

NORTH DAKOTA OFFENDER REGISTRATION

PROCEDURES MANUAL

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

**Prepared
by**

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Bureau of Criminal Investigation**

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OVERVIEW

The 1991 Legislature passed two laws dealing with offender registration. These laws were codified in North Dakota Century Code section 12.1-32-15 (offenders against children) and sections 12.1-20-18 through 12.1-20-23 (sexual offenders). The 1993 Legislature amended these statutes and combined them as section 12.1-32-15.

There are three categories of offenders covered by NDCC section 12.1-32-15: offenders against children, sexual offenders, and sexually dangerous individuals. Subsections 1a, e, and f, of NDCC 12.1-32-15 describe these terms.

Both adults and juveniles have the requirement to register if they are included by the criteria contained in subsections 2 and 3 of NDCC 12.1-32-15.

The Office of Attorney General is responsible for devising forms with which to accomplish the registration process, maintaining a statewide database, and conducting address verification. The courts, correctional facilities, and the Department of Corrections and Rehabilitation are responsible for informing convicted offenders of their need to register. Law enforcement agencies are responsible for actually carrying out the registration.

Offenders are registered by local police and sheriff's departments by fingerprinting, photographing, and obtaining the offender's registration information and signature. These items are then sent to the Office of Attorney General, Bureau of Criminal Investigation (BCI), where a statewide registration database is maintained. (The registering local law enforcement agency also retains a copy of the photograph, fingerprints, and the registration form.)

Period of Registration

A person required to register under this section must comply with the registration requirement for the following periods:

- a period of fifteen years after the date of sentence, after the date of order deferring or suspending sentence upon a plea or finding of guilt, or after incarceration, whichever is later; or,
- a period of twenty-five years after the date of sentence, after the date of order deferring or suspending sentence upon a plea or finding of guilt, or after incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or,
- for the life of the individual if any one of three conditions listed in NDCC 12.1-32-15, subsection 8, are present (see Attachment C) or if assigned a high risk by the attorney general as provided in subsection 12.

Address Verification

Residence addresses for most offenders are verified every 180 days. For offenders who have a lifetime registration requirement (see Attachment C, NDCC 12.1-32-15, subsection 8), address verification takes place every 90 days.

For information on the current method of address verification, contact the BCI at (701) 328-5500.

Web Site

Information on high risk offenders and offenders with a lifetime registration requirement is available at www.sexoffender.nd.gov. A printable list of all offenders, regardless of their risk level, is also available at this web site.

APPLICABLE OFFENSES

The following lists identify those offenses to which registration applies.

SEXUAL OFFENDER STATUTES

<u>NDCC Section</u>	<u>Offense</u>
12.1-20-03	Gross Sexual Imposition
12.1-20-03.1	Continuous Sexual Abuse
12.1-20-04	Sexual Imposition
12.1-20-05	Corruption or Solicitation of Minors
12.1-20-05.1	Luring Minors by Computer
12.1-20-06	Sexual Abuse of Wards
12.1-20-07	Sexual Assault (Class C felony and Class A misdemeanor)
12.1-20-11	Incest
12.1-20-12.1	Indecent Exposure
12.1-20-12.2	Surreptitious Intrusion
12.1-27.2	Sexual Performance by Children (All Offenses)
12.1-27.1-03.3	Creating, possession, or dissemination of sexually expressive images prohibited
12.1-40	Sex Trafficking

OFFENDERS AGAINST CHILDREN STATUTES (offenses in which the victim is a child)

<u>NDCC Section</u>	<u>Offense</u>
12.1-16	Homicide (All Offenses)
12.1-17-01.1	Assault (Felony only)
12.1-17-02	Aggravated Assault
12.1-17-04	Terrorizing
12.1-17-07.1	Stalking (Felony only)
12.1-18-01	Kidnapping
12.1-18-02	Felonious Restraint
12.1-18-05	Removal of Child from State in Violation of Custody Decree
12.1-29	Prostitution (All Offenses)
14-09-22, Subdivision a. of subsection 1, or subsection 2	Criminal Child Abuse

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

ALLOCATION OF RESPONSIBILITIES

Responsibilities for carrying out the provisions of the law rest with the following as indicated (the specific subsection within NDCC section 12.1-32-15 is referenced at the end of each item, NDCC 12.1-32-15 is included in this manual as Attachment C):

Court Responsibilities

North Dakota courts are directed by the statute to:

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

previously convicted as a sexual offender or of a felony crime against a child, and whether the offender exhibited mental abnormality or predatory conduct in the commission of the crime. (Subsection 2, subdivision b)

- Determine, for juvenile offenders guilty of Gross Sexual Imposition, when the victim is less than fifteen years old, or for juvenile misdemeanor sexual offenders, whether the juvenile offender has been previously convicted as a sexual offender or of a felony crime against a child, and whether the offender exhibited mental abnormality or predatory conduct in the commission of the crime. (Subsection 2, subdivision c)
- Determine, when the adult or juvenile offender is guilty of a felony crime against a child, whether the offender has been previously convicted as a sexual offender or for a felony crime against a child, and whether the offender exhibited mental abnormality or predatory conduct in the commission of the crime. This determination is not necessary if the offense was 1) facilitating prostitution, or 2) kidnapping/felonious restraint by a person not the parent of the victim. (Subsection 2, subdivision d)
- Determine, for any crime against another individual, whether the offender demonstrated mental abnormality or sexual predatory conduct in the commission of the offense. (Subsection 2, subdivision e)
- Determine, according to the provisions of subsection 2, subdivision b through e, whether it is appropriate for the court to deviate from requiring an individual to register. (Subsection 2, subdivisions b thru e)
- Determine mental abnormality or predatory conduct, considering the ages of the offender and victim and the differences between those ages, circumstances and motive of the crime, the relationship of victim and offender, and the mental state of the offender. (Subsection 4)
- Order evaluation of the offender by qualified counselor, psychologist, or physician, before sentencing, if the court chooses. (Subsection 4)
- State on the record in open court the court's affirmative finding for not requiring an offender to register, if the court has chosen to deviate from requiring an individual to register. (Subsection 4)
- Apply a risk assessment tool to juvenile sex offenders who are required to register, and provide the Attorney General any information, including the offender's risk score supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community. (The juvenile court system has contracted with DOCR's Division of Juvenile Services to score risk assessment tools on all juvenile offenders.) (Subsection 12, subdivision c)

- Notify the juvenile offender as to the level of risk assigned. (This responsibility may be shared with an agency having legal custody or with the Office of Attorney General.) (Subsection 12, subdivision d)
- Consider, if petitioned, whether to relieve an offender of the registration requirements, if registration is no longer mandatory due to changes in section 12.1-32-15 or 27-20-52.1 made in the 1999 Legislative Assembly. (Subsection 14)

Attorney General Responsibilities

The Attorney General is directed by statute to:

- Prepare forms for use in the registration process. (Subsections 5 and 7)
- Receive and forward a copy of the registration acknowledgement to the law enforcement agency where the person will actually register. This is intended to alert the law enforcement agency to the anticipated registration of the offender in that jurisdiction. If the offender does not appear for the purposes of registration within three days of the relocation date indicated by the offender, the law enforcement agency is expected to attempt to locate the offender. If the BCI has not received registration documents within 10 days of the expected relocation date, the BCI will contact the law enforcement agency in that jurisdiction regarding a possible delinquent registration.

Campus police departments and/or law enforcement agencies having institutions of higher education in their jurisdictions will be notified by the BCI of any registerable offenders who intend to either be enrolled in, or employed by, such institutions of higher education. (Subsections 5,6, and 7) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.)

- Forward a copy of the registration acknowledgement to the court in which the person was prosecuted and to the prosecutor. (Subsection 5)
- Receive the statement, fingerprints, and photograph of each registered person, enter this information in the automated system on a daily basis, and file such. (Subsection 7)
- Transmit registration information and fingerprints to the Federal Bureau of Investigation, upon receipt of that information from local agencies. (As a matter of administrative policy, the Bureau of Criminal Investigation will forward registration information to the FBI within three working days of receipt of the information.)
- Receive name change information, or address change information for changes in residence address, school enrollment, and/or employment address, and forward

address change information to the FBI. and to the law enforcement agency in the new place or state of residence, school enrollment, and/or employment.

Campus Police departments and/or law enforcement agencies having institutions of higher education in their jurisdictions will be notified by the BCI of any offenders enrolled in, or employed by, such institutions of higher education who have indicated a change in their enrollment or employment situation or status. Additionally, any information received by the BCI regarding unanticipated enrollment or employment by registerable offenders in institutions of higher education will be shared with the law enforcement agencies in those jurisdictions. (As a matter of administrative policy, the Bureau of Criminal Investigation, acting for the Attorney General, will forward address change information to the new place or state of residence and to the FBI, within three working days of receipt of the information, on State Form Number 18094 Change of Registration Information form.) (Subsection 7) (Notification of changes is also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.)

- Verify residence address information at least once per year for offenders required to register for fifteen years, every six months for those required to register for twenty-five years, and every ninety days for those with a lifetime registration requirement. (Required by the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.)
- Develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender. (Subsection 12)
- Apply a risk assessment tool to sexual offenders who are not under the custody or supervision of the DOCR. (Subsection 12, subdivision b)
- Assign a risk level to all sexual offenders. (Subsection 12)
- Notify offenders regarding the risk level they are assigned. (Subsection 12, subdivision d)
- Develop guidelines for public disclosure of offender registration information. (Subsection 13)

Law Enforcement Agency Responsibilities

Law enforcement agencies are directed by the statute to:

- Receive copies of the registration acknowledgement forms, which indicate that offenders will appear for registration. (Subsections 5 and 6)

- Register convicted offenders by fingerprinting, photographing, and having registering offenders sign the appropriate portion of the registration document. (Fingerprints may be omitted if that agency has already registered that offender previously, has fingerprints on file, and is personally familiar with and can visually identify the offender.) (Subsection 7)
- Perform responsibilities of both the originating agency and the registering agency for offenders who appear to register without the registration papers in hand (i.e. out-of-state offenders will not have copies of the North Dakota registration forms, and therefore, the law enforcement agency will have to acquire the information requested on the the form, as well as register the offender).
- Forward a signed registration statement, fingerprint card, and a photograph to the Office of Attorney General within three days after registration. (Retain a copy of these in agency files.) (Subsection 7)
- Inform the registering offender that any change in residence address, school enrollment, or employment must be reported to this agency at least ten days before the effective date of the change. (Subsection 7) In case of a termination of school or employment, it must be reported to this agency within five days of the termination. (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act and the Adam Walsh Child Protection and Safety Act of 2006.)
- Obtain information on changes of name, residence address, school enrollment, and/or employment address, from the registered person, and forward that information to the Office of Attorney General within three days after receipt of the information. (Subsection 7) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act and the Adam Walsh Child Protection and Safety Act of 2006.)
- Maintain a file of registered offenders (not explicit in the law, but implied).
- Receive, from correctional facilities, information on individuals who are required to register when permanently released from custody who are temporarily sent outside a facility or institution. (Subsection 11)
- Register juvenile offenders in the same manner as adult offenders. (Subsection 15)
- Disclose relevant and necessary conviction and registration information to the public, if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. (Subsection 13)
- Disclose relevant and necessary conviction and registration information to institutions of higher education regarding registered sex offenders who are enrolled in those

institutions or are employed by those institutions in any capacity. (Required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act.)

- Release relevant and necessary juvenile information to other law enforcement agencies, the Department of Human Services, the superintendent or principal of the school the juvenile attends, or the public if necessary to protect public health or safety. (Subsection 15)

Correctional Facility Responsibilities (see note below)

Local correctional facilities are directed by the statute to:

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

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

Department of Corrections and Rehabilitation (DOCR) Responsibilities

The DOCR is directed by state statute to:

- Inform convicted offenders, prior to discharge, parole or release, of the duty to register. (Subsection 5)
- Require the convicted person to read, prepare, and sign the acknowledgement forms. The forms will be provided by the Office of Attorney General. (Subsection 5)

- Obtain the addresses where the individual expects to reside, attend school and/or work upon discharge, parole or release, and report those addresses to the Office of Attorney General. (Subsection 5) (Also required by the Campus Sex Crimes Prevention Act amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Act.)
- Give a copy of the forms to the individual, retain one copy for agency records, and send one copy to the Office of Attorney General no later than forty-five days prior to the scheduled release of the individual. (Subsection 5)
- Notify local law enforcement agencies when an individual required to register is temporarily sent outside the facility where that individual is confined. (Subsection 11)
- Assist the Attorney General in the development of guidelines for the risk assessment of sexual offenders who are required to register. (Subsection 12)
- Apply a risk assessment tool to sexual offenders who are incarcerated in institutions under the control of the DOCR, and sexual offenders who are on supervised probation (Subsection 12, subdivision a)
- Provide the Attorney General any information, including the offender's risk score and supporting documentation concerning individuals required to be registered under this section who are about to be released or placed into the community. (Subsection 12, subdivision a)

Parole Board Responsibility

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

Offender Responsibilities

Offenders required to register are directed by state statute to:

- Receive notice of duty to register and sign the form acknowledging the registration requirement. (Subsections 5 and 6)

- Appear at the law enforcement agency in the jurisdiction of residence, school enrollment, and/or employment within three days of discharge, parole or release, to be fingerprinted and photographed, and to sign the registration form. If the individual is living in one jurisdiction and attending school or employed in another, that individual must register in both jurisdictions. (Subsections 2 and 7)
- If the individual is residing in another state, but working or attending school in North Dakota, that individual must register in the other state and in the North Dakota jurisdiction in which he/she is working or attending school. If the individual should change the location of work or school within the jurisdiction in which he/she is registered, that individual must complete a change of school or employment address form. If the individual should change the location of work or school to a jurisdiction other than the one he/she is registered in, that individual must register in the new jurisdiction. (Subsections 2 and 7)
- In the case of a change in name, school enrollment, residence address, or employment, inform in writing the law enforcement agency at which the person last registered, of the person's new name, school attending, residence address, or employment address. (Subsection 7)
- In the case of a change in residence address to a new law enforcement jurisdiction, appear at the law enforcement agency in the new jurisdiction of residence within three days to register with that agency. (Subsections 2 and 7)
- Remain registered for a minimum period of fifteen years as required by this statute, twenty-five years if assigned a moderate risk by the attorney general, or for life if the individual 1) is a repeat offender, or 2) has committed an "aggravated offense," 3) has been assigned a high risk by the attorney general. (Subsection 8)
- Petition the court to be removed from the offender list if registration is no longer mandatory for that individual and the individual had been required to register as a sexual offender or an offender against a child prior to August 1, 1999. (Subsection 16)

REGISTRATION PROCEDURES

The offender acknowledgement/registration form is a three-page form. When an offender has been ordered by the court to register, the Parole/Probation Officer, other originating agency, or the court will have the offender prepare and sign Part 1 of the form and will give the white, green, and canary copies of the forms to the offender. The forms contain instructions directing the offender to register in person with the law enforcement agency in the community or county where the offender will reside. The offender is required to register with the chief of police of the city, or the sheriff of the county if the person resides in an area other than a city.

The originating agency is the agency that informs the offender of the need to register. The originating agency will keep a copy of the forms and will send the original to the Bureau of Criminal Investigation (BCI) at the address below. (A copy will be given to the offender.) The BCI will forward copies of the signed acknowledgement form to the prosecuting attorney and the court having jurisdiction of the case requiring registration.

Note: There are occasions when a law enforcement agency will be both the originating agency and the registering agency, such as when an offender arrives from out-of-state with instructions from the previous state to register in North Dakota. In these cases, the law enforcement agency should initiate an Offender Notice/Acknowledgement and Registration form (SFN #18092) with as much information as can possibly be obtained from the offender. The agency should call the BCI at (701) 328-5500 since the BCI may have been notified by the other state of the intended move by the offender, and may have information on the offender that is required for registration. The agency should have the offender complete and sign all three pages of the registration form, obtain fingerprints, and obtain a new photograph of the offender.

The registering agency is the police department or the sheriff's department in the jurisdiction in which the offender resides. The offender must register with the police department if there is one in that jurisdiction. If there is no police department in that jurisdiction, the offender must register with the sheriff's department. The offender will be required to take the copies of the registration form to the local law enforcement agency where the offender is to register, sign and complete the forms, and be fingerprinted and photographed. The registering agency will send the original copy of the signed registration forms, one fingerprint card, and one photograph (email photograph to: agoso@nd.gov) to:

Office of Attorney General
Bureau of Criminal Investigation
P.O. Box 1054
Bismarck, ND 58502-1054

The registering agency will keep one copy of the signed registration form, one fingerprint card, and one photograph for its own file. One copy of the signed registration form will be given to the offender. The Office of Attorney General, Bureau of Criminal Investigation (BCI), maintains a master file of all persons registered in the state, and monitors that file

for any violations of the registration statutes by offenders. The BCI is notified by other states when an offender from another state has indicated a move to North Dakota. For offenders convicted in North Dakota, copies of the Offender Notice/Acknowledgement and Registration form (SFN #18092) are sent to the BCI when the offender is notified of the need to register. Offenders who fail to register are identified, and law enforcement agencies will make every effort to locate, arrest, and charge these individuals.

CHANGE OF REGISTRATION INFORMATION

Reporting changes of residence and employment addresses, professional licenses, school enrollment, name, changes in scars, marks, and tattoos, vehicles, watercrafts, and aircrafts owned and operated, and computer/internet information is a responsibility of the offender and police and sheriff's departments. The agencies where offenders are registered will be provided with Change of Registration Information forms that will be used to report changes as required by law and as requested by the Attorney General (see Attachment B.) Addresses must be given for residence, school attending, and/or employment, and when changes are made in residence address, school enrollment, or work address, an address change form must be completed. Offenders must also provide information and changes regarding vehicles, watercraft, or aircraft owned and operated by the offender, and his/her email addresses, screen names, and residential internet service provider. Copies of drivers license and any professional licenses must be obtained.

Campus Police departments and/or law enforcement agencies having institutions of higher education in their jurisdictions, will be notified by the BCI of any offenders enrolled in, or employed by, such institutions of higher education who have indicated a change in their enrollment or employment situation or status. Additionally, any information received by the BCI regarding unanticipated enrollment or employment by registerable offenders in institutions of higher education will be shared with the law enforcement agencies in those jurisdictions.

ATTACHMENT A

North Dakota Offender Registration Program

Offender Notice/Acknowledgement and Registration Form

This form was designed to meet the requirements of NDCC section 12.1-32-15. Through this form, the offender is informed of his obligation to register, his proposed address is reported, and the registration is accomplished. It also informs the offender of the minimum period of registration and the penalties for not complying with the provisions of registration.

Part 1 of this form will be completed by the originating agency (Parole and Probation Division, court, correctional facility, or law enforcement agency) and the offender. The offender will sign all pages, including the acknowledgement section, and will take the form set to the registering agency.

The registering agency will require the offender to be fingerprinted and photographed, and will have the offender complete Part 2 of the form. The registering agency will then give the offender a copy of the forms, and will forward the original copy to the Office of Attorney General, Bureau of Criminal Investigation. A copy is retained by the registering agency.

ATTACHMENT B

North Dakota Offender Registration Program

[Change of Registration Information Form](#)

This form is sent to those agencies in which offenders are registered, so that the offenders and agencies may report a change in residence address, employment address, school enrollment, name, vehicles, watercraft, and aircraft owned and operated, email addresses, screen names, internet service providers, driver's licenses, professional licenses, and scars, marks, and tattoos if necessary.

**Registration of Offenders Against Children
and Sexual Offenders**

[North Dakota Century Code 12.1-32-15](#)