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11.10.03 - RULES GOVERNING THE SEX OFFENDER REGISTRY

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**IDAPA 11
TITLE 10
Chapter 03**

11.10.03 - RULES GOVERNING THE SEX OFFENDER REGISTRY

000. LEGAL AUTHORITY.

The Department of Law Enforcement has authority to make rules to implement the sex offender central registry pursuant to Title 18, Chapter 83, Idaho Code, Sections 18-8301 through 18-8326. (3-18-99)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 11.10.03, "Rules Governing the Sex Offender Registry". The rules relate to the administration of the state's sex offender central registry, which includes both adult and juvenile offenders. (3-18-99)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-18-99)

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (3-18-99)

004. -- 009. (RESERVED).

010. DEFINITIONS.

01. Bureau. "Bureau" means the Bureau of Criminal Identification, Idaho Department of Law Enforcement. (3-18-99)

02. Central Registry. "Central Registry" means the state-level records system containing information, photographs and fingerprints relating to persons required to register as a sex offender under Title 18, Chapters 83 and 84, Idaho Code. (3-18-99)

03. Department. "Department" means the Idaho Department of Law Enforcement. (3-18-99)

04. Director. "Director" means the director of the Idaho Department of Law Enforcement. (3-18-99)

05. Working Days. "Working Days" means each day except Saturday, Sunday, or a legal state holiday. (3-18-99)

011. SEX OFFENDER CENTRAL REGISTRY - ADMINISTRATION.

01. Central Registry Established. Pursuant to Title 18, Chapter 83, Idaho Code, the department establishes a sex offender central registry in the bureau of criminal identification. The bureau is responsible for administration of the central registry pursuant to the requirements set forth in Title 18, Chapters 83 and 84, Idaho Code and these rules. (3-18-99)

02. Forms. The following forms and procedures are prescribed for providing notice to and collecting information from persons required to register as a sex offender pursuant to Title 18, Chapters 83 and 84, Idaho Code. (3-18-99)

a. "Notification and Initial Registration Form" (SOR-1) notifies an offender of the duty to register and obtains information for initial registration with the central registry. The court or appropriate correctional agency shall complete the form with the assistance of the offender required to register. Within three (3) working days of completing the form, the court or correctional agency shall forward the original copy to the bureau. (3-18-99)

b. "Local/Annual Registration Form" (SOR-2) collects from an offender information required for first-time registration in a county, annual re-registration, or a change of address within the county of residence. Under supervision of the sheriff or the sheriff's designee, the offender shall complete the form as prescribed by the

accompanying instructions. Except when using the form to notify the central registry of a change of address, the sheriff shall forward the original copy, along with the offender's photograph and fingerprints, to the bureau within three (3) working days of completing the form. When using the form to notify a change of address, the sheriff shall forward only the original copy of the form to the bureau within three (3) working days of its completion. (3-18-99)

c. "Local/Annual Registration Form Addendum" (SOR-3) collects offense information and provides notice of registration requirements to an offender who has not undergone Idaho or local registration previously or who has committed an additional sex offense since last annual registration. Under supervision of the sheriff or the sheriff's designee, the offender shall complete the form as prescribed by the accompanying instructions. In those cases when appropriate, the sheriff shall attach the form to the SOR-2 form and forward them to the bureau within three (3) working days of their completion. (3-18-99)

03. Information Required At Initial Registration. In addition to the information required by Section 18-8307(8), Idaho Code, the "Notification and Initial Registration Form" (SOR-1) shall collect the following information: (3-18-99)

a. Whether the offender is registering as an adult under Title 18, Chapter 83, Idaho Code, or as a juvenile under Title 18, Chapter 84, Idaho Code; (3-18-99)

b. Physical description of the offender, including gender, race, height, weight, eye color, hair color, and scars, marks, and tattoos; (3-18-99)

c. Offender's occupation and name and place of employment; (3-18-99)

d. The name and location of a school, college, or university that the offender attends; and (3-18-99)

e. Name of the offender's probation/parole officer. (3-18-99)

04. Photographs And Fingerprints. Whenever Form SOR-2 is used to register an offender who moves into a county or to re-register an offender annually, it is submitted to the central registry with the offender's photograph and fingerprints. (3-18-99)

a. An offender's photograph shall be in color and taken using equipment provided for drivers license photographs and using a special camera form supplied by the bureau. The sheriff shall forward one (1) photograph of the offender with each registration Form SOR-2. Photographs submitted to the central registry shall be new photographs taken at the time of each registration. From collected registration fees, the sheriff shall pay to the state the cost of photography materials lawfully required by a state agency or department. (3-18-99)

b. The sheriff shall submit the required fingerprints on the federal bureau of investigation form FD-249. In 1998 and for each first-time registrant, the sheriff shall forward two (2) FBI fingerprint cards with each registration Form SOR-2. For subsequent annual re-registrations, the sheriff shall forward one (1) FBI fingerprint card with each registration form SOR-2. (3-18-99)

05. Change Of Address Notification. When an offender changes address or actual residence within a county, the offender will complete within five (5) days after the change Form SOR-2 to provide the required notification. When an offender moves to another county to establish permanent or temporary domicile, the offender must register as a new resident with the sheriff having jurisdiction within ten (10) days of moving to the other county. When an offender moves to another state, the offender shall notify the central registry by certified mail within five (5) days after moving to the other state. (3-18-99)

06. Notification To Local Law Enforcement. The bureau will provide to a local law enforcement agency on its request a list of registered sex offenders residing in its jurisdiction. The bureau will notify the local law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or residence of a registered sex offender and of a registered offender's intent to reside in the agency's jurisdiction. Whenever practical, the bureau will provide notification using the Idaho law enforcement telecommunication system (ILETS). (3-18-99)

07. Notification To Other States. Within one (1) working day of receiving notification that a registered

sex offender is moving to another state, the bureau will notify the receiving state's designated sex offender registration agency of the move by mail or electronic means. (3-18-99)

08. Expungement Of Central Registry Information. (3-18-99)

a. Upon receipt of a certified copy of a death certificate recording the death of a person registered with the central registry, the bureau will expunge all records concerning the person from the central registry. (3-18-99)

b. Upon receipt of a duly attested copy of a pardon issued by the governor of a state as to a conviction reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. (3-18-99)

c. Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed or dismissed by the court, the bureau will expunge all records concerning the conviction from the central registry. If the person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. (3-18-99)

d. Upon receipt of a duly attested document from a court clerk that a registered sex offender has been released by the court from registration requirements pursuant to Section 18-8310, Idaho Code, the bureau will expunge all records and references concerning the offender from the central registry. (3-18-99)

09. Correction Of Central Registry Information. (3-18-99)

a. A person registered pursuant to Title 18, Chapters 83 or 84, Idaho Code, may submit a written request to the bureau to correct or modify information regarding that person in the central registry for the purpose of making the information accurate and complete. The bureau will respond to the request in writing within thirty (30) days after receipt of the request. When a request is denied, in whole or part, the bureau will explain the reasons for the decision. (3-18-99)

b. A person whose request, under Subsection 011.09.a. of this section, is denied, in whole or part, may appeal to the director for review of the decision within thirty (30) days after the mailing of the bureau's written response. The appeal must be in writing and must set out the reasons for the appeal. The decision of the director will be in writing and made within forty-five (45) calendar days after the department's receipt of the appeal. (3-18-99)

012. RELEASE OF INFORMATION TO THE PUBLIC.

01. Method Of Access. Any person may inquire on a named person or obtain a list of sex offenders by geographic area by submitting a completed Request for Information Form SOR-4 to the bureau or local sheriff. The bureau or sheriff may only provide public access to central registry information by means of a completed Form SOR-4, which must include the requester's full name, address, and either driver's license number or social security number. The bureau or sheriff shall respond to a completed Form SOR-4 within ten (10) working days of receipt. A sheriff may refer a person to the bureau for public access to the central registry. (3-18-99)

02. Geographic Lists. Any person using a Form SOR-4 may request a list of offenders by county or zip code. (3-18-99)

03. Statewide Lists. Schools and organizations working with youth, women or other vulnerable populations may request a statewide list of registered offenders from the bureau. The bureau may request information additional to that required by the Form SOR-4 to determine eligibility status for a statewide list. (3-18-99)

04. Information Released. Only central registry information authorized for release pursuant to Section 18-8323(2), Idaho Code, may be provided by the bureau or sheriff in response to a completed Form SOR-4. A conviction of incest (Section 18-6602, Idaho Code, or equivalent offense) shall be reported as sexual abuse of a child under sixteen (16) years of age (Section 18-1506, Idaho Code). (3-18-99)

05. Fee For Accessing Information. The bureau shall collect a fee of five dollars (\$5) for each inquiry on a named person or for each request for a list of sex offenders by geographic area. Schools and nonprofit organizations working with youth, women, or other vulnerable populations are exempt from payment of the fee. The bureau may request information additional to that required by the Form SOR-4 to determine eligibility status for nonfee access to central registry information. A registered offender may request a copy of the offender's own central registry information without payment of a fee. (3-18-99)

06. Photographs. Any person may request the photograph of a registered sex offender by submitting to the bureau a completed Request for Registry Photograph Form SOR-5. The bureau may only provide public access to central registry photographs by means of a completed Form SOR-5, which must include the requester's full name, address, and either driver's license number or social security number. (3-18-99)

07. Fee For Photographs. The bureau shall collect a fee of five dollars (\$5) for each photograph provided in response to a completed Form SOR-5. (3-18-99)

08. Retention Of Request Forms. The bureau and all sheriffs shall retain in their files the original copies of forms SOR-4 and SOR-5 for a period of two (2) years from the date of submission. These forms are available for inspection only by law enforcement and criminal justice agencies. (3-18-99)

013. -- 999. (RESERVED).