

## **IDAPA 11 – IDAHO STATE POLICE**

### **Idaho Public Safety and Security Information**

#### **11.10.03 – Rules Governing the Sex Offender Registry**

##### **Who does this rule apply to?**

*Law enforcement agencies, registered sex offenders, and members of the general public.*

##### **What is the purpose of this rule?**

*The rules relate to the administration of the state's sex offender central registry, which includes both adult and juvenile offenders. The rule provides for gathering of information from offenders, notification procedures, expungement of central registry information, and determination of substantially equivalent or similar crimes.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Crimes and Punishment -

Sexual Offender Registration Notification and Community Right-to-Know Act:

- [Section 18-8304, Idaho Code](#) – Application of Chapter — Rulemaking Authority
- [Section 18-8305, Idaho Code](#) – Central Registry — Notice to Agencies

##### **Who do I contact for more information on this rule?**

Idaho State Police  
Bureau of Criminal Identification  
700 S. Stratford Drive, Suite 125  
Meridian, ID 83642  
Phone: (208) 884-7130  
Fax: (208) 884-7193  
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Web: <https://isp.idaho.gov/bci>

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## 11.10.03 – RULES GOVERNING THE SEX OFFENDER REGISTRY

### 000. LEGAL AUTHORITY.

The Idaho State Police has authority to make rules to implement the sex offender central registry pursuant to Title 18, Chapter 83, Idaho Code, Sections 18-8301 through 18-8331. (3-29-12)

### 001. TITLE AND SCOPE.

These rules are titled 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. -- 009. (RESERVED)

### 010. DEFINITIONS.

The terms defined in Section 67-3001, Idaho Code, will have the same meaning in these rules. In addition, the following terms have the meanings set forth below: (3-29-12)

**01. Central Registry.** 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. (3-20-20)

**02. Substantially Equivalent.** Any sex offense related crime, regardless of whether a felony or misdemeanor, that consists of similar elements defined in Title 18 of the Idaho Criminal Code. It does not mean exactly the same, nor exactly identical to. (3-20-20)

**03. Working Days.** Each day except Saturday, Sunday, or a legal state holiday. (3-20-20)

### 011. (RESERVED)

### 012. 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 will be used to provide notice to and collect information from persons required to register as a sex offender pursuant to Title 18, Chapters 83 and 84, Idaho Code. (3-29-12)

**a.** “Idaho Sex Offender Registry Form.” This three (3) page form notifies an offender of register requirements and collects from an offender information required for registration or any change of address or status, as required by statute. (3-29-12)

**b.** “Idaho Sex Offender Registry Homeless - Location Verification Form.” This one (1) page form is used during weekly reporting to collect from an offender the information required when the offender does not provide a physical address at the time of registration. (3-29-12)

**03. Photographs and Fingerprints.** (3-20-20)

**a.** An offender’s photograph will be in color. The sheriff will forward a copy of the photograph with tagging information so it may easily be located by registry staff in the department of transportation photo database. Photographs submitted to the central registry will be a copy of the new photographs taken at the time of each registration. From collected registration fees, the sheriff will pay to the state the cost of photography materials lawfully required by a state agency or department. (3-29-12)

**b.** The sheriff will also submit the required fingerprints and palmprints for each registrant, in a manner prescribed by the department, either by manual card or electronic submission each registration. (3-20-20)

**04. Notification to Local Law Enforcement.** Lists of all offenders registered within a county are available on the sex offender registry web site. The bureau will notify the appropriate county law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or change of residence of a registered sex offender; and of a registered offender’s intent to reside in an agency’s jurisdiction. (3-20-20)

**05. Notification to Other Jurisdictions.** Within one (1) working day of receiving notification that a registered sex offender is moving to another jurisdiction, the bureau will notify the receiving jurisdiction's designated sex offender registration agency of the move by mail or electronic means. (3-29-12)

**06. 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 the jurisdiction where the conviction was entered and then 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. (3-29-12)

**c.** Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed by the court of conviction, the bureau will expunge all records concerning the conviction from the central registry, provided that the person has no other conviction requiring registration. (3-29-12)

**i.** Expungement of a record will not occur in cases where a court has ordered a dismissal for a withheld judgment. (3-29-12)

**d.** Pursuant to Section 18-8310(5), Idaho Code, if a person is exempted from the registration requirement by court order, the bureau will expunge all records and references concerning the offender from the central registry. (3-29-12)

**07. Determination of Substantially Equivalent or Similar Crime.** (3-29-12)

**a.** A person convicted of a sex offense in another jurisdiction and who moves to, works in, or becomes a student in Idaho may be required to register as a sex offender in Idaho pursuant to Title 18, Chapters 83 or 84, Idaho Code. (3-25-16)

**b.** The bureau shall determine if a person's out-of-jurisdiction conviction is substantially equivalent or similar to an Idaho sex related offense, as defined by Idaho's Criminal Code, for the purposes of requiring a person to register in Idaho. (3-29-12)

**c.** The bureau may make all substantially equivalent determinations using the police report (of the incident related to the sex offense), indictment or information or other lawful charging document, judgment or order (of sex offense conviction), psychosexual evaluation report, and order of probation. (3-20-20)

**d.** If a person seeks a substantially equivalent determination by the bureau before moving to, working in, or becoming a student in Idaho, that person shall provide a completed application and attach certified copies of all above-named documents to the bureau. (3-20-20)

**e.** The bureau shall issue a substantially equivalent determination within sixty (60) days upon receipt of a completed application and the required documents. (3-25-16)

**f.** The bureau's determination is a declaratory ruling as defined by Chapter 52, Title 67, Idaho Code. (3-25-16)

**g.** Judicial review of the bureau's determination shall be made in accordance with Chapter 52, Title 67, Idaho Code. (3-25-16)

**013. -- 999. (RESERVED)**

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