

Predatory Offender Statutory Framework Working Group

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MINNESOTA STATUTE § 243.166

REGISTRATION OFFENSES

Charged with or petitioned for a felony violation of or attempt to violate, or aiding, abetting or conspiracy to commit any of the following offenses and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

- Murder while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another (§ 609.185, para. (a), clause (2))
- Kidnapping (§ 609.25)

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- First through Fourth Degrees Criminal Sexual Conduct (§§ 609.342 – 609.345)
- Felony Fifth-Degree Criminal Sexual Conduct – 1) nonconsensual sexual intercourse or 2) nonconsensual sexual contact or masturbation or lewd exhibition of genitals in the presence of a minor under the age of 16 with certain priors (§ 609.3451, subd. 3, para. (b))
- Criminal Sexual Predatory Conduct – predatory crime motivated by the offender's sexual impulses or part of a predatory pattern of behavior that had criminal sexual conduct as its goal (§ 609.3453)

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- Felony Indecent Exposure – indecent exposure involving a minor with certain priors (§ 617.23, subd. 3)
- Surreptitious Intrusion against a minor under the age of 18 while more than 36 months older with sexual intent (§ 609.746, subd. 1, para. (f))

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- Criminal Abuse – caregiver or facility staff person engages in sexual contact or penetration with a client under circumstances other than criminal sexual conduct first through fourth degrees (§ 609.2325, subd. 1, para. (b))
- False Imprisonment (§ 609.255, subd. 2)
- Solicitation, inducement, or promotion of the prostitution of a minor or engaging in sex trafficking of a minor under 18 (§ 609.322)
- Engaging in, hiring, or agreeing to hire a minor under the age of 14 for prostitution (§ 609.324, subd. 1, para. (a))

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- Soliciting a minor under the age of 16 to engage in sexual conduct (§ 609.352, subd. 2 or 2, clause (1))
- Using a minor under 18 in a sexual performance (§ 617.246)
- Possessing a pornographic work involving a minor under 18 (§ 617.247)
- The person was sentenced as a patterned sex offender under § 609.3455, subd. 3a.

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- The person was charged with or petitioned for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to an offense or involving similar circumstances to an offense described and convicted of or adjudicated guilty for that offense or another offense arising out of the same set of circumstances.

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- The person was charged with or petitioned for an offense in another state similar to an offense or involving similar circumstances to an offense described and convicted of or adjudicated guilty for that offense or another offense arising out of the same set of circumstances.
- The person enters this state to reside, work, or attend school, or enters this state and remains for 14 days or longer or for an aggregate period of time exceeding 30 days in any calendar year; and
- 10 years have not elapsed since release from confinement or, if not confined, conviction or adjudication

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- However, if the person is subject to longer registration in the other state or lifetime registration, the person shall register for that time period regardless of when released from confinement, convicted, or adjudicated delinquent.

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- The person was committed as SDP or SPP or a similar law of another state or the United States, regardless of whether convicted of any offense.
- The person was charged with or petitioned for a felony violation of any of the offenses listed or a similar law of another state or the United States;
- The person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense; and
- The person was committed as MI & D

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CRIMES AGAINST THE PERSON OFFENSES

- In addition to the requirements under § 243.166, a person shall register if convicted of a crime against the person and was previously convicted of a registration offense but not required to register because the requirements did not apply at the time the offense was committed or the time the person was released from imprisonment.
- A person who was previously required to register in any state and completed the requirements shall register again if they commit a crime against the person.

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CRIMES AGAINST THE PERSON OFFENSES

- Those offenses include:
- Illegal possession of firearms
- First through Third-Degree Murder
- First and Second-Degree Manslaughter
- First through Fourth-Degree Assault
- GM or Felony Fifth-Degree or Domestic Assault
- Domestic Assault by Strangulation
- Use of Drugs to Injury or Facilitate a Crime
- First-Degree Aggravated Robbery
- Kidnapping
- False Imprisonment
- GM Fifth-Degree Criminal Sexual Conduct
- First-Degree Tampering with a witness

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CRIMES AGAINST THE PERSON OFFENSES

- First Degree Burglary
- GM Indecent Exposure
- Felony Crime Committed for Benefit of a Gang
- Felony Malicious Punishment of a Child
- Felony Harassment/Stalking
- Felony Possession of Firearms when Ineligible

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NOTICE

- The statute provides for the court to tell the person of the duty to register and to provide offenders with notification forms.
- The court may not modify the duty to register in the pronounced sentence or disposition order.
- The court is to make notification forms, complaints, and sentencing documents available to the BCA.
- If the court does not notify the person at sentencing, the assigned corrections agent shall notify the person of the requirements.

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NOTICE

- If the person does not have an assigned corrections agent, law enforcement with jurisdiction over the person's primary address shall notify the person of the requirements.
- When a person committed as SDP, SPP, or MI&D is released, the treatment facility is to notify the person of the registration requirements and obtain the registration information required to forward to the BCA.

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CRIMINAL PENALTY

- It is a crime for someone who was given notice, knows, or reasonably should know of the duty to register to:
 - (1) Knowingly commit an act or fail to fulfill a requirement that violates any provision; or
 - (2) Intentionally provide false information to a corrections agent, law enforcement, or the BCA.
- A conviction carries a mandatory sentence of one year and one day, but the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum or the court may sentence without regard to it.

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CRIMINAL PENALTY

- If the person is a risk level III offender at the time of the crime and is sentenced to prison, 10 years of conditional release apply.

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TERM OF REGISTRATION

- Generally, the term of registration is 10 years from the time the person initially registered in connection with the offense, or until probation, supervised release, or conditional release expires, whichever occurs later.
- For persons committed as MI & D, SDP, or SPP, the 10 years does not include the period of confinement
- If a person fails to register, five years may be added to end of registration period.
- If the person is incarcerated for a new conviction or revocation of probation or release, the person shall continue to register for 10 years from last release from incarceration.

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TERM OF REGISTRATION

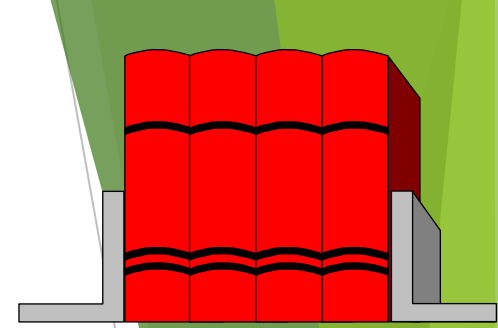
- A person shall register for life if the person:
 - (1) If convicted for a registration offense when they have a prior conviction or adjudication for an offense for which registration was or would have been required;
 - (2) If they are required to register based on a conviction or delinquency adjudication for murder while committing criminal sexual conduct;
 - (3) If they are required to register for more serious paragraphs of First through Fourth-Degree CSC; or
 - (4) They were committed as SDP or SPP.

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TERM OF REGISTRATION

- If a person is required to register under the laws of a state in which they were previously convicted or adjudicated delinquent, they shall register for the time period required by the state of conviction or adjudication if longer than required here.

Same set of Circumstances



State v. Jose and Gabriel Lopez,
778 N.W.2d 700 (Minn. 2010)

FACTS:

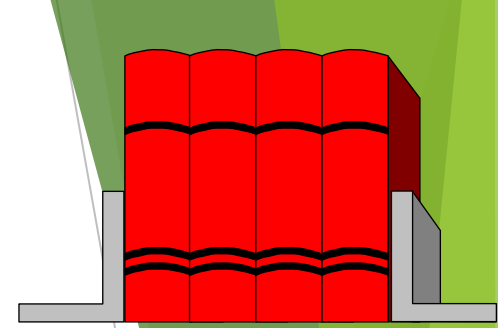
- Defendants charged with Aiding and Abetting Kidnapping and Aiding and Abetting First-Degree Controlled Substance Crime
- Defendants pled guilty to the controlled substance charges, and the prosecutor dismissed the kidnapping charges

- On April 3 and 6, 2006, a CI purchased Meth from defendants
- On April 6, Jose gave the CI an additional 3.4 grams of meth to be paid for at a later date.
- On April 16, the defendants approached the CI and said they needed the \$300. They then forced the CI to drive to Jose's home where they held him in the garage until the \$300 was paid

HOLDING:

- Defendants were not required to register.
- Not same set of circumstances.
- SS of C requires registration where the same general group of facts give rise to both offenses.
- Circumstances must overlap with regard to time, location, persons involved, and basic facts.
- Legislature did not choose to use “related circumstances.”
- Drug sale was complete on the 6th, and Kidnapping was related but not SS of C.
- Occurred in different place involving slightly different group of people.

Same set of Circumstances



State v. Berry, 959 N.W.2d 184

FACTS:

- Berry was convicted of aiding an offender to avoid arrest arising out of the same set of circumstances as aiding the commission of kidnapping and false imprisonment.
- She challenged whether this was same set of circumstances.

HOLDING:

- The supreme court reiterated that the factors of time, location, persons involved, and basic facts should be considered.
- The court emphasized that the *Lopez* factors should be applied narrowly.

Federal Requirements

- Immediate transfer of information
- Offenses that must be included – we include most but not all required offenses
- Required Information to be provided and updated – we include most but not all – we do not require photo of DL, internet identifiers, digitized copies of passports, professional licensing information, temporary lodging information/dates of travel, aircraft, watercraft, or where vehicles are kept.

Federal Requirements

- Where required to register – convicted, incarcerated, reside, employed, and student
- Initial registration timing and notice requirements
- Retroactive classes of offenders – we capture some of them with § 243.167 but not all required
- Verification/appearance requirements – we do not comply because based on their tier system
- Public website requirements – we do not make information public except if out of compliance

Federal Requirements

- Community Notification requirements – we handle under § 244.052, not in registration statute
- Failure to register criminal penalties – we comply with their requirement that maximum imprisonment be over one year
- More details on the SORNA federal requirements can be found on the U.S. Department of Justice SMART website.

THE END

Questions?

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