned to each offender. (Subsection 12)
- Apply a risk assessment tool to sexual offenders who are not under the custody or supervision of the DOCR. (Subsection 12, subdivision b)
- Assign a risk level to all sexual offenders. (Subsection 12)
- Notify offenders of their assigned risk level. (Subsection 12, subdivision d)
- Develop guidelines for public disclosure of offender registration information. (Subsection 14)
- Report intended international travel by an offender to the US Marshal Service. (Subsection 19)

Law Enforcement Agencies

Law enforcement agencies shall:

- Receive copies of the registration acknowledgement forms, which indicate that offenders will appear for registration. (Subsections 5 and 6)
- Register convicted offenders by fingerprinting, photographing, and having registering offenders sign the appropriate portion of the registration document. (Fingerprints may be omitted if that agency *has already registered* that offender previously, has fingerprints on file, and is personally familiar with and can visually identify the offender.) (Subsection 7)
- Perform responsibilities of both the originating agency and the registering agency for offenders who appear to register without the registration papers in hand (i.e. out-of-state offenders will not have copies of the North Dakota registration forms, and therefore, the law enforcement agency will have to acquire the information requested on the form, as well as register the offender).
- Forward a signed registration statement, fingerprint card, and a photograph to the Office of Attorney General within three days after registration. (Subsection 7)
- Inform the registering offender that any change in residence address, school enrollment, employment, vehicle information, or online identity must be reported to

this agency at least ten days before the effective date of the change. (Subsection 7) In case of a termination of school or employment, it must be reported to this agency within **three** days of the termination. (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act and the Adam Walsh Child Protection and Safety Act of 2006.)

- Obtain information on changes of name, residence address, school enrollment, employment address, vehicle information, and/or online identity, from the registered person, and forward that information to the Office of Attorney General within three days after receipt of the information. (Subsection 7) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act and the Adam Walsh Child Protection and Safety Act of 2006.)
- Assist the Office of Attorney General in verifying offender addresses. Maintain a file of registered offenders (not explicit in the law, but implied).
- Receive information from correctional facilities on individuals who are temporarily sent outside a facility or institution that are required to register once permanently released from custody. (Subsection 11)
- Register juvenile offenders in the same manner as adult offenders. (Subsection 16)
- Disclose relevant and necessary conviction and registration information to the public if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. (Subsection 14)
- Disclose relevant and necessary conviction and registration information to institutions of higher education regarding registered sex offenders who are enrolled in those institutions or are employed by those institutions in any capacity. (Required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act.)
- Release relevant and necessary juvenile information to other law enforcement agencies, the Department of Human Services, the superintendent or principal of the school the juvenile attends, or the public if necessary to protect public health or safety. (Subsection 16)
- Obtain information regarding intended international travel by an offender at least twenty-one days prior to travel. Forward all international travel information to the BCI. (Subsection 19)

Correctional Facilities

Local correctional facilities² shall:

- Inform convicted offenders prior to discharge, parole or release, of the duty to register. (Subsection 5)
- Require the convicted person to read, prepare, and sign the acknowledgement forms provided by the Office of Attorney General. (Subsection 5)
- Obtain the addresses where the individual expects to reside, attend school and/or work upon discharge, parole or release, and report those addresses to the Office of Attorney General. (Subsection 5) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act.)
- Give a copy of the signed forms to the individual, retain one copy for agency records, and send one copy to the Office of Attorney General within forty-five days of scheduled release of the person.
- Notify local law enforcement agencies when an individual who is required to register is temporarily sent outside the facility where that individual is confined. (Subsection 11)

Department of Corrections and Rehabilitation

The Department of Corrections and Rehabilitation (DOCR) shall:

- Inform convicted offenders, prior to discharge, parole or release, of the duty to register. (Subsection 5)
- Require the convicted person to read, prepare, and sign the acknowledgement forms. The forms will be provided by the Office of Attorney General. (Subsection 5)
- Obtain the addresses where the individual expects to reside, attend school and/or work upon discharge, parole or release, and report those addresses to the Office of Attorney General. (Subsection 5) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act.)
- Give a copy of the forms to the individual, retain one copy for agency records, and send one copy to the Office of Attorney General no later than forty-five days prior to the scheduled release of the individual.

² If the person will be supervised by the Field Services (Parole and Probation) Division of DOCR, the Division will handle most of the above requirements.

- Notify local law enforcement agencies when an individual required to register is temporarily sent outside the facility where that individual is confined. (Subsection 11)
- Assist the Attorney General in the development of guidelines for the risk assessment of sexual offenders who are required to register. (Subsection 12)
- Apply a risk assessment tool to sexual offenders who are incarcerated in institutions under the control of the DOCR, and sexual offenders who are on supervised probation. (Subsection 12, subdivision a)
- Provide the Attorney General any information, including the offender's risk score and supporting documentation concerning individuals required to be registered under this section who are about to be released or placed into the community. (Subsection 12, subdivision a)

Parole Board

The Parole Board shall:

- Order the parole revoked for individuals released on parole who are required to register, but fail to do so. (Subsection 10)

Offenders

Offenders required to register³ shall:

- Receive notice of duty to register and sign the form acknowledging the registration requirement. (Subsections 5 and 6)
- Appear at the law enforcement agency in the jurisdiction of residence within three days of discharge, parole or release, to be fingerprinted and photographed, and to sign the registration form. (Subsections 2 and 7)
- If the individual is residing in another state, but working or attending school in North Dakota, that individual must register in the North Dakota jurisdiction in which he/she is working or attending school. If the individual should change the location of work or school within the jurisdiction in which he/she is registered, that individual must complete a change of school or employment address form. If the individual should change the location of work or school to a jurisdiction other than the one he/she is registered in, that individual must register in the new jurisdiction. (Subsections 2 and 7)

³ See FN 1 on page 1.

- In the case of a change in name, school enrollment, residence address, employment, vehicle information, or online identity, complete an updated registration form with the law enforcement agency at which the person last registered. (Subsection 7)
- In the case of a change in residence address to a new law enforcement jurisdiction, appear at the law enforcement agency in the new jurisdiction of residence within three days to register with that agency. (Subsections 2 and 7)
- Remain registered for a minimum period of fifteen years as required by statute, twenty-five years if assigned a moderate risk by the attorney general, or for life if the individual 1) is a repeat offender, or 2) has committed an "aggravated offense," 3) has been assigned a high risk by the attorney general. (Subsection 8)
- Petition the court to be removed from the offender list if registration is no longer mandatory for that individual and the individual had been required to register as a sexual offender or an offender against a child prior to August 1, 1999. (Subsection 16)

REGISTRATION PROCEDURES

The **Offender Notice/Acknowledgement and Registration Form (SFN 18092)** is a six-page form. It contains instructions directing the offender to register in person with the law enforcement agency in the community or county where the offender will reside. The offender is required to register with the chief of police of the city, or the sheriff of the county if the person resides in an area other than a city.

The **registering agency** is the police department or the sheriff's department in the jurisdiction in which the offender resides. The offender must register with the police department if there is one in that jurisdiction. If there is no police department in that jurisdiction, the offender must register with the sheriff's department.

Based on status/risk level (to be determined by the Office of the Attorney General), each offender is required to verify their information with their current registering agency as follows:

- High Risk – in the months of January, April, July and October;
- Moderate Risk – in the months of February and August;
- Low Risk, Offender Against Children, or not yet assigned a risk level in North Dakota – in the month of their date of birth.

The registering agency sends a copy of the signed registration form(s), one fingerprint card, DNA and one photograph to the Bureau of Criminal Investigation (BCI) within three days of registration.

- Email to agoso@nd.gov
- Or mail to: Bureau of Criminal Investigation, Offender Registration, PO Box 1054, Bismarck, ND 58502-1054

The Office of Attorney General BCI maintains a master file of all persons registered in the state, and monitors that file for any violations of the registration statutes by offenders. The BCI is notified by other states when an offender from another state has indicated a move to North Dakota. For offenders convicted in North Dakota, copies of the registration form are sent to the BCI when the offender is notified of the need to register. Offenders who fail to register are identified, and law enforcement agencies will make every effort to locate, arrest and work with prosecutors to get these individuals charged.

Changes to Registration Information

Offenders must report any changes in registration information to the registering agency within three days of the change. The registering agency shall complete the registration form (SFN 18092) noting the reported changes and shall have the offender review and sign the form before submitting it to the BCI.