



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
4.720

CHAPTER Program Implementation and Records	SUBCHAPTER Notification	EFFECTIVE DATE 6/24/15	NUMBER OF PAGES 8	PAGE NUMBER Page 1 of 8
SUBJECT Consumer Notification of Registered Offenders when Residing in a Department Funded Community Placement with Licensed, Certified or Accredited Residential Providers		AUTHORITY Section 630.050	HISTORY See Below	
PERSON RESPONSIBLE Department Deputy Director			SUNSET DATE 7/1/18	

PURPOSE: Prescribes procedures for notifying consumers and/or their guardians for whom the Department funds residential placement with licensed, certified, accredited or funded residential providers, of registered offenders and charged consenting consumers who reside in the same residential location. (Note: Notification of registered offenders is required regardless of whether or not the registered offender is funded by the Department)

APPLICATION: Applies to Department employees.

(1) As used in this DOR, the following terms shall mean:

(A) **Charged Consenting Consumer:** An individual who has been permanently determined to lack capacity to understand the proceedings against him or her or to assist in his or her own defense under Section 552.020, RSMo, for offenses the individual would otherwise have been required to register as an offender on or after January 1995, under Sections 589.400 to 589.425, RSMo, and whose guardian has given consent to the Regional Office or Supported Community Living Office or designee to disclose such legal charges against their ward to other consumers or their guardians.

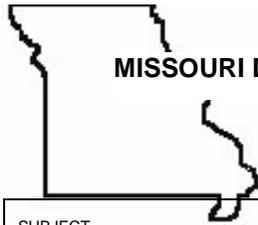
(B) **Department:** Department of Mental Health.

(C) **Juvenile Sex Offender:** A minor who has been adjudicated a delinquent under section 211.425, RSMo, by a juvenile court for committing or attempting to commit a sex-related offense that if committed by an adult would be considered a felony under chapter 566 and who is not required to register as an adult offender because the minor was younger than fourteen (14) at the time of the offense or the offense was committed prior to August 28, 2008. Juvenile sex offenders are required to register with the juvenile office of the county where the juvenile sex offender resides in accordance with section 211.425, RSMo.

(D) **Non-related Residents:** Individuals who reside in the same location but have no familial relation.

(E) **Regional Office:** An entity so designated by the department to provide, directly or indirectly, for comprehensive mental retardation and developmental disability services in a particular region.

(F) **Registerable Offense:** A criminal offense listed in section 589.400, RSMo.



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(G) Registered Offender: A person who is registered or will be registered by law enforcement upon discharge from a state operated inpatient or correctional facility pursuant to sections 589.400-589.425, RSMo. A person is required to register if the person has committed one of the offenses listed in statute on or after January 1, 1995, and if the person has:

1. Been convicted of, been found guilty of, or pled guilty or nolo contendere to committing, or attempting to commit the offense; or
2. Has been committed to the Department of Mental Health as a criminal sexual psychopath; or
3. Has been found not guilty as a result of mental disease or defect;

or

4. Is required to register in another state; or
5. Been convicted of, been found guilty of, or pled guilty or nolo contendere to committing, or attempting to commit such an offense in another state.

6. Has been adjudicated a delinquent under section 211.425, RSMo, by a juvenile court for committing or attempting to commit a sex-related offense that if committed by an adult would be considered a felony under chapter 566, RSMo, and the minor was fourteen (14) years of age or older at the time of the offense.

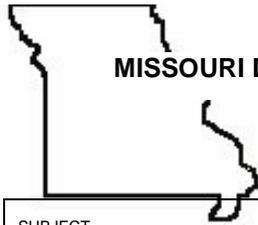
(H) Residential Placement: Department funded placement of a consumer in a licensed, certified or accredited group home, Residential Care Facility, nursing facility or individualized supported living home with two or more non-related residents. Residential placements do not include respite or crisis beds, which are considered an acute or short-term placement and do not constitute a consumer's home.

(I) Same Residential Location: The same accredited, licensed or certified group home, Residential Care Facility, nursing facility or individualized supported living home.

(J) Supported Community Living Program: An entity subject to the supervision of the comprehensive psychiatric services division director or designee that is responsible for monitoring regional placement programs and services for consumers served by the comprehensive psychiatric services division.

(K) Supported Community Living Agent. Department administrative agents and their affiliates as defined in 9 CSR 50-2.510(1)(A)(B).

(2) Prior to a Department funded residential placement, a consumer who has not been adjudged incapacitated under Chapter 475, RSMo, the custodial or guardian parent or other guardian of a consumer shall be notified by the Director or designee of the Regional Office or Supported Community Living Program of the possibility of the consumer being placed in a facility with a consumer who



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has been charged or convicted of a registerable offense. Such notification shall be documented in the admissions data maintained by the Regional Office or Supported Community Living Program.

(A) Placements for the Division of Comprehensive Psychiatric Services are arranged by or in coordination with Department contracted Community Mental Health Centers. These contracted agents employ screening and clinical care services to address care and safety risks. Additionally, residential providers contracted with the Division must adhere to required care procedures and safety risks per Department contracts and applicable licensure or national accreditation standards.

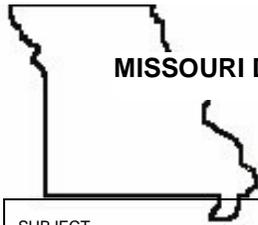
(3) An appointed guardian of an individual admitted to a residential placement who has been determined to lack capacity to understand the proceedings against him or her or to assist in his or her own defense under Section 552.020, RSMo, for offenses the individuals would have otherwise been required to register as offenders under sections 589.400 to 589.425, RSMo, shall be asked for consent to disclose their ward's name and these offenses to other Department funded consumers with whom their ward resides or the other Department funded consumers' applicable guardians.

(A) Requests for consent shall be made by the Regional Office or Supported Community Living Program or designee prior to residential placement, or within fourteen (14) days of being aware of an already placed consumer's status as a charged consenting consumer.

(B) A record of the request and the guardian's response to the request shall be entered in the record maintained by the Regional Office or Supported Community Living Program. Evidence of consent will be represented by a document detailing the information to be disclosed and the circumstances under which the information will be disclosed that is signed and dated by the applicable guardian.

(C) If consent is obtained, the Department funded consumers with whom the ward resides or other Department funded consumers' applicable guardians shall be notified in writing of the charged consenting consumer's name and the date and nature of the crime for which he or she would have been required to register except that he or she has been permanently determined to lack capacity to understand the proceedings against him or her or to assist in his or her own defense under section 552.020, RSMo. The notification will identify who to contact at the Regional Office or Supported Community Living Program if there are questions.

(D) Refusal to grant consent shall not prevent placement.



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(4) Prior to Department funded residential placement, each consumer who has not been adjudged incapacitated under Chapter 475, RSMo, the custodial or guardian parent or other guardian of the consumer shall be notified by the Director or designee of the Regional Office or Supported Community Living Program of any registered offender(s) and/or charged consenting consumers residing in the same residential location that is being considered for placement.

(A) If the residential location houses a registered offender or charged consenting consumer, written notification shall be hand delivered or sent certified mail to the consumer who has not been adjudged incapacitated under Chapter 475, RSMo, the custodial or guardian parent or other guardian of the consumer.

(B) If the residential location houses a registered offender, notification shall include the identity of the registered offender, his/her physical description and the date and nature of the crime for which the individual was required to register.

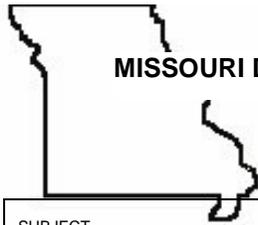
(C) If the residential location houses a charged consumer, consent shall be requested as specified in (3) above. If consent is obtained, notification shall include the identity of the charged consenting consumer and the date and nature of the crime for which he or she would have been required to register except that he or she has been permanently determined to lack capacity to understand the proceedings against him or her or to assist in his or her own defense under section 552.020, RSMo.

(D) Notification shall identify the name and contact information of the Regional Office or Supported Community Living Program to whom concerns or questions may be directed.

(E) A copy of the written notification shall be maintained by the Director or designee of the Regional Office or Supported Community Living Program in a separate file maintained for that purpose.

(5) If residential placement is sought for an adult registered offender or charged consenting consumer, the Director or designee of the Regional Office or Supported Community Living Program shall notify each consumer who has not been adjudged incapacitated under Chapter 475, RSMo or guardian of a consumer residing in the same residential location being considered for placement. NOTE: If residential placement is sought for a youth registered offender, refer to (7) below.

(A) Notification shall be in writing. Written notification shall be hand delivered or sent certified mail to the consumer who has not been adjudged incapacitated under Chapter 475, RSMo, or guardian of the consumer. Proof of delivery shall be maintained by the Director or designee of the Regional Office or Supported Community Living Program. If notification is returned as undeliverable, the Director or designee of the Regional Office or Supported



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Community living Program shall attempt to notify the consumer who has not been adjudged incapacitated under Chapter 476, RSMo, or guardian of the consumer verbally with follow up written notification. Attempted verbal and written notification shall be maintained by the Director or designee of the Regional Office or Supported Community Living Program. [Electronic communications, such as facsimiles, may be substituted for certified mail if the recipient returns an acknowledgement of receipt.]

(B) If placement is being sought for a registered offender, notification shall include the identity of the registered offender, his/her physical description and the nature of the crime for which the individual was required to register.

(C) If placement is being sought for a charged consenting consumer, notification shall include the identity of the charged consenting consumer and the date and nature of the crime for which he or she would have been required to register except that he or she has been permanently determined to lack capacity to understand the proceedings against him or her to assist in his or her own defense under section 552.020, RSMo.

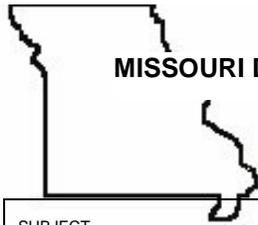
(D) Notification shall identify the name and contact information of the Regional Office or Supported Community Living Program staff to whom concerns or questions may be directed.

(E) A copy of the written notification, proof of delivery, and attempted notifications shall be maintained by the Director or designee of the Regional Office or Supported Community Living Program in a separate file maintained for that purpose.

(F) The Supported Community Living Program shall require notification from Supported Community Living Agents when they are seeking a community residential placement for a registered offender, [9 CSR 50-2.510(6)].

(6) If a consumer is already in residential placement and is required to register as an offender or has been charged with an offense that would have required him or her to register as an offender under sections 589.400 to 589.425, RSMo but the individual has been determined to lack capacity to understand the proceedings against him or her to assist in his or her own defense under Section 552.020, RSMo., the director or designee of the Regional Office or Supported Community Living Program shall notify each Department funded consumer who has not been adjudged incapacitated under Chapter 475, RSMo, the custodial or guardian parent or other guardian of the consumer residing in the same residential location.

(A) Notification shall be in writing. Written notification shall be hand delivered or sent certified mail to the consumer who has not been adjudged incapacitated under Chapter 475, RSMo, the custodial or guardian parent or other guardian of the consumer. Proof of delivery shall be maintained by the Director or designee of the Regional Office or Supported Community Living Program. If



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notification is returned as undeliverable, the Director or designee of the Regional Office or Supported Community Living Program shall attempt to notify the consumer who has not been adjudged incapacitated under Chapter 475, RSMo, the custodial or guardian parent or other guardian of the consumer verbally with follow up written notification. Attempted verbal and written notification shall be maintained by the Director or designee of the Regional Office or Supported Community Living Program. [Electronic communications, such as facsimiles, may be substituted for certified mail if the recipient returns an acknowledgement of receipt.]

(B) If the residential location houses a registered offender, notification shall include the identity of the registered offender, his/her physical description and the nature of the crime for which the individual was required to register.

(C) If the residential location houses a charged consumer, consent shall be requested as specified in (3) above. If consent is obtained, notification shall include the identity of the charged consenting consumer and the date and nature of the crime for which he or she would have been required to register except that he or she has been permanently determined to lack capacity to understand the proceedings against him or her or to assist in his or her own defense under section 552.020, RSMo.

(D) Notification shall identify the name and contact information of the Regional Office or Supported Community Living Program staff to whom concerns or questions may be directed.

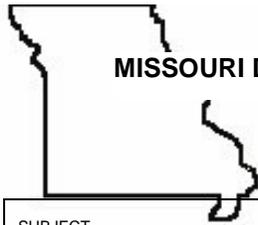
(E) A copy of the written notification, proof of delivery, and attempted notifications shall be maintained by the Director or designee of the Regional Office or Supported Community Living Program in a separate file maintained for that purpose.

(7) For all minors fourteen (14) years of age and older for whom a request has been made for residential placement through the Supported Community Living Program or Regional Office, the Supported Community Living Program or Regional Office shall take the following steps prior to placement:

(A) Check the Sex Offender Registry maintained by the Missouri State Highway Patrol to verify that the minor is not a registered offender.

(B) If the minor is a registered offender, placement in a children and youth congregate care residential facility through Department funding shall not be made. If placement in an Individualized Supported Living home (ISL), Treatment Family Home (TFH) or Professional Parenting Home (PPH) is requested/recommended through the Department, the following requirements shall be met:

1. No other children under the age of eighteen (18) reside in the ISL/TFH/PPH;



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2. The minor is registered in the county in which the ISL/TFH/PPH is located; and

3. An individualized plan of care addresses the identified risk factors for reoffending for that specific minor including required levels of supervision in all community settings and a crisis plan.

(8) For all minors referred for DMH funded placement, prior to placement the Supported Community Living Program or Regional Office shall attempt to ascertain if the minor is registered as a juvenile sexual offender as defined in section (1)(C) by contacting the juvenile office where the minor's legal guardian resides. If the minor is registered as a juvenile sexual offender the following actions shall be taken:

(A) The placement provider and other involved providers, as necessary, shall be informed of the minor's history of problem sexual behaviors;

(B) An individualized plan of care addresses the identified risk factors for reoffending for that specific minor including required levels of supervision in all community settings and a crisis plan.

(C) The minor registers with the juvenile office in the county where the placement is located.

(9) In accordance with federal and state statutes and regulations, only that information that is considered public record may be shared.

(10) The notification requirements set forth in this DOR do not apply to consumers who meet the following criteria:

(A) Have been charged but not convicted or found guilty as a result of mental disease or defect or permanently determined to lack capacity to understand the proceedings against him or her or to assist in his or her own defense under section 552.020, RSMo, for offenses the individuals would have otherwise been required to register; or

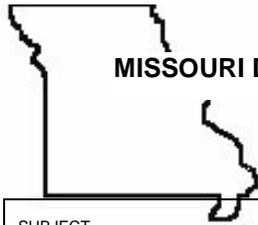
(B) Have a history of inappropriate behavior for which they have never been criminally charged and convicted.

(11) The Director or designee of the Regional Office or Supported Community Living Program shall be responsible for the following:

(A) Writing and implementing all necessary policies and procedures to ensure compliance with the requirements of this DOR.

(B) For periodic and regular review of applicable statutes and the histories of consumers in Department funded placement to ensure that all current crimes requiring persons to register are identified.

(C) For verifying registration or for verifying that registration materials have been submitted and/or for submitting registration materials on all



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consumers who are legally required to be registered as offenders for whom the Regional Office or Supported Community Living Program is responsible for providing department funded placement.

(D) For submitting no less than annually a report to the Department's applicable division director that includes the following:

1. The names and physical location of registered offenders for whom the Regional Office or Supported Community Living Program is responsible for providing department funded placement.

2. An attestation that all registered offenders for whom the Regional Office or Supported Community Living Program is responsible for providing department funded placement have met and are current with registration requirements.

3. Names and physical locations of consumers who have been charged with a registerable offense, identifying these charged consumers who have been judged to be permanently incompetent to stand trial and appointed a guardian and identifying those charged consumers for who guardians have consented to disclose legal charges of a registerable offense to other consumers with whom they reside or their guardians.

4. An attestation that all guardians of consumers charged with registerable offenses have been asked to give consent to disclose legal charges of a registerable offense to other Department funded consumers with who they reside or their guardians.

5. An attestation that each consumer who has not been adjudged incapacitated under Chapter 475, RSMo, the custodial or guardian parent or other guardian of the consumer residing in the same residential location as a registered offender or charged consenting consumer has been notified of such in accordance with this DOR.

(12) Each division is responsible for developing a procedure for monitoring the list of registered offenders and charged consenting consumers to ensure that appropriate notification is provided.

HISTORY: Original DOR effective July 1, 2007. Amendment effective July 1, 2010. Amendment effective August 5, 2011. On June 24, 2015, the sunset date was extended to July 1, 2018.