



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
4.710

CHAPTER Program Implementation and Records	SUBCHAPTER Notification	EFFECTIVE DATE 6/18/14	NUMBER OF PAGES 6	PAGE NUMBER Page 1 of 6
SUBJECT Notification of Registered Offenders Residing in Department Operated Residential or Inpatient Facilities		AUTHORITY Section 630.050	HISTORY See Below	
PERSON RESPONSIBLE Department Deputy Director			SUNSET DATE 7/1/17	

PURPOSE: Prescribes procedures for notifying consumers residing in a Department operated inpatient or residential facility, and their respective guardians, of other consumers who are registered offenders and reside in the same residential location. Also prescribes procedures for other relevant notifications required for registered offenders pursuant to sections 589.403 to 589.425, RSMo.

APPLICATION: Applies to all adult serving Department Operated Inpatient or Residential Facilities, except for Southeast Missouri Mental Health Center—Sex Offender Rehabilitation and Treatment Services and Fulton State Hospital—Sex Offender Rehabilitation and Treatment Services. Children/Youth serving facilities will develop independent facility specific notification policies and procedures that address the issue of admission of an individual who is a registered juvenile sex offender, which must be approved by their Division Director.

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

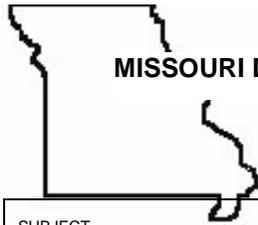
(A) Department: Department of Mental Health.

(B) Department Operated Inpatient or Residential Facility: Inpatient hospitals, habilitation centers, or residential facilities, which include group homes and individualized supported living homes with two or more non-related residents whose residences or activities are operated or staffed by Department employees twenty-four (24) hours per day. These facilities do not include Department operated parts of facilities identified as acute care or crisis units. Such units are considered acute/short term beds and do not constitute a consumer’s home or residence.

(C) Non-related Residents: Individuals who reside in the same location but have no familial relationship.

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

(E) 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 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:



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- 1. Been convicted of, been found guilty of, or pled guilty or nolo contendere to committing, or attempting to commit or conspiring 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. Has been or is required to register in another state or foreign country; or
 - 5. Been convicted of, been found guilty of, or pled guilty or nolo contendere to committing, or attempting to commit or conspiring to commit such an offense in another state; or;
 - 6. Has been or is required to register under federal law; or
 - 7. Has been or is required to register under military law; or
 - 8. Has committed a comparable offense under tribal jurisdiction.

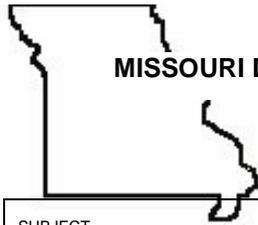
Requirements to register under federal law exist without consideration of the date of occurrence. The Missouri State Highway Patrol Sex Offender Registration website should be consulted to determine registration requirements.

(F) **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 that the individual would have otherwise been required to register as an offender on or after January 1, 1995 under sections 589.400 to 589.425, RSMo, and whose appointed guardian has given consent to the facility to disclose such legal charges against their wards to other consumers with whom their wards reside, or their guardian.

(G) **Same Residential Location:** Unlocked units or living areas within a building and/or a single locked unit within a building that may contain other locked units.

(2) Upon admission to a Department Operated Inpatient or Residential Facility, 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 facility head or his/her designee of the possibility of a person being placed in the facility with the consumer who has been charged or convicted with a registerable offense. Such notification shall be documented in the admissions' data maintained in the consumer's facility record.

(A) The notice shall include the process and mechanisms for assessing risk, for planning and providing care and safety, and for the provision of services and supports necessary to mitigate risk for persons residing in the facility.



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(B) The notice shall indicate whom to contact within the facility for any concerns or questions.

(3) Each 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 facility head or his/her designee of any registered offenders and/or of any charged consenting consumers with whom the consumer shares the same residential location within a Department Operated Inpatient or Residential Facility.

(A) Notification shall be made verbally as follows:

- 1. Within twenty-four (24) hours of the consumer's admission; and/or**
- 2. Within twenty-four (24) hours of the admission or transfer of a registered offender and/or of any charged consenting consumers into the consumer's residential location; and/or**
- 3. Within twenty-four (24) hours of the facility learning that one of its consumers has had a change in legal status that makes the consumer subject to offender registration or has become a charged consenting consumer.**

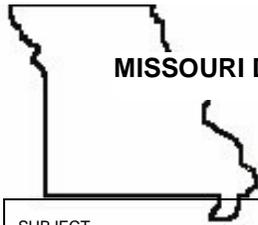
(B) Notification shall identify the name and contact information of the facility individual to whom the consumer, parent or guardian can direct any concerns or questions.

1. The Department facility contact individual shall be available by the next working business day, and may provide such information as the offender's or charged consenting consumer's name, physical description, unit/room assignment, the specific criminal charge, and the date of the crime.

2. The facility shall supplement verbal notification with a written document for guardians that provides this contact information as well as information on the Department's policies on such notifications; a description of the facility's evaluation and treatment/care planning protocols; and a description of the minimum staffing availability on the living area where their family member/ward resides.

3. Notification and any follow-up conversations shall be recorded in a facility log maintained for that purpose, and reflect the following:

- a. Person(s) notified**
- b. Whether the contact was made in person or by phone;**
- c. Person performing the notification;**
- d. Time and date of notification;**
- e. The identity of the registered offender or charged consenting consumer; and**
- f. That notice of whom to contact within the facility for any concerns or questions was provided.**



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(4) An appointed guardian of an individual admitted to a Department Operated Inpatient or Residential Facility 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 consumers with which their ward resides or the other consumers' applicable guardian.

(A) Requests for consent shall be made by the facility head or their designee within 5 business days of admission or facility knowledge of offense; and

(B) A record of the request and the guardian's response to the request will be entered in the consumer's facility record.

1. Evidence of consent will be represented by a document detailing the information to be disclosed and the circumstances under which the information will be disclose that is signed and dated by the applicable guardian.

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

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

(6) 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 individual 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.

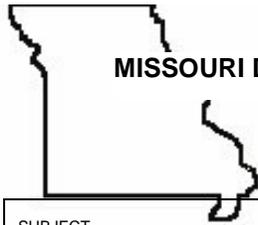
(7) All Department Operated Inpatient or Residential Facility heads shall be responsible for the following:

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

(B) Notifying owner/operators of any congregate living residence to which a known registered offender and/or a charged consenting consumer is being discharged.

1. Notice will occur before discharge;

2. Notice will be to the owner/operator of the congregate living residence only, unless the discharge is a Department funded placement;



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a. See DOR 4.720 for procedures related to Department funded placements of registered offenders and/or a charged consenting consumer.

(8) Department Operated Inpatient Residential Facility heads or their designee shall be responsible for the following:

(A) Periodic and regular review of applicable statutes and consumer histories to ensure that all current crimes requiring persons to register are identified. These reviews shall also occur upon the release or temporary absence of consumers subject to registering and/or a charged consenting consumer.

(B) Verifying registration, or for verifying that registration materials have been submitted and/or for submitting registration materials on all consumers residing within their respective residential facility who are legally required to be registered as offenders.

1. Facility heads or their designee shall submit registration materials to the appropriate law enforcement agency whether or not such agencies elect to enter registration data into the public database while an individual remains hospitalized.

(C) Ensuring the following upon the release of any consumer who is required to register as an offender:

1. Informing, upon their release, any consumer who is required to register as an offender of their possible duty to register in accordance with 589.400-589.425 RSMo.

2. Obtaining the address where the person expects to reside upon release, and reporting such address to the appropriate law enforcement official.

(D) Ensuring the following upon any temporary absence (or assignment outside the facility for whatever nature) of any consumer who is required to register as an offender:

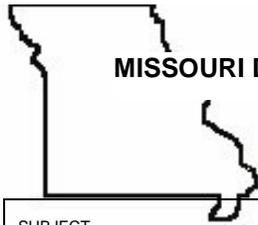
1. Notification of the chief law enforcement official of the county having jurisdiction over the destination or place where the assignment is to occur within a reasonable time prior to removal from the facility. This requirement shall not apply to any person temporarily released under escorted supervision from the facility in which the consumer is confined.

(E) Submitting, no less than annually, a report to the relevant Department Division Director. The report shall include the following:

1. Names and physical location of registered offenders residing in the facility.

2. An attestation that all resident registered offenders have met and are current with registration requirements.

3. Names and physical location of consumers who have been charged with a registerable offense; identifying those charged consumers who have been judged to be permanently incompetent to stand trial and appointed a guardian;



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and identifying those charged consumers for whom 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 consumers with whom 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 a consumer residing in the same residential location as registered offenders and/or charged consenting consumers has been notified of such in accordance with this DOR.

HISTORY: Original DOR effective July 1, 2007. Amendment effective November 21, 2007. Amendment effective December 19, 2007. Amendment effective May 20, 2011. On May 20, 2011 the sunset date was extended to July 1, 2014. Amendment effective June 18, 2014.