

West's Vermont Statutes Annotated

Title Thirteen. Crimes and Criminal Procedure

Part 2. Criminal Procedure Generally

Chapter 167. Crime Victims

Subchapter 3. Sex Offender Registration; Law Enforcement Notification

THIRTEEN V.S.A. Pt. 2, Ch. 167, Subch. 3, Refs & Annos

Currentness

THIRTEEN V.S.A. Pt. 2, Ch. 167, Subch. 3, Refs & Annos, VT ST T. THIRTEEN, Pt. 2, Ch. 167, Subch. 3, Refs & Annos
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Title Thirteen. Crimes and Criminal Procedure (Refs & Annos)

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Chapter 167. Crime Victims (Refs & Annos)

Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5401

§ 5401. Definitions

Currentness

As used in this subchapter:

- (1) “Address” means the actual location of the sex offender’s dwelling, including the street address, if any.
- (2) “Department” means the Department of Public Safety.
- (3) “Local law enforcement agency” means 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.
- (4) “Mental abnormality” means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes the person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.
- (5) “Minor” means a person under the age of 18 years.
- (6) “Personality disorder” means a condition where a person exhibits personality traits that are inflexible and maladaptive and cause either significant functional impairment or subjective distress.
- (7) “Predatory” means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.
- (8) “Release” means 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 shall also mean probation or parole supervision of an out-of-state sex offender under an interstate agreement or compact.
- (9) “Registry” means the Sex Offender Registry maintained by the Department of Public Safety.

(10) “Sex offender” means:

(A) 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 section 3252 of this title;
- (ii) aggravated sexual assault as defined in section 3253 of this title;
- (iii) lewd and lascivious conduct as defined in section 2601 of this title;
- (iv) sexual abuse of a vulnerable adult as defined in section 1379 of this title;
- (v) second or subsequent conviction for voyeurism as defined in subsection 2605(b) or (c) of this title;
- (vi) kidnapping with intent to commit sexual assault as defined in subdivision 2405(a)(1)(D) of this title;
- (vii) aggravated sexual assault of a child in violation of section 3253a of this title;
- (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;
- (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; and
- (xi) an attempt to commit any offense listed in this subdivision (A).
- (B) 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 that 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 in subdivision (A) of this subdivision (10);
 - (ii) kidnapping as defined in subdivision 2405(a)(1)(D) of this title;
 - (iii) lewd and lascivious conduct with a child as defined in section 2602 of this title;
 - (iv) slave traffic as defined in section 2635 of this title;

- (v) sexual exploitation of children as defined in chapter 64 of this title;
- (vi) procurement or solicitation as defined in subdivision 2632(a)(6) of this title;
- (vii) aggravated sexual assault of a child as defined in section 3253a of this title;
- (viii) sex trafficking of children or sex trafficking by force, fraud, or coercion as defined in section 2652 of this title;
- (ix) sexual exploitation of a minor as defined in section 3258 of this title;
- (x) an attempt to commit any offense listed in this subdivision (B).

(C) 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.

(D) 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 that 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.

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

(11) “Sexually violent offense” means sexual assault or aggravated sexual assault, as described in sections 3252 and 3253 of this title, 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.

(12) “Sexually violent predator” means a person who is a sex offender, who has been convicted of a sexually violent offense, as defined in subdivision (11) of this section, and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(13) “Employed, carries on a vocation” includes 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.

(14) “Student” means a person who is enrolled on a full-time 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.

(15)(A) “Conviction” means 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.

(B) A sex offender whose sentence is deferred shall have no duty to register unless:

(i) the offender violates the terms of the deferred sentence agreement and is sentenced on the conviction, in which case the offender's name shall remain on the Registry for the period of time required by subsection 5407(e) or (f) of this title; or

(ii) the court finds that the interests of justice warrant placing the offender's name on the Registry while the sentence is deferred, in which case the offender's name shall be removed from the Registry upon his or her successful completion of the deferred sentence agreement.

(C) A sex offender treated as a youthful offender pursuant to 33 V.S.A. chapter 52A shall have no duty to register unless the offender's youthful offender status is revoked and he or she is sentenced for the offense in the Criminal Division of Superior Court.

(16) “Risk” means the degree of dangerousness that a sex offender poses to others. “High-risk” means a high degree of dangerousness that a sex offender poses to others. Dangerousness includes the probability of a sexual reoffense.

Credits

1995, Adj. Sess., No. 124, § 1; 1997, No. 57, § 7; 2001, No. 49, § 2; 2003, Adj. Sess., No. 157, § 2; 2005, No. 79, § 5; 2005, No. 83, § 3; 2005, Adj. Sess., No. 192, § 24; 2009, No. 1, § 13b, eff. March 4, 2009; 2009, No. 58, § 6, eff. July 1, 2009; 2011, No. 31, § 1, eff. May 17, 2011; 2011, No. 55, § 9, eff. July 1, 2011; 2015, No. 31, § 1, eff. July 1, 2015; 2017, No. 15, § 1, eff. May 1, 2017; 2017, No. 72, § 1, eff. July 1, 2017.

13 V.S.A. § 5401, VT ST T. 13 § 5401

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Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5402

§ 5402. Sex Offender Registry

Currentness

(a) The Department of Public Safety shall establish and maintain a Sex Offender Registry, that shall consist of the information required to be filed under this subchapter.

(b) All information contained in the Registry may be disclosed for any purpose permitted under the law of this State, including use by:

(1) local, state, and federal law enforcement agencies exclusively for lawful law enforcement activities;

(2) state and federal governmental agencies for the exclusive purpose of conducting confidential background checks;

(3) any employer, including a school district, who is authorized by law to request records and information from the Vermont Criminal Information Center, where such disclosure is necessary to protect the public concerning persons required to register under this subchapter. The identity of a victim of an offense that requires registration shall not be released;

(4) 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. The identity of a victim of an offense that requires registration shall not be released; and

(5) probate courts for purposes of conducting checks on persons applying for changes of name under 15 V.S.A. § 811.

(c) The Departments of Corrections and of Public Safety shall adopt rules, forms and procedures under 3 V.S.A. chapter 25 to implement the provisions of this subchapter.

Credits

1995, Adj. Sess., No. 124, § 1; 1999, Adj. Sess., No. 152, § 78a; 2001, No. 49, § 3; 2009, No. 58, § 13, eff. July 1, 2009.

13 V.S.A. § 5402, VT ST T. 13 § 5402

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13 V.S.A. § 5403

§ 5403. Reporting to Department of Public Safety

Currentness

(a) Upon conviction and prior to sentencing, the court shall order the sex offender to provide the court with the following information, which the court shall forward to the Department forthwith:

- (1) name;
- (2) date of birth;
- (3) current address;
- (4) Social Security number;
- (5) current employment; and
- (6) name and address of any postsecondary educational institution at which the sex offender is enrolled as a student.

(b) Within 14 days after sentencing, the court shall forward to the Department:

- (1) the sex offender's conviction record, including offense, date of conviction, sentence, and any conditions of release or probation; and
- (2) an order issued pursuant to section 5405a of this title, on a form developed by the Court Administrator, that the defendant comply with Sex Offender Registry requirements.

(c) The Departments of Corrections and of Public Safety shall jointly develop a process for the Department of Corrections to notify the Department of Public Safety when an offender who is under Department of Corrections supervision is required to be placed on the Sex Offender Registry because of a conviction that occurred in another jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court. The report shall include the offense of which the defendant was convicted that requires the placement of his or her name on the Registry.

Credits

1995, Adj. Sess., No. 124, § 1; 2003, Adj. Sess., No. 157, § 3; 2015, No. 31, § 2, eff. July 1, 2015; 2017, No. 11, § 26, eff. July 1, 2017.

13 V.S.A. § 5403, VT ST T. 13 § 5403

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13 V.S.A. § 5404

§ 5404. Reporting upon release from confinement or supervision

Currentness

(a) Upon receiving a sex offender from the court on a probationary sentence or supervised community sentence and prior to releasing a sex offender from a correctional facility to serve probation, parole, furlough, or a supervised community sentence, the Department of Corrections shall forward to the Department the following information concerning the sex offender:

- (1) an update of the information listed in subsection 5403(a) of this title;
- (2) the address upon release and whether the offender will be living with a child under 18 years of age;
- (3) the name, address, and telephone number of the probation and parole office in charge of monitoring the sex offender; and
- (4) documentation of any treatment or counseling received.

(b) As part of planning for the release of a sex offender from a correctional facility to the community upon completion of the offender's maximum sentence, the Department of Corrections shall notify the offender of his or her obligation to report to the Department to register as a sex offender in compliance with section 5407 of this chapter prior to the offender's scheduled release date. The Department of Corrections shall assist the offender with registration as a sex offender and advise the offender that failure to register with the Department prior to release is a crime subject to section 5409 of this chapter.

(c) The Department of Corrections shall notify the Department of Public Safety within 24 hours of the time a sex offender changes his or her address or place of employment, or enrolls in or separates from any postsecondary educational institution, or begins residing with a child under 18 years of age. In addition, the Department of Corrections shall provide the Department with any updated information requested by the Department.

(d) With respect to a sex offender residing with a child under 18 years of age under circumstances enumerated in subsection (a) or (c) of this section, the Department of Corrections shall communicate with the Department for Children and Families. If placement in a home with a child is being considered by the Department of Corrections, the Department of Corrections shall notify the Department for Children and Families, and the departments shall work together to determine whether such a placement is appropriate. If the Department of Corrections does not have a role in the placement of the offender in the community, but knows the offender will be residing with a person under 18 years of age, the Department of Corrections shall notify the Department for Children and Families at least 24 hours prior to releasing the offender from confinement.

(e) The information required to be provided by subsection (a) of this section shall also be provided by the Department of Corrections to a sex offender's parole or probation officer within three days of the time a sex offender is placed on probation or parole by the court or the Parole Board.

(f) If it has not been previously submitted, upon receipt of the information to be provided to the Department pursuant to subsection (a) of this section, the Department shall immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

Credits

1995, Adj. Sess., No. 124, § 1; 2001, No. 49, § 4; 2003, Adj. Sess., No. 157, § 4; 2009, No. 1, § 14, eff. July 1, 2009; 2015, No. 1, § 1, eff. Feb. 25, 2015.

13 V.S.A. § 5404, VT ST T. 13 § 5404

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13 V.S.A. § 5405

§ 5405. Court determination of sexually violent predators

Currentness

(a) The General Assembly finds that some sexual offenders should be subject to increased sex offender registry and community notification procedures. It is the intent of the General Assembly that State's Attorneys utilize the provisions in this section to petition the court to designate those offenders who pose a greater risk to the public as sexually violent predators to ensure that those offenders will be required to register as sex offenders for life, and that they will be among those offenders who are included on the State's Internet Sex Offender Registry.

(b) Within 15 days after the conviction of a sex offender, the State may file a petition with the court requesting that the person be designated as a sexually violent predator.

(c) The determination of whether a person is a sexually violent predator shall be made by the court at the time of sentencing.

(d) The court shall order a presentence investigation that shall include a psychosexual evaluation of the offender.

(e) In making a determination of whether the person is a sexually violent predator, the court shall examine the following:

(1) the person's criminal history;

(2) any testimony presented at trial, including expert testimony as to the person's mental state;

(3) the person's history of treatment for a personality disorder or mental abnormality connected with his or her criminal sexual behavior;

(4) any mitigating evidence, including treatment history, evidence of modified behavior, or expert testimony, that the convicted sex offender wishes to provide to the court prior to the determination; and

(5) any other relevant evidence.

(f) The standard of proof when the court makes such a determination shall be clear and convincing evidence that the convicted sex offender suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(g) The court shall determine whether the offender was eligible to be charged as a habitual offender as provided in section 11 of this title or a violent career criminal as provided in section 11a of this title and shall make findings as to such.

(h) After making its determinations, the court shall issue a written decision explaining the reasons for its determinations and provide a copy of the decision to the Department within 14 days.

(i) A person who is determined to be a sexually violent predator shall be subject to sex offender lifetime registration and community notification and inclusion on the Internet Sex Offender Registry as provided in this subchapter.

Credits

1995, Adj. Sess., No. 124, § 1; 2001, No. 49, § 5; 2005, No. 79, § 8; 2017, No. 11, § 27, eff. July 1, 2017.

13 V.S.A. § 5405, VT ST T. 13 § 5405

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13 V.S.A. § 5405a

§ 5405a. Court determination of Sex Offender Registry requirements

Currentness

(a)(1) The court shall determine at sentencing whether Sex Offender Registry requirements apply to the defendant.

(2) If the State and the defendant do not agree as to the applicability of Sex Offender Registry requirements to the defendant, the State shall file a motion setting forth the Sex Offender Registry requirements applicable to the defendant within 14 days of the entry of a guilty plea. To the extent the defendant opposes the motion, the State and the defendant shall present evidence at the sentencing as to the applicability of Sex Offender Registry requirements to the defendant.

(b) The court shall consider the following when determining under this section whether Sex Offender Registry requirements apply to the defendant:

(1) the report issued pursuant to subsection 5403(c) of this title;

(2) the presentence investigation report regarding the offense for which the defendant is being sentenced;

(3) the court's own judgment of conviction and any evidence that was presented at trial; and

(4) any other evidence admitted at sentencing and deemed relevant by the court to the defendant's Registry status.

(c) The State shall bear the burden of proving by a preponderance of the evidence the applicability of Sex Offender Registry requirements to the defendant under this section.

(d) Within 14 days after the sentencing or the presentation of evidence pursuant to subdivision (a)(2) of this section, the court shall issue an order determining whether Sex Offender Registry requirements apply to the defendant. The order shall include:

(1) the offense of which the defendant was convicted that requires the placement of his or her name on the Sex Offender Registry;

(2) any prior convictions that affect:

- (A) the defendant's Sex Offender Registry Status;
 - (B) the length of time that the defendant is required to register as a sex offender; or
 - (C) whether information regarding the defendant is required to be electronically posted on the Internet under section 5411a of this title;
- (3) the length of time that the defendant is required to register as a sex offender;
- (4) whether the defendant is designated as a sexually violent predator under section 5405 of this title;
- (5) whether the defendant was immediately released or remanded to the custody of the Department of Corrections; and
- (6) whether information regarding the defendant is required to be electronically posted on the Internet under section 5411a of this title.

Credits

2015, No. 31, § 3, eff. July 1, 2015; 2017, No. 11, § 28, eff. July 1, 2017.

13 V.S.A. § 5405a, VT ST T. 13 § 5405a

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13 V.S.A. § 5406

§ 5406. Department of Corrections duty to provide notice

Currentness

Upon receiving a sex offender from the court on a probationary sentence or any alternative sentence under community supervision by the Department of Corrections, or upon the release of a sex offender from a correctional facility, the Department of Corrections shall do each of the following:

- (1) inform the sex offender of the duty to register and keep the registration current as provided in section 5407 of this title;
- (2) inform the sex offender that if the sex offender changes residence to another state, the sex offender shall notify the Department of the new address and shall also register with the designated law enforcement agency in the new state not later than three days after establishing residence in the new state, if the new state has a registration requirement;
- (3) require the sex offender to read and sign a form stating that the duty of the sex offender to register under this section has been explained and is understood. The registration form shall be sent to the Department without delay; and
- (4) inform the sex offender that if he or she crosses into another state for purposes of employment, carrying on a vocation, or being a student, the sex offender must notify the Department of the new address, and shall register with the designated law enforcement agency in the other state, if the other state has a registration requirement.

Credits

1995, Adj. Sess., No. 124, § 1; 2001, No. 49, § 6.

13 V.S.A. § 5406, VT ST T. 13 § 5406

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13 V.S.A. § 5407

§ 5407. Sex offender's responsibility to report

Currentness

(a) Except as provided in section 5411d of this title, a sex offender shall report to the Department as follows:

(1) if convicted of a registry offense in another state, within 10 days after either establishing residence in this State or crossing into this State for purposes of employment, carrying on a vocation, or being a student, the sex offender shall provide the information listed in subsection 5403(a) of this title;

(2) annually within 10 days after the registrant's birthday, or if a person is determined to be a sexually violent predator, that person shall report to the Department every 90 days;

(3) within three days after any change of address, or if a person is designated as a high-risk sex offender pursuant to section 5411b of this title, that person shall report to the Department within 36 hours, and shall report whether a child under the age of 18 resides at such address;

(4) within three days after the registrant enrolls in or separates from any postsecondary educational institution;

(5) within three days after any change in place of employment;

(6) within three days of any name change;

(7) within three days of a child under 18 years of age moving into the residence of the registrant;

(8) within 24 hours of being released from probation, parole, furlough, or a supervised community sentence; and

(9) prior to the offender's scheduled release date from a correctional facility to the community and if the offender is not subject to probation, furlough, or a community sentence upon release that requires supervision by the Department of Corrections.

(b) If a sex offender changes residence to another state, or crosses into another state for purposes of employment, carrying on a vocation, or being a student, the sex offender shall notify the Department of the new address and shall also register with the

designated law enforcement agency in the new state not later than three days after establishing residence in the new state, if the new state has a registration requirement.

(c) Upon a sex offender's change of residence to another state, the Department shall immediately notify the designated law enforcement agency in the new state, if the new state has a registration requirement.

(d) The report required by this section shall include the information required by sections 5403 and 5404 of this chapter.

(e) Except as provided for in subsection (f) of this section, a person required to register as a sex offender under this subchapter 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.

(f) 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, or a comparable offense in another jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court; 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 of age 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.

(g) The Department shall adopt forms and procedures for the purpose of verifying the addresses of persons required to register under this subchapter in accordance with the requirements set forth in Section (b)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.¹ Every 90 days for sexually violent predators and annually for other registrants, the Department shall verify addresses of registrants by sending a nonforwardable address verification form to each registrant at the address last reported by the registrant. The registrant shall be required to sign and return the form to the Department within 10 days of receipt. If the registrant's name appears on the list of address verification forms automatically generated by the Registry, it shall be deemed that the sex offender has received that form.

(h) A registrant who has no permanent address shall report to the Department to notify it as to his or her temporary residence. Temporary residence, for purposes of this section, need not include an actual dwelling or numbered street address, but shall identify a specific location. A registrant shall not be required to check in daily if he or she makes acceptable other arrangements

with the Department to keep his or her information current. The Department may enter into an agreement with a local law enforcement agency to perform this function, but shall maintain responsibility for compliance with this subsection.

- (i) If the Department is notified by an offender that he or she is living with a child under the age of 18, the Department shall notify the Department for Children and Families within three days.

Credits

1995, Adj. Sess., No. 124, § 1; 2001, No. 49, § 7; 2003, Adj. Sess., No. 157, § 5; 2005, Adj. Sess., No. 192, § 25; 2007, No. 77, § 7, eff. June 7, 2007; 2009, No. 1, § 15, eff. July 1, 2009; 2009, No. 58, § 7, eff. July 1, 2009; 2015, No. 1, § 2, eff. Feb. 25, 2015; 2015, No. 31, § 4, eff. July 1, 2015.

Footnotes

1 42 U.S.C.A. § 14071.

13 V.S.A. § 5407, VT ST T. 13 § 5407

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West's Vermont Statutes Annotated

Title Thirteen. Crimes and Criminal Procedure (Refs & Annos)

Part 2. Criminal Procedure Generally

Chapter 167. Crime Victims (Refs & Annos)

Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5408

§ 5408. Record of addresses; arrest warrant

Currentness

The Department shall maintain a record of the addresses of all sex offenders. The record shall be updated at least every three months. At any time, if the Department is unable to verify the whereabouts and address of a sex offender subject to this subchapter, it shall immediately notify the local law enforcement agency in writing that the sex offender's whereabouts are unknown. The Department shall also send a copy of the notification to the State's Attorney of the county in which the sex offender's most recent address is located.

Credits

1995, Adj. Sess., No. 124, § 1; 2005, Adj. Sess., No. 192, § 21.

13 V.S.A. § 5408, VT ST T. 13 § 5408

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Chapter 167. Crime Victims (Refs & Annos)

Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5409

§ 5409. Penalties

Currentness

(a) Except as provided in subsection (b) of this section, a sex offender who knowingly fails to comply with any provision of this subchapter shall:

(1) Be imprisoned for not more than two years or fined not more than \$1,000.00, or both. A sentence imposed under this subdivision shall run consecutively to any sentence being served by the sex offender at the time of sentencing.

(2) For the second or subsequent offense, be imprisoned not more than three years or fined not more than \$5,000.00, or both. A sentence imposed under this subdivision shall run consecutively to any sentence being served by the sex offender at the time of sentencing.

(b) A sex offender who knowingly fails to comply with any provision of this subchapter for a period of more than five consecutive days shall be imprisoned not more than five years or fined not more than \$5,000.00, or both. A sentence imposed under this subsection shall run consecutively to any sentence being served by the sex offender at the time of sentencing.

(c) It shall be presumed that every sex offender knows and understands his or her obligations under this subchapter.

(d)(1) An affidavit by the administrator of the Sex Offender Registry that describes the failure to comply with the provisions of this subchapter shall be prima facie evidence of a violation of this subchapter.

(2) Certified records of the sex offender registry shall be admissible into evidence as business records.

Credits

1995, Adj. Sess., No. 124, § 1; 2001, No. 49, § 8; 2005, Adj. Sess., No. 192, § 22; 2009, No. 58, § 8, eff. July 1, 2009.

13 V.S.A. § 5409, VT ST T. 13 § 5409

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Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5410

§ 5410. Victim notification

Currentness

If requested by a victim, the Department shall promptly notify the victim of the initial registration of a sex offender and any time the sex offender changes address, where such disclosure is necessary to protect the victim or the public concerning a person required to register under this subchapter.

Credits

1995, Adj. Sess., No. 124, § 1.

13 V.S.A. § 5410, VT ST T. 13 § 5410

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Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5411

§ 5411. Notification to local law enforcement and local community

Currentness

(a) Upon receiving a sex offender's registration materials from the Department of Corrections, notification that a nonresident sex offender has crossed into Vermont for the purpose of employment, carrying on a vocation, or being a student, or a sex offender's release or change of address, including changes of address that involve taking up residence in this State, the Department shall immediately notify the local law enforcement agency of the following information, which may be used only for lawful law enforcement activities:

(1) name;

(2) general physical description;

(3) nature of offense;

(4) sentence;

(5) the fact that the Registry has on file additional information, including the sex offender's photograph and fingerprints;

(6) current employment;

(7) name and address of any postsecondary educational institution at which the sex offender is enrolled as a student; and

(8) whether the offender complied with treatment recommended by the Department of Corrections.

(b)(1) Except as provided for in subsections (c) and (e) of this section, the Department, the Department of Corrections, and any authorized local law enforcement agency shall release Registry information concerning persons required to register under State law if the requestor can articulate a concern about the behavior of a specific person regarding the requestor's personal safety or the safety of another, or the requestor 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. However, the identity of a victim of an offense shall not be released.

(2) The Department, the Department of Corrections, and any authorized local law enforcement agency shall release the following Registry information if the requestor meets the requirements in subdivision (1) of this subsection:

- (A) a general physical description of the offender;
- (B) date of birth;
- (C) the date and nature of the offense;
- (D) whether the offender complied with treatment recommended by the Department of Corrections; and
- (E) whether there is an outstanding warrant for the offender's arrest.

(c)(1) Except as provided for in subsection (e) of this section, upon request of a member of the public about a specific person, the Department, the Department of Corrections, and any authorized local law enforcement agency shall release Registry information on sex offenders whose information is required to be posted on the Internet in accordance with section 5411a of this title.

(2) The Department, the Department of Corrections, and any authorized local law enforcement agency shall release the following Registry information to a requestor in accordance with subdivision (1) of this subsection:

- (A) the offender's known aliases;
- (B) the offender's date of birth;
- (C) a general physical description of the offender;
- (D) the offender's town of residence;
- (E) the date and nature of the offender's conviction;
- (F) 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 offender;
- (G) whether the offender complied with treatment recommended by the Department of Corrections;
- (H) whether there is an outstanding warrant for the offender's arrest; and

- (I) the reason for which the offender information is accessible under subdivision (1) of this subsection.
- (3)(A) The Department, the Department of Corrections, and any authorized local law enforcement agency may, at the discretion of an authorized law enforcement officer, release the current address of an offender listed in subdivision (1) of this subsection if the requestor can articulate a concern regarding the requestor's personal safety or the safety of another, and the requirements of subsection (d) of this section have been satisfied.
- (B) For purposes of this subdivision, "authorized law enforcement officer" means a sheriff, a chief of police, the Commissioner of Public Safety, the State's Attorney of Essex County, or a designee. The designee shall be a certified law enforcement officer whose authority is granted or given by the sheriff, chief of police, Commissioner of Public Safety, or State's Attorney of Essex County, either through explicit order or Department policy.
- (d) The Department, the Department of Corrections, and any local law enforcement agency authorized to release Registry information shall keep a log of requests for registry information and follow the procedure for verification of the requestor's identity recommended by the Department. Such log shall include the requestor's name, address, telephone number, the name of the person for whom the request was made, the reason for the request, and the date of the request. Information about requestors shall be confidential and shall only be accessible to criminal justice agencies.
- (e) After 10 years have elapsed from the completion of the sentence, a person required to register as a sex offender for life pursuant to section 5407 of this title who is not designated as a noncompliant high-risk sex offender pursuant to section 5411d of this title may petition the Criminal Division of the Superior Court for a termination of community notification, including the Internet. The State shall make a reasonable attempt to notify the victim of the proceeding, and consider victim testimony regarding the petition. If the registrant was convicted of a crime that requires lifetime registration, there shall be a rebuttable presumption that the person is a high-risk sex offender. Should the registrant present evidence that he or she is not a high-risk offender, the State shall have the burden of proof to establish by a preponderance of the evidence that the person remains a high risk to reoffend. The court shall consider whether the offender has successfully completed sex offender treatment. The court may require the offender to submit to a psychosexual evaluation. If the court finds that there is a high risk of reoffense, notification shall continue. The Vermont Rules of Civil Procedure shall apply to these proceedings. A lifetime registrant may petition the court to be removed from community notification requirements once every 60 months. The presumption under this section that a lifetime registrant is a high-risk offender shall not automatically subject the offender to increased public access to his or her status as a sex offender and related information under subdivision (c)(1) of this section or section 5411a of this title.
- (f) Registry information shall not be released under this section unless it is released pursuant to written protocols governing the manner and circumstances of the release developed by the Department, the Department of Corrections, or an authorized law enforcement agency. The protocols shall include consultation between the department or agency releasing the information and the Department of Corrections' staff member responsible for supervising the offender.

Credits

1995, Adj. Sess., No. 124, § 1; 1999, Adj. Sess., No. 152, § 78b; 2001, No. 49, § 9; 2003, Adj. Sess., No. 157, § 6; 2005, Adj. Sess., No. 192, §§ 23, 26, 31; 2007, No. 77, § 8, eff. June 7, 2007; 2009, Adj. Sess., No. 154, § 238(b)(7), eff. July 1, 2010.

13 V.S.A. § 5411, VT ST T. 13 § 5411

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Title Thirteen. Crimes and Criminal Procedure (Refs & Annos)

Part 2. Criminal Procedure Generally

Chapter 167. Crime Victims (Refs & Annos)

Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5411a

§ 5411a. Electronic posting of the Sex Offender Registry

Currentness

<Text of section effective until fulfillment of the conditions specified in 2015,
No. 31, § 9(b). See also, text of section effective upon fulfillment of conditions.>

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the Department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon the offender's release from confinement or, if the offender was not subject to confinement, upon the offender's sentencing:

(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 that 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.

(b) The Department shall electronically post the following information on sex offenders designated in subsection (a) of this section:

(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.
- (c) The Department shall have the authority to take necessary steps to obtain digital photographs of offenders whose information is required to be posted on the Internet and to update photographs as necessary. An offender shall annually report to the Department or a local law enforcement agency for the purpose of being photographed for the Internet.
- (d) An offender's street address shall not be posted electronically. The identity of a victim of an offense that requires registration shall not be released.
- (e) Information regarding a sex offender shall not be posted electronically if the conduct that is the basis for the offense is criminal only because of the age of the victim and the perpetrator is within 38 months of age of the victim.
- (f) Information regarding a sex offender shall not be posted electronically prior to the offender reaching 18 years of age, but such information shall be otherwise available pursuant to section 5411 of this title.
- (g) Information on sex offenders shall be posted on the Internet for the duration of time for which they are subject to notification requirements under section 5401 et seq. of this title.
- (h) Posting of the information shall include the following language: "This information is made available for the purpose of complying with 13 V.S.A. § 5401 et seq., which requires the Department of Public Safety to establish and maintain a Registry of persons who are required to register as sex offenders and to post electronically information on sex offenders. The Registry is based on the Legislature's decision to facilitate access to publicly available information about persons convicted of sexual offenses. EXCEPT FOR OFFENDERS SPECIFICALLY DESIGNATED ON THIS SITE AS HIGH-RISK, THE DEPARTMENT OF PUBLIC SAFETY HAS NOT CONSIDERED OR ASSESSED THE SPECIFIC RISK OF REOFFENSE WITH REGARD TO ANY INDIVIDUAL PRIOR TO HIS OR HER INCLUSION WITHIN THIS REGISTRY AND HAS MADE NO DETERMINATION THAT ANY INDIVIDUAL INCLUDED IN THE REGISTRY IS CURRENTLY DANGEROUS. THE MAIN PURPOSE OF PROVIDING THIS DATA ON THE INTERNET IS TO MAKE INFORMATION MORE EASILY AVAILABLE AND ACCESSIBLE, NOT TO WARN ABOUT ANY SPECIFIC INDIVIDUAL. IF YOU HAVE QUESTIONS OR CONCERNS ABOUT A PERSON WHO IS NOT LISTED ON THIS SITE OR YOU HAVE QUESTIONS ABOUT SEX OFFENDER INFORMATION LISTED ON THIS SITE, PLEASE CONTACT THE DEPARTMENT OF PUBLIC SAFETY OR YOUR LOCAL LAW ENFORCEMENT AGENCY. PLEASE BE AWARE THAT MANY NONOFFENDERS SHARE A NAME WITH A REGISTERED SEX OFFENDER. Any person who uses information in this Registry to injure, harass, or commit a criminal offense against any person included in the Registry or any other person is subject to criminal prosecution."
- (i) The Department shall post electronically general information about the Sex Offender Registry and how the public may access Registry information. Electronically posted information regarding sex offenders listed in subsection (a) of this section shall be organized and available to search by the sex offender's name and the sex offender's county, city, or town of residence.

(j) The Department shall adopt rules for the administration of this section and shall expedite the process for the adoption of such rules. The Department shall not implement this section prior to the adoption of such rules.

(k) If a sex offender's information is required to be posted electronically pursuant to subdivision (a)(2) of this section, the Department shall list the offender's convictions for any crime listed in subdivision 5401(10) of this title, regardless of the date of the conviction or whether the offender was required to register as a sex offender based upon that conviction.

(l) A sex offender's street address shall not be posted electronically if the offender has a developmental disability, receives funding from the Department of Disabilities, Aging, and Independent Living (DAIL) for 24-hour supervision and treatment, and resides in a residence that is equipped with alarms. However, this information shall be otherwise available pursuant to this section. An agency designated pursuant to 18 V.S.A. § 8907 to provide mental health and developmental disability services (DA), or a specialized service agency (SSA) operating under an agreement entered into pursuant to 18 V.S.A. § 8912 that is providing supervision for the offender shall immediately notify the administrator of the Sex Offender Registry and local law enforcement if the individual's level of supervision is decreased from 24 hours or if the offender leaves his or her residence without authorization, and thereafter this subsection shall cease to apply to that offender. If after notice and hearing, the Commissioner of DAIL finds that the DA or SSA has failed to notify the administrator of the Sex Offender Registry and local law enforcement of a decrease from 24-hour supervision or absence without authorization by the offender within 24 hours of the change in status, the Commissioner may impose an administrative penalty of not more than \$1,000.00 for each day of the violation. A DA or SSA shall have the right to a de novo appeal of a decision under this subsection pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(m) Information regarding a sex offender whose sentence is deferred shall not be posted electronically unless the offender violates the terms of the deferred sentence agreement and is sentenced on the conviction.

Credits

2003, Adj. Sess., No. 157, § 7; 2005, No. 83, § 13; 2005, Adj. Sess., No. 192, § 29; 2007, No. 77, § 9, eff. June 7, 2007; 2009, No. 58, § 9, eff. July 1, 2009; 2009, Adj. Sess., No. 66, §§ 2, 3, eff. Feb. 24, 2010; 2009, Adj. Sess., No. 157, § 3, eff. July 1, 2010; 2011, No. 31, § 2, eff. May 17, 2011; 2011, No. 55, § 10, eff. July 1, 2011; 2015, Adj. Sess., No. 133, § 4, eff. May 25, 2016; 2017, No. 15, § 2, eff. May 1, 2017.

13 V.S.A. § 5411a, VT ST T. 13 § 5411a

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Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5411a

§ 5411a. Electronic posting of the Sex Offender Registry

Currentness

<Text of section effective contingent upon fulfillment of the conditions specified in 2015, No. 31, § 9(b). See also, text of section effective until contingency met.>

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the Department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon the offender's release from confinement or, if the offender was not subject to confinement, upon the offender's sentencing:

(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 that 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.

(b) The Department shall electronically post the following information on sex offenders designated in subsection (a) of this section:

(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 offender's address or, if the offender does not have a fixed address, other information about where the offender habitually lives, if:

(A) the Department determines that all the information to be electronically posted about the offender is correct; and

(B)(i) the offender has been designated as high-risk by the Department of Corrections pursuant to section 5411b of this title;

(ii) the offender has not complied with sex offender treatment;

(iii) there is an outstanding warrant for the offender's arrest;

(iv) the offender is subject to the Registry for a conviction of a sex offense against a child under 13 years of age; or

(v) the offender's name has been electronically posted for an offense committed in another jurisdiction which required the person's address to be electronically posted in that jurisdiction;

(7) the date and nature of the offender's conviction;

(8) 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;

(9) whether the offender complied with treatment recommended by the Department of Corrections;

(10) a statement that there is an outstanding warrant for the offender's arrest, if applicable; and

(11) the reason for which the offender information is accessible under this section.

(12) whether the offender has been designated high risk by the Department of Corrections pursuant to section 5411b of this title; and

(13) 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.

(c) The Department shall have the authority to take necessary steps to obtain digital photographs of offenders whose information is required to be posted on the Internet and to update photographs as necessary. An offender shall annually report to the Department or a local law enforcement agency for the purpose of being photographed for the Internet.

(d) The identity of a victim of an offense that requires registration shall not be released.

(e) Information regarding a sex offender shall not be posted electronically if the conduct that is the basis for the offense is criminal only because of the age of the victim and the perpetrator is within 38 months of age of the victim.

(f) Information regarding a sex offender shall not be posted electronically prior to the offender reaching 18 years of age, but such information shall be otherwise available pursuant to section 5411 of this title.

(g) Information on sex offenders shall be posted on the Internet for the duration of time for which they are subject to notification requirements under section 5401 et seq. of this title.

(h) Posting of the information shall include the following language: "This information is made available for the purpose of complying with 13 V.S.A. § 5401 et seq., which requires the Department of Public Safety to establish and maintain a

Registry of persons who are required to register as sex offenders and to post electronically information on sex offenders. The Registry is based on the Legislature's decision to facilitate access to publicly available information about persons convicted of sexual offenses. EXCEPT FOR OFFENDERS SPECIFICALLY DESIGNATED ON THIS SITE AS HIGH-RISK, THE DEPARTMENT OF PUBLIC SAFETY HAS NOT CONSIDERED OR ASSESSED THE SPECIFIC RISK OF REOFFENSE WITH REGARD TO ANY INDIVIDUAL PRIOR TO HIS OR HER INCLUSION WITHIN THIS REGISTRY AND HAS MADE NO DETERMINATION THAT ANY INDIVIDUAL INCLUDED IN THE REGISTRY IS CURRENTLY DANGEROUS. THE MAIN PURPOSE OF PROVIDING THIS DATA ON THE INTERNET IS TO MAKE INFORMATION MORE EASILY AVAILABLE AND ACCESSIBLE, NOT TO WARN ABOUT ANY SPECIFIC INDIVIDUAL. IF YOU HAVE QUESTIONS OR CONCERNS ABOUT A PERSON WHO IS NOT LISTED ON THIS SITE OR YOU HAVE QUESTIONS ABOUT SEX OFFENDER INFORMATION LISTED ON THIS SITE, PLEASE CONTACT THE DEPARTMENT OF PUBLIC SAFETY OR YOUR LOCAL LAW ENFORCEMENT AGENCY. PLEASE BE AWARE THAT MANY NONOFFENDERS SHARE A NAME WITH A REGISTERED SEX OFFENDER. Any person who uses information in this Registry to injure, harass, or commit a criminal offense against any person included in the Registry or any other person is subject to criminal prosecution.”

- (i) The Department shall post electronically general information about the Sex Offender Registry and how the public may access Registry information. Electronically posted information regarding sex offenders listed in subsection (a) of this section shall be organized and available to search by the sex offender's name and the sex offender's county, city, or town of residence.
- (j) The Department shall adopt rules for the administration of this section and shall expedite the process for the adoption of such rules. The Department shall not implement this section prior to the adoption of such rules.
- (k) If a sex offender's information is required to be posted electronically pursuant to subdivision (a)(2) of this section, the Department shall list the offender's convictions for any crime listed in subdivision 5401(10) of this title, regardless of the date of the conviction or whether the offender was required to register as a sex offender based upon that conviction.
- (l) A sex offender's street address shall not be posted electronically if the offender has a developmental disability, receives funding from the Department of Disabilities, Aging, and Independent Living (DAIL) for 24-hour supervision and treatment, and resides in a residence that is equipped with alarms. However, this information shall be otherwise available pursuant to this section. An agency designated pursuant to 18 V.S.A. § 8907 to provide mental health and developmental disability services (DA), or a specialized service agency (SSA) operating under an agreement entered into pursuant to 18 V.S.A. § 8912 that is providing supervision for the offender shall immediately notify the administrator of the Sex Offender Registry and local law enforcement if the individual's level of supervision is decreased from 24 hours or if the offender leaves his or her residence without authorization, and thereafter this subsection shall cease to apply to that offender. If after notice and hearing, the Commissioner of DAIL finds that the DA or SSA has failed to notify the administrator of the Sex Offender Registry and local law enforcement of a decrease from 24-hour supervision or absence without authorization by the offender within 24 hours of the change in status, the Commissioner may impose an administrative penalty of not more than \$1,000.00 for each day of the violation. A DA or SSA shall have the right to a de novo appeal of a decision under this subsection pursuant to Rule 75 of the Vermont Rules of Civil Procedure.
- (m) Information regarding a sex offender whose sentence is deferred shall not be posted electronically unless the offender violates the terms of the deferred sentence agreement and is sentenced on the conviction.

Credits

2003, Adj. Sess., No. 157, § 7; 2005, No. 83, § 13; 2005, Adj. Sess., No. 192, § 29; 2007, No. 77, § 9, eff. June 7, 2007; 2009, No. 58, § 9, eff. July 1, 2009; 2009, No. 58, § 14, eff. Feb. 24, 2010; 2009, Adj. Sess., No. 157, § 3, eff. July 1, 2010; 2011, No. 31, § 2, eff. May 17, 2011; 2011, No. 55, § 10, eff. July 1, 2011; 2013, Adj. Sess., No. 181, § 2, eff. June 10, 2014; 2015, No. 31, § 8; 2015, Adj. Sess., No. 133, § 4, eff. May 25, 2016; 2017, No. 15, § 2, eff. May 1, 2017.

13 V.S.A. § 5411a, VT ST T. 13 § 5411a

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Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5411b

§ 5411b. Designation of high-risk sex offender

Currentness

(a) The Department of Corrections shall evaluate a sex offender for the purpose of determining whether the offender is “high-risk” as defined in section 5401 of this title. The designation of high-risk under this section is for the purpose of identifying an offender as one who should be subject to increased public access to his or her status as a sex offender and related information, including Internet access.

(b) After notice and an opportunity to be heard, a sex offender who is designated as high risk shall have the right to appeal de novo to the Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(c) The Department of Corrections shall adopt rules for the administration of this section. The Department of Corrections shall not implement this section prior to the adoption of such rules.

(d) The Department of Corrections shall identify those sex offenders under the supervision of the Department as of the date of passage of June 28, 2005¹ who are high risk and shall designate them as such no later than September 1, 2009.

Credits

2003, Adj. Sess., No. 157, § 8; 2005, No. 83, § 16; 2009, No. 58, § 10, eff. July 1, 2009.

Footnotes

1 So in official version.

13 V.S.A. § 5411b, VT ST T. 13 § 5411b

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13 V.S.A. § 5411c

§ 5411c. Active community notification by the Department of Public Safety, the Department of Corrections, and local law enforcement

Currentness

(a) Notwithstanding other provisions to the contrary, the Department, the Department of Corrections, and any authorized local law enforcement agency are authorized to notify members of the public at their discretion about any sex offender whose information is required to be posted on the Internet in accordance with section 5411a of this title.

(b) The Department, the Department of Corrections, and any authorized local law enforcement agency are authorized to notify members of the public at their discretion about a sex offender whose information is not required to be posted on the Internet in accordance with section 5411a of this title only under circumstances that constitute a compelling risk to public safety and only after consultation with the Vermont Crime Information Center and the Department of Corrections.

(c) Registry information shall not be released under this section unless it is released pursuant to written protocols governing the manner and circumstances of the release developed by the Department, the Department of Corrections, or an authorized law enforcement agency. The protocols shall include consultation between the department or agency releasing the information and the department of corrections' staff member responsible for supervising the offender.

(d) Active community notification regarding registered sex offenders who may pose a danger to members of the community is an important public safety tool that the General Assembly intends for authorized agencies to use at their discretion in accordance with this subchapter.

Credits

2005, Adj. Sess., No. 192, § 27.

13 V.S.A. § 5411c, VT ST T. 13 § 5411c

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13 V.S.A. § 5411d

§ 5411d. Designation of noncompliant high-risk sex offender

Currentness

(a) Prior to releasing a person from total confinement, the Department of Corrections shall designate the person as a noncompliant high-risk sex offender if the person meets all of the following criteria:

(1) is incarcerated on or after June 7, 2007 for lewd and lascivious conduct with a child as defined in section 2602 of this title, sexual assault as defined in section 3252 of this title, aggravated sexual assault as defined in section 3253 of this title, or any attempt to commit a crime listed herein, or a comparable offense in another jurisdiction of the United States;

(2) is not subject to indeterminate life sentences under section 3271 of this title;

(3) is designated as a high risk sex offender pursuant to section 5411b of this title; and

(4) is noncompliant with sex offender treatment as defined by Department of Corrections' directives.

(b) Noncompliant high-risk sex offenders shall report to the Department as follows:

(1) In person, within 15 days from the date of release from Department of Corrections' supervision, and within every 30 days thereafter.

(2) Prior to any change of address. However, if the change of address is unanticipated, the offender shall report within one day of the change of address.

(3) Prior to enrollment in or separation from any postsecondary educational institution. However, if the change in school status is unanticipated, the offender shall report within one day of the change.

(4) Within one day of any change in a place of employment.

(c) In addition to the Registry information required in section 5403 of this title, a noncompliant high-risk sex offender shall provide the Department with the make, model, color, registration, and license plate number of any vehicle the person operates

prior to operation. An offender found in operation of a vehicle not on the list provided to the Department shall be considered to be in violation of this subsection.

(d) The Department shall arrange for the noncompliant high-risk sex offender to have his or her digital photograph updated annually for purposes of the electronic Registry as provided in section 5411a of this title. An offender who is requested by the Department to report to the Department or a local law enforcement agency for the purpose of being photographed for the Internet Registry shall comply with the request within 30 days.

(e) The Department shall conduct periodic unannounced Registry compliance checks on noncompliant high-risk sex offenders to verify the accuracy of Registry information. The Department may enter into an agreement with a local law enforcement agency to perform duties under this subsection and under subdivision (b)(1) of this section, but shall maintain responsibility for compliance with this subsection.

(f)(1) A noncompliant high-risk sex offender may petition the Criminal Division of the Superior Court to be relieved from the heightened Registry requirements in this section once every five years from the date of designation. The offender shall have the burden of proving by a preponderance of the evidence that he or she:

(A) no longer qualifies as a high-risk offender as defined in section 5401 of this title and rules adopted by the Department of Corrections in accordance with section 5411b of this title; and

(B) has complied with and completed sex offender treatment as provided by Department of Corrections' directives.

(2) The Vermont Rules of Civil Procedure shall apply to these proceedings.

(3) If the court finds that the offender is not high risk and has successfully completed treatment, the court shall order that the offender is no longer considered a noncompliant high risk offender and is subsequently relieved from the heightened registry requirements of this section; however, the offender shall still continue to comply with Sex Offender Registry and other requirements as provided elsewhere in this subchapter.

(g)(1) A noncompliant high-risk sex offender who knowingly fails to comply with any of the Registry requirements under this section shall be imprisoned for not less than five years and a maximum term of life and, in addition, may be fined not more than \$50,000.00. A sentence may be suspended in whole or in part, or the person may be eligible for parole or release on conditional reentry or furlough, provided the person is subject to intensive supervision by the Department of Corrections.

(2) In a criminal proceeding for violating any of the Registry requirements under this section, a defendant shall be prohibited from challenging his or her status as a noncompliant high-risk sex offender.

(h) A noncompliant high-risk sex offender convicted of violating this section shall be sentenced under section 3271 of this title.

Credits

2007, No. 77, § 10, eff. June 7, 2007; 2009, Adj. Sess., No. 154, § 238(b)(7), eff. July 1, 2010.

13 V.S.A. § 5411d, VT ST T. 13 § 5411d

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13 V.S.A. § 5412

§ 5412. Immunity

Currentness

The Department, the Department of Corrections, any authorized local law enforcement agency, and their employees shall be immune from liability in carrying out the provisions under this subchapter except in instances of gross negligence or willful misconduct, provided that the agencies complied with the rules adopted pursuant to this subchapter.

Credits

1995, Adj. Sess., No. 124, § 1; 2003, Adj. Sess., No. 157, § 9; 2005, No. 83, § 14; 2005, Adj. Sess., No. 192, § 28.

13 V.S.A. § 5412, VT ST T. 13 § 5412

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Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5413

§ 5413. Expungement of records

Currentness

A person whose conviction of a sex offense is reversed and dismissed shall not be required to register for that conviction under the provisions of this subchapter and any information about that conviction contained in the Registry shall be removed and destroyed. If any information about that conviction was provided to any person or agency under subsection 5402(b) of this subchapter, that person or agency shall be notified that the conviction was reversed and shall be required to remove and destroy the information. If the person whose conviction is reversed and dismissed has more than one entry in the Registry, only the entry related to the dismissed case shall be removed and destroyed.

Credits

1995, Adj. Sess., No. 124, § 1.

13 V.S.A. § 5413, VT ST T. 13 § 5413

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13 V.S.A. § 5414

§ 5414. Participation in national sex offender registration

Currentness

The Department shall participate in the National Sex Offender Registry Program managed by the Federal Bureau of Investigation in accordance with guidelines issued by the U.S. Attorney General, including transmission of current address information and other information on registrants to the extent provided by the guidelines.

Credits

2001, No. 49, § 11.

13 V.S.A. § 5414, VT ST T. 13 § 5414

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Subchapter 3. Sex Offender Registration; Law Enforcement Notification (Refs & Annos)

13 V.S.A. § 5415

§ 5415. Enforcement; special investigation units

Currentness

(a) Special investigation units, created pursuant to 24 V.S.A. § 1940, shall be responsible for the investigation of violations of this chapter's Registry requirements and are authorized to conduct in-person Registry compliance checks in a time, place, and manner it deems appropriate in furtherance of the purposes of this chapter. This section shall not be construed to prohibit local law enforcement from enforcing the provisions of this chapter.

(b) On or before November 1, 2019, and annually thereafter, local law enforcement agencies shall report to the Vermont Crime Information Center about any in-person Registry compliance checks that the agency has conducted during the preceding 12 months. The report shall include the total number of in-person compliance checks conducted during the 12-month period, the number of offenders who were in compliance, the number of offenders who were out of compliance, and the reasons for being out of compliance.

(c) The Department of Public Safety shall report to the Senate and House Committees on Judiciary on or before December 15, 2009, and annually thereafter, regarding its efforts under this section.

Credits

2009, No. 1, § 16, eff. March 4, 2009; 2019, No. 77, § 17, eff. June 19, 2019.

13 V.S.A. § 5415, VT ST T. 13 § 5415

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13 V.S.A. § 5416

§ 5416. Persons subject to erroneous Sex Offender Registry requirements; petition to correct

Currentness

(a) A person may petition the court for an order declaring that the person has been inadvertently subject to erroneous Sex Offender Registry requirements and directing the Department of Public Safety to correct the error. The petitioner shall provide notice of the petition to the State's Attorney or the Attorney General, who shall be the respondent in the matter.

(b) A petition filed under this section shall include:

(1) the court's order issued under subdivision 5403(b)(2) of this title to comply with Sex Offender Registry requirements, if available; and

(2) the factual basis for the petitioner's allegation that he or she was subject to an erroneous Sex Offender Registry requirement.

(c) The court shall grant a petition filed under this section if it finds that the petitioner has demonstrated by a preponderance of the evidence that he or she was by court order subject to an erroneous Sex Offender Registry requirement. As used in this subsection, "erroneous Sex Offender Registry requirement" includes the person's name being erroneously placed on the Sex Offender Registry or the Internet Sex Offender Registry, or the person being erroneously subject to lifetime registration under subsection 5407(f) of this title.

(d) If a petition filed under this section is granted, the court shall enter an order declaring that the person had been inadvertently subject to erroneous Sex Offender Registry requirements. The court shall provide the order to the Department of Public Safety and direct the Department to take any action necessary to correct the error, including, if appropriate, removing the person's name from the Sex Offender Registry and the Internet Sex Offender Registry.

(e)(1) If the court denies a petition filed under this section, no further petition shall be filed by the person with respect to the alleged error.

(2) This subsection shall not apply if the petition is based on:

(A) newly discovered evidence;

- (B) an expungement order issued under chapter 230 of this title;
- (C) a successful petition under chapter 182 of this title (innocence protection); or
- (D) a successful petition for postconviction relief.

Credits

2015, No. 31, § 5, eff. July 1, 2015.

13 V.S.A. § 5416, VT ST T. 13 § 5416

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