

SECTION 213.11. COLLATERAL CONSEQUENCES OF CONVICTION

Collateral consequences of conviction applicable specifically to persons convicted of a sexual offense, including a person's obligation to register as a sex offender, associated duties, restrictions on employment and place of residence, and other collateral consequences applicable specifically to persons convicted of a sexual offense, are defined and their scope and implementation are DELINEATED AS FOLLOWS:

(1) THE PERSON'S DUTY TO REGISTER FOR LAW-ENFORCEMENT PURPOSES IS GOVERNED BY SECTION 213.11A.

(2) NOTIFICATION OF THE PERSON'S DUTY TO REGISTER AND ASSOCIATED DUTIES IS GOVERNED BY SECTION 213.11B.

(3) THE TIME OF INITIAL REGISTRATION IS GOVERNED BY SECTION 213.11C.

(4) THE INFORMATION REQUIRED UPON REGISTRATION IS SPECIFIED IN SECTION 213.11D.

(5) THE DUTY TO KEEP REGISTRATION CURRENT IS SPECIFIED IN SECTION 213.11E.

(6) THE DURATION OF THE REGISTRATION REQUIREMENT IS SPECIFIED IN SECTION 213.11F.

(7) PENALTIES FOR FAILURE TO REGISTER ARE GOVERNED BY SECTION 213.11G.

(8) ACCESS TO REGISTRY INFORMATION IS GOVERNED BY SECTION 213.11H.

(9) COLLATERAL CONSEQUENCES OF CONVICTION, OTHER THAN THE DUTY TO REGISTER FOR LAW-ENFORCEMENT PURPOSES, ARE GOVERNED BY SECTION 213.11I.

(10) STANDARDS AND PROCEDURES FOR RELIEF FROM THE DUTY TO REGISTER, ASSOCIATED DUTIES, AND ADDITIONAL COLLATERAL CONSEQUENCES APPLICABLE SPECIFICALLY TO persons convicted of a sexual offense ARE GOVERNED BY SECTION 213.11J.

SECTION 213.11A. REGISTRATION FOR LAW-ENFORCEMENT PURPOSES

(1) Offenses Committed in This Jurisdiction

(a) Except as provided in subsection (3), every person convicted of an offense that is designated a registrable offense in this Article must, in addition to any sanction imposed upon conviction, appear personally and register as a sex offender with the law-enforcement authority designated by law in the [county] where the offender lives.

(b) Notwithstanding any other provision of law, no conviction for an offense under this Article, or for any other criminal offense in this jurisdiction, shall oblige the offender to register as a sex offender with law enforcement or other governmental authority, unless that offense is designated a registrable offense under this Article.

(2) Offenses Committed in Other Jurisdictions

(a) *Duty to register and related duties.* Every person currently obligated to register as a sex offender in another jurisdiction, because of an offense committed in that jurisdiction, who subsequently resides, works, or studies in this jurisdiction, must register with the law-enforcement authority designated by law and comply with the requirements of Sections 213.11A-213.11J, provided that the offense committed in the other jurisdiction is comparable to an offense that would be registrable under this Article if committed in this jurisdiction.

(b) *Place of registration.* If the person who is required to register under subsection (2)(a) lives in this jurisdiction, registration must be accomplished in the [county] where the person lives. If the person who is required to register under subsection (2)(a) does not live in this jurisdiction, but works in this jurisdiction, registration must be accomplished in the [county] where the person works; if the person does not live or work in this jurisdiction but studies in this jurisdiction, registration must be accomplished in the [county] where the person studies.

(c) Determining the comparability of in-state and out-of-state offenses

(i) *Standard.* An offense committed in another jurisdiction is comparable to a registrable offense under this Article if and only if the elements of the out-of-state offense are no broader than the elements of that registrable offense. When, regardless of the conduct underlying the out-of-state conviction, the out-of-state offense can be committed by conduct that is

not sufficient to establish a registrable offense under this Article, the two offenses are not comparable.

(ii) *Procedure.* Before determining that an offense committed in another jurisdiction is comparable to a registrable offense under this Article, the authority designated to make that determination must give the person concerned notice and an opportunity to be heard on that question, either orally or in writing.

(d) Notwithstanding any other provision of law, no conviction for an offense in another jurisdiction shall require the offender to register as a sex offender with law enforcement or other governmental authority in this jurisdiction, unless that conviction currently obligates the offender to register as a sex offender in that jurisdiction and the conviction is for an offense comparable to an offense that would be registrable under this Article if committed in this jurisdiction.

(3) *Juvenile Offenders.* No person shall be subject to the obligation to register under subsection (1) of this Section, to other obligations or restrictions under this Section, or to additional collateral consequences under Section 213.11I, on the basis of a criminal conviction for an offense committed when the person was under the age of 18, or on the basis of an adjudication of delinquency based on conduct when the person was under the age of 18; provided, however, that this subsection (3) shall not apply to a person convicted of a criminal offense of Sexual Assault by Aggravated Physical Force or Restraint if the person was at least 16 years old at the time of that offense.

SECTION 213.11B. NOTIFICATION OF THE OBLIGATION TO REGISTER AND ASSOCIATED DUTIES

(1) Prior to accepting a guilty plea, and at the time of sentencing after conviction on a guilty plea or at trial, the sentencing judge shall:

(a) inform the person who is subject to registration of the registration requirement;

(b) explain the duties associated therewith, including:

(i) the identity and location, or procedure for determining the identity and location, of the government office or agency where the person must appear to register as required by Section 213.11A;

(ii) the duty to report to that office or agency periodically in person, as required by Section 213.11E(1); and

(iii) the duty to promptly notify at least one of the local jurisdictions where the person is registered of any change in the registry information pertaining to that person, as required by Section 213.11E(2);

(c) notify the person of the right to petition for relief from those duties as provided in Section 213.11J;

(d) confirm that defense counsel has explained those duties and the right to petition for relief to that person;

(e) confirm that the person understands those duties and that right;

(f) require the person to read and sign a form stating that defense counsel and the sentencing judge have explained the applicable duties and the right to petition for relief from those duties, and that the person understands those duties and that right;

(g) ensure that if the person convicted of a sexual offense cannot read or understand the language in which the form is written, the person will be apprised of the pertinent information by other suitable means that the jurisdiction uses to communicate with such individuals; and

(h) satisfy all other notification requirements applicable under Model Penal Code Section 7.04(1). [*MODEL PENAL CODE: SENTENCING*, Section 7.04(1) (Proposed Final Draft (2017)).]

(2) At the time of sentencing, the convicted person shall receive a copy of the form signed pursuant to subsection (1)(f) of this Section.

(3) If the convicted person is sentenced to a custodial sanction, an appropriate official shall, shortly before the person's release from custody, again inform the person of the registration requirement, explain the rights and duties associated therewith, including the right to petition for relief from those duties, and require the person to read and sign a form stating that those rights and duties have been explained and that the person understands those rights and duties. At the time of release from custody, the person concerned shall receive a copy of that form.

SECTION 213.11C. TIME OF INITIAL REGISTRATION

A person subject to registration shall initially register:

(a) if incarcerated after sentence is imposed, then within three business days after release; or

(b) if not incarcerated after sentence is imposed, then not later than five business days after being sentenced for the offense giving rise to the duty of registration.

SECTION 213.11D. INFORMATION REQUIRED IN REGISTRATION

(1) A person subject to registration pursuant to Section 213.11A shall provide the following information to the appropriate official for inclusion in the sex-offense registry:

(a) the name of the person (including any alias used by the person);

(b) the Social Security number, if any, of the person;

(c) the address of each place where the person resides or expects to reside;

(d) the name and address of any place where the person works or expects to work;

(e) the name and address of any place where the person is a student or expects to be a student;

(f) the license-plate number and a description of any vehicle owned or regularly operated by the person.

(2) *Supplementary Information.* The local jurisdiction in which a person registers shall ensure that the following information is included in the registry for that person and kept up to date:

(a) the text of the provision of law defining the criminal offense for which the person is registered;

(b) the person's criminal history, including the date and offense designation of all convictions; and the person's parole, probation, or supervised-release status;

(c) any other information required by law.

(3) *Registrants Who Lack a Stable Residential Address.* If a person required to register lacks a stable residential address, the person shall, at the time of registration,

report with as much specificity as possible the principal place where the person sleeps, instead of the information required under subsection (1)(c).

(4) The local jurisdiction in which a person registers shall promptly provide the information specified in subsections (1), (2), and (3) of this Section to an appropriate law-enforcement authority in each jurisdiction in which the registrant works, studies, or expects to work or study.

(5) *CORRECTION OF ERRORS.* Each locality where a person registers shall provide efficacious, reasonably accessible procedures for correcting erroneous registry information and shall, at the time of registration, provide the registrant instructions on how to use those procedures to seek correction of registry information that the registrant believes to be erroneous.

SECTION 213.11E. DUTY TO KEEP REGISTRATION CURRENT

(1) *Periodic Updates.* A person who is required to register under Section 213.11A shall, not less frequently than once every year, appear in person in at least one jurisdiction where the person is required to register, verify the current accuracy of the information provided in compliance with Section 213.11D, allow the jurisdiction to take a current photograph, and report any change in the identity of other jurisdictions in which the person is required to register.

(2) Change of Circumstances

(a) Except as provided in paragraph (b) of this subsection, a person subject to registration under Section 213.11A shall, not later than five business days after each change of name and each change in the location where the person lives, works, or studies, notify at least one local jurisdiction specified in Section 213.11A of:

- (i) all changes in the information that the person is required to provide under Section 213.11D, and
- (ii) the identity of all other jurisdictions in which the person is required to register.

(b) Registrants who lack a stable residential address, and therefore report instead the principal place or places where they sleep, as provided in Section 213.11D(3), must confirm or update those locations once every 90 days but need not do so more often.

(c) Each jurisdiction that maintains a sex-offense registry must permit registrants to notify the jurisdiction, by means of U.S. mail, submission of an appropriate form online, or other reliable, readily accessible means of communication of the jurisdiction's choosing, of any change of name, residence, employment, student status, or vehicle regularly used, and any change in the identity of all other jurisdictions in which the person is required to register.

(d) Each jurisdiction where a person registers pursuant to Section 213.11A must advise the registrant, at the time of registration, of the registrant's option to utilize the means of communication established under subsection (2)(c), rather than appearing personally for that purpose, if the registrant so chooses.

(3) The local jurisdiction notified of any changes pursuant to subsections (1) and (2) must promptly provide the registrant a written receipt confirming that the updated information has been provided, and shall provide that information to all other jurisdictions in which the person is required to register.

SECTION 213.11F. DURATION OF REGISTRATION REQUIREMENT

(1) Subject to the provisions of Section 213.11J, a person required to register must keep the registration current for a period of 15 years, beginning on the date when the registrant is released from custody after conviction for the offense giving rise to the registration requirement; or if the registrant is not sentenced to a term of incarceration, beginning on the date when the registrant was sentenced for that offense.

(2) At the expiration of that 15-year period, the duty to keep that registration current will terminate; the person who had been registered will not be subject to any further duties associated with that registration requirement; and no public or private

agency other than a law-enforcement agency shall thereafter be permitted access to the person's registry information.

(3) Early relief from the duty to keep registry information current and other associated duties and consequences is governed by Section 213.11J.

(4) When a person's duty to register terminates under subsection (2) or (3), the law-enforcement agency in the local jurisdiction where the person resides will, upon the person's request, notify all other jurisdictions in which the person is registered that the person's duties associated with that registration requirement have terminated and that no public or private agency other than a law-enforcement agency shall thereafter be permitted to have access to that registry information.

SECTION 213.11G. FAILURE TO REGISTER

(1) *Failure to Register.* A person required to register under Section 213.11A is guilty of Failure to Register, a misdemeanor, if that person knowingly fails to register or knowingly fails to update a registration as required.

(2) *Affirmative Defense.* In a prosecution for Failure to Register under subsection (1) of this Section, it is an affirmative defense that:

(a) circumstances beyond the control of the accused prevented the accused from complying;

(b) the accused did not voluntarily contribute to the creation of those circumstances in reckless disregard of the requirement to comply; and

(c) after those circumstances ceased to exist, the accused complied as soon as reasonably feasible.

SECTION 213.11H. ACCESS TO REGISTRY INFORMATION

(1) Confidentiality

(a) Each local jurisdiction in which a person is registered must exercise due diligence to ensure that all information in the registry remains confidential, except that:

(i) information about a specific registrant must be made available upon request to any law-enforcement agency in connection with the investigation of a criminal offense; and

(ii) when an individual or entity has given a person a conditional offer of employment, subject only to a satisfactory background check, for work involving contact with or access to minors, persons with mental disabilities, elderly persons, or others who are vulnerable, the local jurisdiction must, on request, disclose to that individual or entity:

(A) whether the person offered employment is registered in the jurisdiction as a sex offender;

(B) the registrable offense or offenses for which the registrant was convicted;

(C) the date of the conviction or convictions;

(D) the sentence or sentences imposed; and

(E) the date or dates of the registrant's release from custody for the offense or offenses.

(b) Any disclosure pursuant to subsection (1)(a) shall include a warning that:

(i) the law-enforcement agency or other individual or entity receiving the information must exercise due diligence to ensure that the information remains confidential;

(ii) such information may be disclosed and used as provided in paragraph (a)(i) and (ii), but otherwise must not be disclosed to any person or public or private agency;

(iii) such information may be used only for the purpose requested;

(iv) such information may not be used to injure, harass, or commit a crime against the registrant or anyone else; and

(v) any failure to comply with the terms of subsection (2)(b) could result in civil or criminal penalties.

(2) *Unauthorized Disclosure of Registry Information.* An actor is guilty of Unauthorized Disclosure of Registry Information if:

(a) the actor, having received registry information in an official capacity or as provided in subsection (1), knowingly or recklessly discloses that information, or permits that information to be disclosed, to any person not authorized to receive it; or

(b) the actor obtains access to registry information by computer trespassing or otherwise in violation of law and subsequently knowingly or recklessly discloses that information, or permits that information to be disclosed, to any person.

Unauthorized Disclosure of Registry Information under subsection (2) of this Section is a felony of the fourth degree.

SECTION 213.11I. ADDITIONAL COLLATERAL CONSEQUENCES OF CONVICTION

(1) *Definition.* For purposes of this Section, the term “additional collateral consequence” means any government action or government-imposed burden, restriction, or requirement applicable specifically to persons convicted of a sexual offense, other than (a) the fine, probation, supervised release, or term of incarceration authorized upon conviction of the offense, and (b) the obligation to register and the associated duties specified under Section 213.11A. Those additional collateral consequences include any government-imposed restriction upon the convicted person’s occupation, employment, education, internet access, or place of residence; any government action notifying a community organization or entity or a private party that the person resides, works, or studies in the locality; and any other government action providing registry information to a public or private organization, entity, or person except as authorized by subsection (3) of this Section.

(2) *Additional Collateral Consequences Applicable to Persons Not Required to Register.* Notwithstanding any other provision of law, no person shall be subject to an additional collateral consequence, as defined in subsection (1), unless that person has been convicted of a registrable offense and is required to register as a sex offender under Section 213.11A.

(3) *Additional Collateral Consequences Applicable to Persons Required to Register.* Notwithstanding any other provision of law, a person required to register as a sex offender under Section 213.11A must not be subject to any additional collateral consequence, as

defined in subsection (1), unless an official designated by law, after affording the person notice and an opportunity to respond concerning the proposed additional collateral consequence, determines that the additional collateral consequence is manifestly required in the interest of public safety, after due consideration of:

(a) the nature of the offense;

(b) all other circumstances of the case;

(c) the person's prior record; and

(d) the potential negative impacts of the burden, restriction, requirement, or government action on the person, on the person's family, and on the person's prospects for rehabilitation and reintegration into society.

(4) *Limitations.* The designated official who approves any additional collateral consequence pursuant to subsection (3) of this Section must determine that the additional collateral consequence:

(a) satisfies all applicable notification requirements set forth in Section 213.11B;

(b) is authorized by law;

(c) is drawn as narrowly as possible to achieve the goal of public safety;

(d) is accompanied by a written statement of the official approving the additional collateral consequence, explaining the need for the specific restriction or disability imposed or government action to be taken, the evidentiary basis for that finding of need, and the reasons why a more narrowly drawn restriction, disability, or government action would not adequately meet that need; and

(e) is imposed only for a period not to exceed that permitted by Section 213.11F.

SECTION 213.11J. RELIEF FROM OBLIGATION TO REGISTER, ASSOCIATED DUTIES, AND ADDITIONAL COLLATERAL CONSEQUENCES

(1) *Petition for Discretionary Relief.* At any time prior to the expiration of the obligation to register, the associated duties, or any additional collateral consequences, the registrant may petition the sentencing court, or other authority authorized by law, to issue an order of relief from all or part of that obligation or those duties or consequences. If the

obligation to register arose because of an out-of-state conviction, the petition for an order of relief may be addressed to a court of general jurisdiction or other authority of this state in the place where the person concerned is registered.

(2) *Proceedings on Petition for Discretionary Relief.* The authority to which the petition is addressed may either dismiss the petition summarily, in whole or in part, or institute proceedings to rule on the merits of the petition. If that authority chooses to entertain submissions, hear argument, or take evidence prior to ruling on the merits of the petition, it must give the prosecuting attorney for the offense out of which obligation to register arose notice and an opportunity to participate in those proceedings. If the obligation to register arose because of an out-of-state conviction, that notice and that opportunity to participate must be addressed to the principal prosecuting attorney in the jurisdiction of this state where the authority to which the petition is addressed is located.

(3) *Judgment on Proceedings for Discretionary Relief.* Following proceedings for discretionary relief under subsection (2), the authority to which the petition is addressed may grant or deny relief, in whole or in part, from the obligation to register, any associated duties, and any additional collateral consequences. When that order terminates the registrant's obligation to register and to keep registry information current, subsequent disclosure of registry information is governed by subsection (9). An order granting or denying relief following those proceedings must explain in writing the reasons for granting or denying relief.

(4) *Standard for Discretionary Relief.* The authority to which the petition is addressed may grant relief if it finds that the obligation, duty, or consequence in question is likely to impose a substantial burden on the registrant's ability to reintegrate into law-abiding society, and that public-safety considerations do not require continued imposition of the obligation, duty, or consequence after due consideration of:

- (a) the nature of the offense;
- (b) all other circumstances of the case;
- (c) the registrant's prior and subsequent criminal record; and
- (d) the potential negative impacts of the burden, restriction, or government action on the registrant, on the registrant's family, and on the registrant's prospects for rehabilitation and reintegration into society.

Relief must not be denied arbitrarily or for any punitive purpose.

(5) *Notice to Other Jurisdictions Concerning Discretionary Relief.*

(a) When discretionary relief is granted under this Section, the authority granting the order of relief must, upon the registrant's request, give notice of that order to any other jurisdiction where the person concerned is registered.

(b) When the other jurisdiction notified is a jurisdiction of this state, the notice must specify that the other jurisdiction must extend the same relief from registration-related duties and additional collateral consequences. When that order terminates the registrant's obligation to register and to keep registry information current, that notice must also specify the limits on subsequent disclosure of registry information applicable under subsection (9).

(6) *Proceedings Subsequent to Discretionary Relief.* An order of discretionary relief granted under this Section does not preclude the authority to which the petition was addressed from later revoking that order if, on the basis of the registrant's subsequent conduct or any other substantial change in circumstances, the authority finds by a preponderance of the evidence that public-safety considerations, weighed against the burden on the registrant's ability to reintegrate into law-abiding society, no longer justify the order of relief.

(7) *Automatic Relief.* If, during the first 10 years of the period during which a person is required to keep registration information current, the person:

(a) successfully completes any period of supervised release, probation, or parole, and satisfies any financial obligation such as a fine or restitution, other than a financial obligation that the person, despite good-faith effort, has been unable to pay; and

(b) successfully completes any required sex-offense treatment program; and

(c) is not convicted of any additional offense under this Article, or any sexual offense in another jurisdiction that would be an offense under this Article if committed in this jurisdiction; then:

the duty to keep that registry information current will terminate; the person who had been registered will not be subject to any further duties associated with that

registration requirement; and subsequent access to registry information will be governed by subsection (9).

(8) *Notice to Other Jurisdictions Concerning Automatic Relief.* When automatic relief takes effect under subsection (7), the sentencing court or other authority authorized by law must, upon the registrant's request, notify any jurisdiction or jurisdictions where the person concerned is registered that the person's duty to keep that registration current and all other duties associated with that registration requirement have terminated. That notice must also specify the limits on subsequent disclosure of registry information applicable under subsection (9).

(9) *Access to Registry Information After Discretionary or Automatic Relief.* When an order of discretionary relief terminates the registrant's obligation to register and to keep registry information current, and when automatic relief takes effect, subsequent access to registry information is limited as follows:

(a) Registry information recorded as of the date when discretionary or automatic relief takes effect may remain available to any law-enforcement agency seeking disclosure of that information in compliance with Section 213.11H(1)(a)(i).

(b) Except as provided in paragraph (a), no public or private agency, including an agency seeking disclosure of registry information pursuant to Section 213.11H(1)(a)(ii), may thereafter be permitted access to registry information concerning the person to whom the discretionary or automatic relief pertains.