

VERMONT SEX OFFENDER REGISTRY

RULES AND REGULATIONS

SECTION 1: DEFINITIONS

1.1 Address: In the case of sex offenders with a permanent address, actual location of the sex offender's dwelling, including street address, if any.

1.2 Conviction: A judgment of guilt following a verdict or finding of guilt, a plea of guilty, a plea of nolo contendere, an Alford plea, or a judgment of guilt pursuant to a deferred sentence. A sex offender whose sentence is deferred shall have no duty to register after completion of the terms of the deferred sentence agreement for the duration specified in the agreement.

1.3 Department: Department of Public Safety.

1.4 Director: The Director of the Vermont Crime Information Center.

1.5 Employed, Employment, Carries on a Vocation: Employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered or for the purpose of governmental or educational benefit.

1.6 Local Law Enforcement: the municipal police department or statutorily established college or university police department. If the municipality, college or university has no police department, the law enforcement agency that serves the municipality, college or university.

1.7 Minor: A person under the age of 18 years.

1.8 Release: Release from confinement or custody or placement into the community for any reason, including release on bail pending appeal, probation, parole, furlough, work release, early release, alternative sanctions, house arrest, daily interrupt, community placement or completion of sentence. It also means probation or parole supervision of an out of state sex offender under an interstate agreement or compact.

1.9 Registry: The sex offender registry maintained by the Vermont Crime Information Center (VCIC) at the Department of Public Safety.

1.10 Sex Offender: A person who is convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court of any of the following offenses:

(i) sexual assault as defined in 13 V.S.A. § 3252.

(ii) aggravated sexual assault as defined in 13 V.S.A. § 3253.

(iii) lewd and lascivious conduct as defined in 13 V.S.A. § 2601.

(iv) sexual abuse of a vulnerable adult as defined in 13 V.S.A. § 1379.

- (v) second or subsequent conviction for voyeurism as defined in 13 V.S.A. § 2605(b) or (c).
- (vi) kidnapping with intent to commit sexual assault as defined in 13 V.S.A. § 2405(a)(1)(D).
- (vii) aggravated sexual assault of a child in violation of section 3253a of this title; and
- (viii) human trafficking in violation of subdivisions 2652(a)(1)-(4) of this title;
- (ix) aggravated human trafficking in violation of subdivision 2653(a)(4) of this title; and
- (x) a federal conviction in federal court for any of the following offenses:
 - (I) Sex trafficking of children as defined in 18 U.S.C. § 1591.
 - (II) Aggravated sexual abuse as defined in 18 U.S.C. § 2241.
 - (III) Sexual abuse as defined in 18 U.S.C. § 2242.
 - (IV) Sexual abuse of a minor or ward as defined in 18 U.S.C. § 2243.
 - (V) Abusive sexual contact as defined in 18 U.S.C. § 2244.
 - (VI) Offenses resulting in death as defined in 18 U.S.C. § 2245.
 - (VII) Sexual exploitation of children as defined in 18 U.S.C. § 2251.
 - (VIII) Selling or buying of children as defined in 18 U.S.C. § 2251A.
 - (IX) Material involving the sexual exploitation of minors as defined in 18 U.S.C. § 2252.
 - (X) Material containing child pornography as defined in 18 U.S.C. § 2252A.
 - (XI) Production of sexually explicit depictions of a minor for import into the United States as defined in 18 U.S.C. § 2260.
 - (XII) Transportation of a minor for illegal sexual activity as defined in 18 U.S.C. § 2421.
 - (XIII) Coercion and enticement of a minor for illegal sexual activity as defined in 18 U.S.C. § 2422.
 - (XIV) Transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, and engaging in illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423.
 - (XV) Transmitting information about a minor to further criminal sexual conduct as defined in 18 U.S.C. § 2425.
 - (XVI) Trafficking in persons as defined in 18 U.S.C. sections 2251-2252(a), 2260, or 2421-2423 if the violation included sexual abuse, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse.
- (xi) an attempt to commit any offense listed above.

OR

A person who is convicted of any of the following offenses against a victim who is a minor, except that, for purposes of this subdivision, conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old:

- (i) any offense listed above.
- (ii) kidnapping as defined in 13 V.S.A. § 2405(a)(1)(D).
- (iii) lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602.
- (iv) slave traffic as defined in 13 V.S.A. § 2635.
- (v) sexual exploitation of children as defined in 13 V.S.A. chapter 64.
- (vi) procurement or solicitation as defined in 13 V.S.A. § 2632(a)(6).
- (vii) aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a.
- (viii) sex trafficking of children or sex trafficking by force, fraud, or coercion as defined in 13 V.S.A. § 2635a.
- (ix) sexual exploitation of a minor as defined in 13 V.S.A. § 3258.
- (x) an attempt to commit any offense listed above.

OR

A person who takes up residence within this state, other than within a correctional facility, and who has been convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court, for a sex crime the elements of which would constitute a crime under subdivision (A) or (B) of this subdivision (10) if committed in this state.

OR

A person 18 years of age or older who resides in this state, other than in a correctional facility, and who is currently or, prior to taking up residence within this state, was required to register as a sex offender in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court; except that, for purposes of this subdivision, conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old.

OR

A nonresident sex offender who crosses into Vermont and who is employed, carries on a vocation, or is a student.

1.11 Sexually violent offense: A sexual assault or aggravated sexual assault, as described in

13 VSA § 3252 and § 3253, or a comparable offense in another jurisdiction of the United States, or any attempt to commit sexual assault, aggravated sexual assault, or a comparable offense in another jurisdiction of the United States. A comparable offense, for purposes of this definition, is an offense the elements of which would constitute a sexual assault or aggravated sexual assault, as described in 13 VSA § 3252 and § 3253, or any attempt to commit sexual assault or aggravated sexual assault.

1.12 Sexually violent predator (SVP): A person who is a sex offender who has been convicted of a sexually violent offense, as defined above, and who has been determined by a court to suffer from a mental abnormality or personality disorder that makes him or her likely to engage in predatory sexually violent offenses.

1.13 Student: A person who is enrolled on a full or part time basis in any public or private educational institution in Vermont, including any secondary school, trade or professional institution, or institution of higher learning.

SECTION 2: SEX OFFENDER REGISTRY

2.1 DEPARTMENT'S OBLIGATION

The department of public safety shall establish and maintain a sex offender registry, which shall consist of the information required to be filed in Section 3.

2.2 DISCLOSURE OF INFORMATION

All information contained in the registry may be disclosed for any purpose permitted under the law of this state, including use by:

- a. local, state, and federal law enforcement agencies exclusively for lawful law enforcement activities;
- b. state and federal governmental agencies for the exclusive purpose of conducting confidential background checks;
- c. any employer, including a school district, who is authorized by law to request records and information from the VCIC, where such disclosure is necessary to protect the public concerning persons required to register as a sex offender. The identity of a victim of an offense that requires registration shall not be released;
- d. a person identified as a sex offender in the registry for the purpose of reviewing the accuracy of any record relating to him or her pursuant to Section 8 of the VCIC Rules and Regulations. The identity of a victim of an offense that requires registration shall not be released; and
- e. probate courts for purposes of conducting checks on persons applying for changes of name under Section 811 of Title 15.

SECTION 3: REPORTING AND REGISTRATION REQUIREMENTS

3.1 REPORTING UPON CONVICTION

- a. Upon conviction, and prior to sentencing, the court shall order the sex offender to provide the court with the following registration information as specified in 13 VSA § 5403(a):

- i. name;
- ii. date of birth;
- iii. general physical description;
- iv. current address;
- v. Social Security number;
- vi. fingerprints;
- vii. current digital photograph;
- viii. current employment; and,
- ix. name and address of any postsecondary educational institution at which the registrant is enrolled as a student.

The court shall forward this information to the VCIC forthwith.

b. Within 10 days of sentencing, the court shall send to the VCIC the registration information specified in Section 3.1a, along with the offense(s) for which the defendant was convicted, the date of conviction, the sentence and any conditions of release or probation as per 13 V.S.A. § 5403(b) for each defendant required to register with the VCIC.

3.2 REPORTING UPON SENTENCING

a. As soon as practicable after receiving the registration information from the court for sex offenders who have NOT been sentenced to the custody of the Department of Corrections (DOC) for either community supervision or incarceration, the VCIC shall notify the registrant of their reporting requirements under the law. The VCIC shall mail the Notification of Requirement to Register form to the registrant. The registrant shall sign the form, indicating an acknowledgment of receipt and understanding of the requirements. The Notification of Requirement to Register form shall be signed and returned to the VCIC within three days of receipt.

b. As soon as practicable after receiving the registration information from the court for sex offenders who have NOT been sentenced to the custody of the Department of Corrections (DOC) for either community supervision or incarceration, the VCIC shall mail the registrant a Vermont Sex Offender Registry Registration form. Said form shall consist of the following information as appropriate:

- i. an update of the information specified in Section 3.1a; and
- ii. current address.

The registrant shall complete and sign the form, and return it to the VCIC within three days of receipt.

3.3 REPORTING UPON SENTENCING TO COMMUNITY SUPERVISION

a. Within 24 hours of conducting an intake interview with a sex offender who has been sentenced for a probationary sentence or any alternative sentence under community supervision by DOC, the DOC shall notify the registrant of his or her reporting requirements under the law. The Notification of Requirement to Register form shall be read to the registrant. The registrant shall sign the form, indicating an acknowledgment of receipt and understanding of the requirements. The Notification of Requirement to Register form shall be witnessed and returned to the VCIC within 24 hours.

b. The DOC shall complete for each registrant a Vermont Sex Offender Registry Registration form. Said form shall consist of the following information as appropriate:

i. an update of the information specified in Section 3.1a;

ii. address upon release;

iii. name, address and telephone number of the local DOC office in charge of monitoring the sex offender;

iv. documentation of any treatment or counseling completed;

v. high risk designation; and,

vi. name of any college where the offender will be enrolled or employed.

The Vermont Sex Offender Registry Registration form will be forwarded by DOC to the VCIC within 10 days of the intake.

3.4 REPORTING UPON RELEASE FROM CONFINEMENT

a. No less than 10 days prior to releasing a registrant from confinement or supervision, DOC shall notify the registrant of their reporting requirements under the law. The Notification of Requirement to Register form shall be read to the registrant. The registrant shall sign the form, acknowledging receipt and an understanding of the requirements. The Notification of Requirement to Register form shall be forwarded to the VCIC by DOC no less than 10 days prior to release.

b. No less than 10 days prior to release, the DOC shall complete for each registrant a Vermont Sex Offender Registry Registration form. Said form shall consist of the following information as appropriate:

i. an update of the information specified in Section 1.1a;

ii. address upon release;

iii. name, address and telephone number of the local DOC office in charge of monitoring the sex offender;

iv. The name and telephone number of the DOC caseworker;

v. documentation of any treatment or counseling completed;

vi. high risk designation;

vii. college enrollment status; and,

viii. college employment status.

The Vermont Sex Offender Registry Registration form will be forwarded by DOC to the VCIC 10 days prior to release from confinement or supervision.

c. Within 24 hours of release from confinement, DOC shall notify in writing or electronically the VCIC that the offender has been released from confinement.

d. DOC will notify in writing or electronically the VCIC within 24 hours of the time a sex offender changes address, place of employment, or college enrollment or employment status.

3.5 REPORTING UPON DISCHARGE FROM THE DEPARTMENT OF CORRECTIONS

When a registrant is discharged from the supervision of DOC, DOC shall forward a discharge notice directly to the VCIC within 24 hours of discharge. This discharge notice shall include whether the offender has been designated high risk or is not in compliance with sex offender treatment. A copy of this notification shall be placed in an offender's DOC file.

3.6 REPORTING PURSUANT TO COLLEGE ENROLLMENT OR EMPLOYMENT

Pursuant to the federal Campus Sex Crime Prevention Act, a registrant must inform the VCIC if he or she is enrolled in any college in Vermont on a full time or part time basis. A registrant must also inform the VCIC if he or she has any type of full time or part time employment, with or without compensation, which places the registrant on the campus of a college in Vermont for more than 14 days or for an aggregate period exceeding thirty days in a calendar year. In addition to any other requirements, a registrant is also required to report to the Registry any changes regarding his or her employment or enrollment status at any college in Vermont.

3.7 REGISTRANTS WITH NO PERMANENT ADDRESS

a. A registrant with no permanent address shall notify by telephone or in writing the VCIC as to his or her temporary residence. The registrant shall identify a specific location for purposes of the registry and shall check in by telephone daily with the VCIC.

b. A registrant with no permanent address does not need to check in daily with the VCIC if the local law enforcement agency with jurisdiction over the registrant's location agrees with the VCIC to verify the registrant's location.

3.8 REGISTRATION UPON TAKING UP RESIDENCE OR VISTING VERMONT -- OUT OF STATE CONVICTIONS

a. Any sex offender who intends to visit Vermont for 10 consecutive days or 30 days in a calendar year must register with the VCIC within 10 days of arrival. The registrant will complete a Notification of Requirement to Register form and a Sex Offender Registry Registration form. Both forms must be signed and returned to the VCIC. These forms may be obtained from the VCIC either in person, through the mail, or on the Department's web site.

b. The VCIC will verify the information on the Registration form by conducting a criminal

background check on the registrant. The VCIC will contact by telephone the registry in the state from which the registrant has come to verify the registrant's information. After verifying the registration information, the VCIC will create a record in the Registry. If the registrant has a criminal history at the VCIC, the registrant's Vermont criminal history will be flagged with a notation which denotes that the defendant is registered with the Registry. If the registrant has no criminal history at the VCIC, a record will be created and flagged with a notation which denotes that the defendant is registered with the Registry.

c. Out of state registrants will be referred by the VCIC to DOC for a risk assessment. The assessment will occur within 10 days of the referral and the result will be returned to the VCIC by DOC in writing within 24 hours of the assessment.

3.9 REPORTING CHANGE OF ADDRESS, EMPLOYMENT OR COLLEGE ENROLLMENT OR COLLEGE EMPLOYMENT

a. While the registrant is under the supervision of DOC, DOC will notify the VCIC within 24 hours in writing on the Change of Address form with any address, employment or college enrollment or college employment changes for the Registrant. The VCIC will report any changes of the above information to the local law enforcement agency that has jurisdiction over the previous address, place of employment or college and to the local law enforcement agency that has jurisdiction over the new address, place of employment or college, and to a registered victim as set forth in 7.2.

b. After the Registrant is discharged from the custody of DOC, it shall be the responsibility of the registrant to inform the VCIC of any change of address, employment or college enrollment or college employment status. The registrant must inform the VCIC in writing or by telephone within 3 days of any change of address, employment, postsecondary education or college enrollment or college employment status. The VCIC will confirm the change by sending a confirmation letter to the registrant.

c. If a registrant intends to move out of state, the registrant will inform the VCIC in writing or by telephone of his or her new address. The VCIC will notify the designated law enforcement agency in the new state with both the new address and other information from the Registry as required by 13 VSA § 5303 and § 5304. If the new state has a Sex Offender Registry, the registrant is required to register with the Registry in the new state within three days after establishing residence in the new state. Within 10 days after the registrant's projected date to move out of state, the VCIC will send a confirmation letter to the new address. Upon return and receipt of the confirmation letter, the VCIC will notify the other state that the offender has taken up residence in the new state. The VCIC will list the offender in the registry on out of state status. This relieves the offender of any Vermont registration requirements.

d. If the VCIC has not received the confirmation letter from the registrant within the 10 days specified, the VCIC will notify the new state that it has not been able to confirm the registrant's new address. The VCIC will request a warrant for the offender's arrest.

3.10 ANNUAL ADDRESS, EMPLOYMENT AND COLLEGE ENROLLMENT OR EMPLOYMENT VERIFICATION

a. The VCIC shall verify each Registrant's address, employment, college enrollment or college employment annually within 10 days of the registrant's date of birth. The VCIC may also, at its discretion, verify a registrant's address. The address, employment and college enrollment or college employment of Sexually Violent Predators shall be verified every 90

days.

b. The VCIC shall mail an Address Verification Notification to the registrant's most current address via first class mail, address correction requested. Whenever the VCIC mails an address verification notification, a registrant will have 10 days to verify their address by returning the Notification letter to the VCIC.

c. If the address of a registrant cannot be verified, the VCIC will notify in writing or electronically the local law enforcement agency, the state's attorney in the county in which the sex offender's most recent address is located, and in the case of a registrant on supervision, the registrant's probation officer. The VCIC will seek confirmation that the registrant's address cannot be verified. Upon determination by the VCIC that the registrant's address cannot be verified, the VCIC will forward an affidavit to the State's Attorney attesting to the fact that the registrant's address could not be verified.

3.11 TERMINATION OF REPORTING REQUIREMENTS

a. Except as provided for in 3.11(a)(i) of these rules, a person required to register as a sex offender shall continue to comply with this section, except during periods of incarceration, until 10 years have elapsed since the person was released from prison or discharged from parole, supervised release, or probation, whichever is later. The 10-year period shall not be affected or reduced in any way by the actual duration of the offender's sentence as imposed by the court, nor shall it be reduced by the sex offender's release on parole or ending of probation or other early release.

i. A person required to register as a sex offender under this subchapter shall continue to comply with this section for the life of that person, except during periods of incarceration, if that person:

(1) has at least one prior conviction for an offense described in subdivision 5401(10) of this subchapter or a comparable offense in another jurisdiction of the United States;

(2) has been convicted of a sexual assault as defined in section 3252 of this title or aggravated sexual assault as defined in section 3253 of this title; however, if a person convicted under section 3252 is not more than six years older than the victim of the assault and if the victim is 14 years or older, then the offender shall not be required to register for life if the age of the victim was the basis for the conviction;

(3) has been determined to be a sexually violent predator pursuant to section 5405 of this title; or

(4) has been designated as a noncompliant high-risk sex offender pursuant to section 5411d of this title.

b. Upon termination, the VCIC will notify the registrant, law enforcement with jurisdiction over the registrant, and a registered victim in writing or electronically that the registrant is no longer required to comply with the requirements of the Registry.

c. The VCIC will delete the registrant's record from the Registry database and will remove any notations from the registrant's criminal history which indicates that the registrant is

registered with the Registry. The VCIC will cancel the registrant's record in the National Sex Offender Registry.

d. In the event that a person's sex offense conviction is expunged, reversed or dismissed, the person shall not be required to register for that conviction. Any information about that conviction will be deleted from the Registry database and all documentation will be destroyed. If the person whose conviction is expunged, reversed or dismissed has more than one entry in the Registry, only the entry related to the case which was expunged, reversed or dismissed shall be removed and destroyed. The VCIC will remove any notations from the registrant's criminal history which indicate that the registrant is registered with the Registry. The VCIC will cancel the registrant's record in the National Sex Offender Registry and will notify a registered victim by mail that the registrant is no longer required to register.

e. In the event of death, upon verification with the Department of Health, the VCIC will remove the registrant from the Registry as soon as practicable. The VCIC will remove any notations from the registrant's criminal history which indicate that the registrant is registered with the Registry. The VCIC will cancel the registrant's record in the National Sex Offender Registry.

SECTION 4: WEB SITE POSTING

13 VSA § 5411a requires that the Department maintain an online Sex Offender Registry for certain offenders. The Vermont Sex Offender Registry Web Site will be available from a link on the Department's Home Page. Links to the Vermont Sex Offender Registry Web Site from other agencies and organizations will be encouraged.

The language in 13 VSA § 5411a(h) shall be posted on the internet site.

4.1 QUALIFICATION OF REGISTRANTS

As soon as practicable after notification from DOC that an offender has been sentenced to a probationary sentence, any alternative sentence under community supervision by DOC, or has been released from confinement, the VCIC will electronically post on the Vermont Sex Offender Registry Web Site those offenders who meet the following qualifications:

(1) Sex offenders who have been convicted of:

(A) Aggravated sexual assault of a child (13 V.S.A. § 3253a).

(B) Aggravated sexual assault (13 V.S.A. § 3253).

(C) Sexual assault (13 V.S.A. § 3252).

(D) Kidnapping with intent to commit sexual assault (13 V.S.A. § 2405(a)(1)(D)).

(E) Lewd or lascivious conduct with child (13 V.S.A. § 2602).

(F) A second or subsequent conviction for voyeurism (13 V.S.A. § 2605(b) or (c)).

(G) Slave traffic if a registrable offense under subdivision 5401(10)(B)(iv) of this title (13 V.S.A. § 2635).

- (H) Sex trafficking of children or sex trafficking by force, fraud, or coercion (13 V.S.A. § 2635a).
- (I) Sexual exploitation of a minor (13 V.S.A. § 3258(c)).
- (J) Any offense regarding the sexual exploitation of children (chapter 64 of this title).
- (K) Sexual abuse of a vulnerable adult (13 V.S.A. § 1379).
- (L) Human trafficking as defined in subdivisions 2652(a)(1)-(4) of this title.
- (M) Aggravated human trafficking as defined in subdivision 2653(a)(4) of this title.
- (N) A federal conviction in federal court for any of the following offenses:
 - (i) Sex trafficking of children as defined in 18 U.S.C. § 1591.
 - (ii) Aggravated sexual abuse as defined in 18 U.S.C. § 2241.
 - (iii) Sexual abuse as defined in 18 U.S.C. § 2242.
 - (iv) Sexual abuse of a minor or ward as defined in 18 U.S.C. § 2243.
 - (v) Abusive sexual contact as defined in 18 U.S.C. § 2244.
 - (vi) Offenses resulting in death as defined in 18 U.S.C. § 2245.
 - (vii) Sexual exploitation of children as defined in 18 U.S.C. § 2251.
 - (viii) Selling or buying of children as defined in 18 U.S.C. § 2251A.
 - (ix) Material involving the sexual exploitation of minors as defined in 18 U.S.C. § 2252.
 - (x) Material containing child pornography as defined in 18 U.S.C. § 2252A.
 - (xi) Production of sexually explicit depictions of a minor for import into the United States as defined in 18 U.S.C. § 2260.
 - (xii) Transportation of a minor for illegal sexual activity as defined in 18 U.S.C. § 2421.
 - (xiii) Coercion and enticement of a minor for illegal sexual activity as defined in 18 U.S.C. § 2422.
 - (xiv) Transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, and engaging in illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423.
 - (xv) Transmitting information about a minor to further criminal sexual conduct as defined in 18 U.S.C. § 2425.

(xvi) Trafficking in persons as defined in 18 U.S.C. sections 2251-2252(a), 2260, or 2421-2423 if the violation included sexual abuse, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse.

(O) An attempt to commit any offense listed in this subdivision (a)(1).

(2) Sex offenders who have at least one prior conviction for an offense described in subdivision 5401(10) of this subchapter.

(3) Sex offenders who have failed to comply with sex offender registration requirements and for whose arrest there is an outstanding warrant for such noncompliance. Information on offenders shall remain on the Internet only while the warrant is outstanding.

(4) Sex offenders who have been designated as sexual predators pursuant to section 5405 of this title.

(5)(A) Sex offenders who have not complied with sex offender treatment recommended by the department of corrections or who are ineligible for sex offender treatment. The department of corrections shall establish rules for the administration of this subdivision and shall specify what circumstances constitute noncompliance with treatment and criteria for ineligibility to participate in treatment. Offenders subject to this provision shall have the right to appeal the department of corrections' determination in superior court in accordance with Rule 75 of the Vermont Rules of Civil Procedure. This subdivision shall apply prospectively and shall not apply to those sex offenders who did not comply with treatment or were ineligible for treatment prior to March 1, 2005.

(B) The department of corrections shall notify the department if a sex offender who is compliant with sex offender treatment completes his or her sentence but has not completed sex offender treatment. As long as the offender complies with treatment, the offender shall not be considered noncompliant under this subdivision and shall not be placed on the Internet registry in accordance with this subdivision alone. However, the offender shall submit to the department proof of continuing treatment compliance every three months. Proof of compliance shall be a form provided by the department that the offender's treatment provider shall sign, attesting to the offender's continuing compliance with recommended treatment. Failure to submit such proof as required under this subdivision (B) shall result in the offender's placement on the Internet registry in accordance with subdivision (A) of this subdivision (5).

(6) Sex offenders who have been designated by the department of corrections, pursuant to section 5411b of this title, as high-risk.

(7) A person 18 years of age or older who resides in this state, other than in a correctional facility, and who is currently or, prior to taking up residence within this state was required to register as a sex offender in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court; except that, for purposes of this subdivision:

(A) conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old; and

(B) information shall be posted electronically only if the offense for which the person was required to register in the other jurisdiction was:

- (i) a felony; or
- (ii) a misdemeanor punishable by more than six months of imprisonment.

4.2 INFORMATION TO BE POSTED

The following information regarding the sex offender will be posted on the Internet site:

- (1) the offender's name and any known aliases;
- (2) the offender's date of birth;
- (3) a general physical description of the offender;
- (4) a digital photograph of the offender;
- (5) the offender's town of residence;
- (6) the date and nature of the offender's conviction;
- (7) if the offender is under the supervision of the department of corrections, the name and telephone number of the local department of corrections office in charge of monitoring the sex offender;
- (8) whether the offender complied with treatment recommended by the department of corrections;
- (9) a statement that there is an outstanding warrant for the offender's arrest, if applicable;
- (10) the reason for which the offender information is accessible under this section;
- (11) whether the offender has been designated high-risk by the department of corrections pursuant to section 5411b of this title; and
- (12) if the offender has not been subject to a risk assessment, a statement that the offender has not been so assessed and that such a person is presumed to be high risk, provided that the department of corrections shall permit a person subject to this subdivision to obtain a risk assessment at the person's own expense.

4.3 HOW TO SEARCH

This information shall be organized and available to search by the offender's name and county of residence only.

4.4 DIGITAL PHOTOGRAPH

A current digital photograph must be obtained at a law enforcement agency as specified by the VCIC within 30 days of a request from the VCIC. It must be of acceptable quality to the VCIC and must be updated and provided to the VCIC by the registrant every year as part of the annual verification process. A sex offender's failure to comply with this section will subject a sex offender to prosecution for failure to register.

4.5 USER ACKNOWLEDGEMENT

Users are required to acknowledge that he or she has read the disclaimer found at 13 VSA § 5411a(h)

4.6 VICTIM NOTIFICATION

A registered victim will be notified by the VCIC as soon as practicable if the sex offender who victimized the registered victim is posted on the web site. Information provided shall include the date of web site posting; the reason for posting; the name and telephone number of the local department of corrections office in charge of monitoring the sex offender if the offender is under the supervision of the department of corrections; and a contact name and phone number at the Sex Offender Registry if the offender is no longer under the supervision of the department of corrections.

4.7 TERMINATION OF WEB SITE POSTING

a. A registrant who is posted on the Vermont Sex Offender Registry Web Site shall be removed as soon as practicable of verification by the VCIC of the following:

- i. An outstanding warrant issued for failure to register has been cancelled.
- ii. A qualifying conviction has been expunged, reversed, or dismissed.
- iii. The offender has been pardoned.
- iv. The qualifying risk level has changed.
- v. Death of the offender.
- vi. The VCIC has verified pursuant to 3.9c that the offender has moved out of state.
- vii. Upon 10 years from the date of discharge from DOC, except for persons subject to lifetime registration pursuant to 13 V.S.A. § 5407(f).

SECTION 5: ADMINISTRATIVE REVIEW PROCESS FOR REGISTRY OR WEB SITE POSTING

5.1 ADMINISTRATIVE REVIEW

An individual who believes that he or she is improperly on the sex offender registry or on the Vermont Sex Offender Registry Web Site, or who believes that incorrect information is included in the registry or on the Vermont Sex Offender Registry Web Site may request an Administrative Review by contacting the Director in writing. The Director, or his or her designee, in cooperation with DOC, shall investigate the alleged discrepancy within 3 business days of receipt of notification. The Director is limited to correcting clerical errors, reviewing orders from the Court, confirming the identity of registrants and researching matters of law.

5.2 CORRECTIONS

A registry requirement found to be invalid or incorrect will be corrected as soon as practicable after discovery. The registrant will be notified by mail that his or her appeal has been successful. If the appeal results in removal from either the registry or the Vermont Sex Offender Registry Web Site, the individual shall be removed as soon as practicable. The

VCIC will notify the appropriate law enforcement agencies, DOC and a registered victim that the individual has been removed from the registry or the Web Site.

5.3 INVALID CHALLENGE NOTIFICATION

The Director shall notify in writing any person whose challenge has been determined to be invalid as a result of an investigation. Such notice shall advise the individual that no apparent error exists and will provide an explanation for the decision. The notice shall include information that the decision may be appealed to the Commissioner of Public Safety.

5.4 APPEAL FROM CHALLENGE

An appeal to the Commissioner shall be initiated by written notice, indicating in the appeal that the Director has found the challenge to be invalid. The Commissioner's decision, which shall issue within 30 days of receipt of the written appeal, will not be set aside absent court order.

SECTION 6: SEXUALLY VIOLENT PREDATORS

6.1 NOTIFICATION BY THE COURT

The Court will notify the VCIC in writing when a person has been designated a Sexually Violent Predator. Notification will be made within 10 days of the determination by the Court.

6.2 REPORTING REQUIREMENTS

Sexually violent predators must verify their address, employment, college enrollment and college employment status every 90 days.

6.3 TERMINATION OF SEXUALLY VIOLENT PREDATOR STATUS

In the event that a registrant's Sexually Violent Predator designation is removed, the court will send the termination order to the VCIC within 10 days of the ruling.

SECTION 7: NOTIFICATION TO VICTIM SURVIVORS

7.1 VICTIM REGISTRATION

If the victim of a defendant registered with the Registry wishes to be notified of the current address, place of employment, college enrollment or college employment, Web Site posting or termination of Registry requirements of that defendant/registrant, the victim may make such a request using the victim notification form provided by the Center for Crime Victims Services or a victim's advocate. The victim must include in the request the registrant's name, the date of prosecution, the court where the case was prosecuted and the charge from the case in which the victim was involved.

7.2 NOTIFICATION OF CHANGES

Whenever an offender changes their address, employment, or college enrollment or college employment status, Web Site status or Registry status, and the victim is registered with the VCIC to receive Registry information, the VCIC will notify the victim in writing or electronically as soon as practicable as to the registrant's new address, employment or college enrollment, college employment status, Web Site status or Registry status.

SECTION 8: NOTIFICATION TO LOCAL LAW ENFORCEMENT

Whenever a registrant establishes residence, employment, or college enrollment or college employment in a jurisdiction or thereafter changes their address, employment, college enrollment or college employment status, the VCIC will notify the local law enforcement agency with jurisdiction over the registrant in writing as to the registrant's address, employment, and/or college enrollment or college employment status information. The notification will include the following:

- a) the registrant's name,
- b) a general physical description,
- c) date of birth,
- d) home address,
- e) the nature of the offense,
- f) date of conviction
- g) the sentence received,
- h) current employment,
- i) any postsecondary education institution,
- j) date of registration,
- k) town of residence,
- l) name and telephone number of local DOC office who is supervising the registrant,
- m) warrant status,
- n) whether the person completed treatment,
- o) any aliases,
- p) other identifying information,
- q) internet status,
- r) sexually violent predator status,
- s) risk designation, and;
- t) the fact that the registry has on file additional information, including the registrant's photograph and fingerprints.

If appropriate, the VCIC will mail a copy of this notification to the local law enforcement agency where the registrant formerly resided, was employed, or attended college or was

employed at a college. The VCIC may make mapping capability exclusively available to law enforcement regarding an offenders' residence, place of employment, or college enrollment or college employment.

SECTION 9: NOTIFICATION TO THE PUBLIC

The Department will post general information regarding the Registry and how the public may access Registry information on the Department's web site.

9.1 INTERNET POSTING

With the advent of the publically available Vermont Sex Offender Internet Site, the following information regarding qualifying offenders is available on a 24-hours-a-day basis:

- i. Name
- ii. Date of birth
- iii. General physical description
- iv. Up to date photo if available
- v. City and county of residence
- vi. Date and nature of offense.
- vii. Reason for posting on the internet
- viii. Whether or not the offender has complied with treatment requirements
- ix. Whether or not there is an outstanding warrant for the offender for violation of Registry requirements

The above information regarding individuals on the Internet Site may be released by any authorized agency at any time based upon a query from the community.

9.2 COMMUNITY INQUIRY

Requests from the public with regards to registered offenders not listed on the Internet Site can be made to a law enforcement agency or the VCIC in person, in writing, or by telephone. The requestor shall be informed that state statute requires that the requestor provide the name of a subject as the basis for the query. Queries to law enforcement agencies or the VCIC may not be done by address, town, or county.

The requestors shall be informed that state law requires all SOR calls to be logged. The requestor shall be advised that they will be asked for identification information and this information will be stored in a confidential database at the VCIC. The requestor will be advised that their identity will be verified by comparing the information they provide with driver's license and non-driver's identification information on file at the Department of Motor Vehicles. In the event that a requestor cannot provide a driver's license or a non-driver's identification, the VCIC may use alternative methods to verify their identity. These alternative methods may include a request to appear in person.

If the driver's license or non-driver's license identification information provided by the requestor matches the Department of Motor Vehicle information, the law enforcement agency or the VCIC shall release only the following registry information if:

- a. a requester can articulate a concern about the behavior of a specific person regarding the requestor's personal safety, or the safety of another; OR
- b. the requester has reason to believe that a specific person may be a registered sex

offender AND can articulate a concern regarding the requestor's personal safety or the safety of another:

Name

General physical description

Date of Birth

Date and nature of offense

Whether or not the offender has complied with treatment requirements

Whether or not there is an outstanding warrant for the offender for violation of Registry requirements

9.3 REQUESTOR'S LOG

The department and law enforcement agencies shall keep a log of requests for registry information. The log shall include the following information regarding the requestor:

- a. name;
- b. address;
- c. telephone number;
- d. date of birth;
- e. name of the person for whom the request was made;
- f. reason for the request;
- g. date of request, and;
- h. driver's license number.

Information about requestors shall be maintained at the VCIC, is confidential and shall only be accessible to criminal justice agencies.

9.4 ACTIVE COMMUNITY NOTIFICATION OF OFFENDERS ON PUBLIC INTERNET SITE

Active community notification by authorized law enforcement agencies is not required by law, regardless of an offender's status with regards to the public internet registry.

For offenders listed on the public internet registry law enforcement agencies may notify members of the public through targeted or broader community notification. Law enforcement agencies may also conduct broader community notification beyond persons who are likely to encounter a sex offender through outlets such as local media or town notification protocols.

9.5 ACTIVE COMMUNITY NOTIFICATION OF OFFENDERS NOT ON PUBLIC INTERNET SITE

For offenders not listed on the public internet registry law enforcement may also conduct targeted or community-wide notification but only under circumstances which constitute a compelling risk to public safety and only after consultation with VCIC and the Department of Corrections.

DOC shall notify the department, 4 weeks prior to the scheduled release date of an offender who poses a high risk to re-offend. DOC and the department will consult and evaluate whether the release of the offender constitutes a compelling risk to public safety. If it is determined that a particular offender merits proactive notification to the community, DOC shall notify the law enforcement agency which has jurisdiction over the area to which the offender will be released not less than two weeks prior to release. The notification will include the reason(s) that the offender constitutes a compelling risk to public safety and the fact that DOC and the VCIC have been consulted. This notice shall constitute the consultation as specified in statute.

The Department, DOC, any authorized local law enforcement agency and their employees shall be immune from liability in carrying out community notification except in instances of gross negligence or willful misconduct, provided that the agencies complied with the Sex Offender Rules and Regulations.

SECTION 10: NATIONAL SEX OFFENDER REGISTRY

The VCIC shall enter registrants into the National Sex Offender Registry in accordance with federal law. 13 V.S.A. §§ 5402 (c), 5411a (k)