

Chapter DOC 332

SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION REQUIREMENTS

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DOC 332.01 Applicability. This chapter interprets ss. 301.45, and 301.46, Stats.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.015 Authority and applicability of lie detector testing. Sections DOC 332.15 to 332.18 are promulgated under the authority of s. 301.132 (3), Stats., to establish a lie detector program for probationers and parolees who are sex offenders. The rules apply to the department and to probationers and parolees who are sex offenders.

History: Emerg. cr. eff. 12-15-97; cr. Register, June, 1998, No. 510, eff. 7-1-98.

DOC 332.02 Definition. Unless otherwise indicated in this chapter:

(1) "Department" means the department of corrections.

(2) "Lie detector" means a polygraph, deceptionograph, voice stress analyzer, psychological stress evaluator or other similar device, whether mechanical or electrical, that is used, or the results of which are used, to render a diagnostic opinion about the honesty or dishonesty of an individual.

(3) "Lie detector examination process" means the entire process of lie detector testing, including completion of any preliminary questionnaires, pretest questions, baseline questions, and the actual lie detector testing.

(4) "Offender" means a probationer or parolee.

(5) "Polygraph" means an instrument that fulfills all of the following requirements:

(a) Records continuously, visually, permanently and simultaneously any changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards.

(b) Is used, or the results of which are used, to render a diagnostic opinion about the honesty or dishonesty of an individual.

(6) "Probation and parole agent" or "agent" means an employe of the department who is assigned the duties and responsibilities of an agent under chs. DOC 328, 331 and 333.

(7) "Sex offender" means a person in the custody of the department who meets any of the criteria specified in s. 301.45 (1), Stats.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98; emerg. cr. (6) to (11), eff. 12-15-97; cr. (2) to (7), Register, June, 1998, No. 510, eff. 7-1-98.

DOC 332.03 Persons required to register. Any person meeting the reporting prerequisites specified at s. 301.45 (1), Stats., shall register with the department of corrections sex offender registry.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.04 Maintenance of registry. (1) The department shall maintain a registry of all persons subject to registration requirements.

(2) Persons subject to registration shall complete, sign, and submit a form designated by the department that requires:

(a) All of the information specified at s. 301.45 (2) (a), Stats., and;

(b) Any other information that the department deems necessary to aid law enforcement or furthers the interests of public protection. Information under this paragraph shall only be made available to the department and law enforcement.

(3) The department shall expunge registry information concerning any person only when the department receives either:

(a) The information specified at s. 301.45 (7) (c) 1. and 2., Stats., or;

(b) A death certificate from the bureau of vital statistics concerning the person registered.

(4) The department may request the assistance of any county, circuit court, the department of health and family services, the department of transportation, or the department of workforce development in obtaining registry information.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.05 Registration timelines. When a person subject to registration is on supervision the supervising department or agency shall provide all of the information required under s. DOC 332.04 (2), to the department of corrections in accordance with s. 301.45 (2) (e), Stats.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.06 Registration frequency, duration, verification, and updating. (1) Persons subject to registration shall continue to provide information annually or at 90 day intervals as required by s. 301.45 (3), Stats., on the designated department form until released from the registration obligation as provided at s. 301.45 (5), Stats.

(2) Persons shall update information in accordance with the following:

(a) Unless par. (b) applies, whenever information required by s. DOC 332.04 (2), changes the person shall notify the department of the change within 10 days by registering the change with the department's 1-888 telephonic registration system or by completing, signing, and submitting the designated DOC form.

(b) Persons on supervision to the department shall provide advance written notification to the department of any changes in employment, residence, school enrollment and vehicle information or in the case of emergency within 72 hours of the change by contacting the supervising agent.

(3) A person who is subject to registration and who is moving from this state to another state must comply with s. 301.45 (4m), Stats.

(4) Persons subject to registration who receive any notice from the department requesting verification of registry information shall verify the accuracy of registry information and provide

any updated information within 10 days of the receipt of the notice by signing and returning a confirmation receipt and designated form to the department.

(5) Failure to receive notice of registration requirements under s. 301.45 (3) (b), Stats., is not a defense to liability under s. 301.45 (6), Stats.

(6) In addition to penalties provided at s. 301.45 (6), Stats., failure to comply with registration requirements, including but not limited to signing the registration form, verifying information, updating information, or providing true and accurate information when the person is on probation, parole, supervised release, conditional discharge, or aftercare supervision is a violation of that supervision.

(7) The department shall notify the district attorney in the county where the offender resides of any intentional non-compliance with the obligation to register, update registry information or verify registry information.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.07 Access to registry information. (1) The department shall allow access to registry information to law enforcement agencies in accordance with s. 301.46 (2) and (6) (b), Stats.

(2) In addition to the information provided to law enforcement agencies under sub. (1) the department may provide law enforcement with any other information concerning persons subject to registration.

(3) The department shall provide access to registry information to agencies and organizations other than law enforcement in accordance with s. 301.46 (4), Stats.

(4) The department shall provide access to registry information to victims in accordance with s. 301.46 (3), Stats.

(5) The department may provide access to registry information to the general public in accordance with s. 301.46 (5), Stats.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.08 Period of access to registry. (1) Except as provided in sub. (2), the department may continue to provide access to registry information concerning persons subject to registration only until the person is released from registration requirements under s. 301.45 (5), Stats.

(2) The department may provide registry access to law enforcement agencies regardless of whether the person is still subject to registration requirements.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.09 Bulletins to law enforcement. The department shall provide bulletins to law enforcement agencies in accordance with s. 301.46 (2m), Stats.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.10 Notification of victims. (1) In this section:

(a) "Member of the family" has the meaning given at s. 301.46 (3) (a) 1., Stats.

(b) "Victim" has the meaning given at s. 301.46 (3) (a) 2., Stats.

(2) Victims and family members may request information concerning persons registered by either:

(a) Obtaining a victim identification number and contacting the department's 1-800 telephone information system or;

(b) Completing and submitting to the department the form designated to request written notifications.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98; correction made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1998, No. 506.

DOC 332.11 Access to registry by community entities. (1) The department shall provide access to community

entities specified at s. 301.46 (4) (a), Stats., that request information about a specific person registered under s. DOC 332.04. Entities requesting information under this paragraph shall be provided information when the entity does all of the following:

(a) Submits a request to the department's 1-800 telephonic information access system.

(b) Specifies by name the person about whom information is requested and;

(c) Provides the date of birth, and either the social security number or drivers license number of the person about whom information is requested.

(2) A neighborhood watch program authorized under s. 60.23 (17m), Stats., or by the law enforcement agency of a city or village may request the names and information concerning all persons registered under this chapter who reside, are employed or attend school in the entity's community, district, jurisdiction or other geographical area of activity. Requests for information under this subsection shall be in writing on the form designated by the department.

(3) In response to a request under sub. (1) or (2), the department shall provide all of the information specified at s. 301.46 (4) (b), Stats.

(4) Information provided by the department under this section shall not include any information specified at s. 301.46 (4) (ag), Stats.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.12 Access to registry by general public.

(1) The department may in the interest of public protection provide information to a person not provided access to registry information under other sections when the person requests information and when the person does all of the following:

(a) Submits a request to the department's 1-800 telephonic information access system or files a written request for information on the form designated by the department.

(b) Specifies by name the person about whom information is requested and;

(c) Provides the date of birth, and either the social security number or drivers license number of the person about whom information is requested.

(2) When the department grants access to information in response to a request under sub. (1), all of the information specified at s. 301.46 (5) (b), Stats., shall be provided:

(3) In response to a request under sub. (1), the department shall not provide any information specified at s. 301.46 (5) (c), Stats.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.13 Misuse of registry information. Persons who commit crimes using information that is disclosed under the provisions of this chapter are subject to the penalty provided for the crime committed and any increased penalty provided under s. 939.646, Stats.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

DOC 332.15 Lie detector requirement. The department may require an offender who is a sex offender to submit to the lie detector examination process in accordance with s. DOC 332.17 as a condition of supervision.

History: Emerg. cr., eff. 12-15-97; Cr. Register, June, 1998, No. 510, eff. 7-1-98.

DOC 332.16 Purpose of lie detector program.

(1) The department may use the lie detector examination process as a supervision tool for offenders who are sex offenders. Testing may be used to achieve any of the following in supervising an offender who is a sex offender:

(a) Disclosing offense pattern information for treatment purposes.

(b) Holding the offender accountable for behaviors which occur while on supervision.

(c) Verifying the accuracy of self-reporting.

(d) Assisting in the monitoring and early identification of rule violations and other criminal behavior.

(e) Providing a deterrent to re-offending.

(f) Identifying the offenders who need more intensive supervision or treatment.

(g) Providing more information for purposes of assessment, treatment and monitoring.

(2) The department may not use the lie detector examination process as a punishment or sanction.

History: Emerg. cr. eff. 12-15-97; cr. Register, June, 1998, No. 510, eff. 7-1-98.

DOC 332.17 Operation of lie detector program.

(1) **SELECTION OF PARTICIPANTS.** Upon the approval of an agent's supervisor, an agent may require an offender who is a sex offender to participate in the lie detector program. The agent may require an offender who is a sex offender to submit to the lie detector examination process based on the following:

(a) For an offender who is a sex offender and who is currently in prison but nearing the release date on mandatory or discretionary parole:

1. The offender's criminal record of sexual offenses.
2. The offender's adjustment under previous supervision.
3. The offender's participation in offense-related programming while incarcerated or institutionalized.
4. The offender's motivation or refusal to participate in continued programming in the community.

(b) For an offender who is a sex offender and who is currently on probation or parole:

1. The offender's criminal record of sexual offenses.
2. The offender's adjustment under supervision, including recent rules violations or recent consideration for alternatives to revocation.
3. The offender's compliance with current programming.

(2) **NOTICE.** (a) An agent shall provide an offender who is a sex offender and who is selected to participate in the lie detector examination process written notice of the lie detector program requirements. The department may require an offender who is a sex offender to participate in the lie detector examination process without the offender's informed consent.

(b) An agent shall provide written notice to an offender who is a sex offender and who is required to take a lie detector test. The notice shall include the following:

1. Date, time, and location of the scheduled test.
2. Instructions to complete any preliminary questionnaires.

(3) **LIE DETECTOR TEST QUESTIONS.** (a) The lie detector examiner shall determine the questions to be asked during the lie detector examination process and shall consult with the agent in determining the questions to be asked. If the offender who is a sex offender is receiving treatment, the examiner or agent may consult with the treatment provider regarding development of questions to be asked during the lie detector examination process.

(b) The agent or examiner may consider any of the following in determining the questions to be asked during the lie detector examination process:

1. The offender's involvement in current offense-related programming.
2. The offender's level of denial.
3. The offender's recent pattern of rules violations.
4. The offender's noncompliance with treatment.
5. The agent's need to verify the offender's compliance with supervision, treatment or self-reporting.

6. The agent's need to document and verify the extent of the offender's sexual history.

(4) **TEST ADMINISTRATION.** The department may administer lie detector tests or contract with an outside vendor to administer the tests. The department shall establish standards for the selection of lie detector examiners.

(5) **ASSESSMENT OF FEES.** The department shall establish a schedule of fees in accordance with s. DOC 332.18.

(6) **SANCTIONS.** (a) If an offender who is a sex offender refuses to participate in any portion of the lie detector examination process or to pay a lie detector fee, the agent shall investigate the refusal as a violation of a rule or condition of supervision in accordance with ch. DOC 331.

(b) If an offender who is a sex offender discloses a violation of a rule or condition of supervision during the lie detector examination process, the agent shall investigate the disclosure as a violation of a rule or condition of supervision, in accordance with ch. DOC 331.

(c) If an offender who is a sex offender discloses criminal conduct during the lie detector examination process, the agent, with the approval of the agent's supervisor, shall refer the disclosure to law enforcement authorities.

(d) Revocation of probation or parole of an offender who is a sex offender may not be based solely on a finding of deception as disclosed by a lie detector test.

(7) **DISCLOSURE OF TEST INFORMATION.** The department may disclose information regarding a lie detector test or information disclosed during the lie detector test examination process of an offender who is a sex offender only to the following and only for purposes relating to correctional programming, care and treatment of the offender:

- (a) Department employees.
- (b) Department vendors.
- (c) Another agency or person.
- (d) Law enforcement agencies.

History: Emerg. cr. eff. 12-15-97; cr. Register, June, 1998, No. 510, eff. 7-1-98.

DOC 332.18 Lie detector fee. The department shall establish a schedule of fees to partially offset the costs of the lie detector program for offenders who are sex offenders and who are required to take a lie detector test. The costs of the tests may vary depending on the type of test used. An offender shall also pay a \$5 administrative fee with each payment. The department shall do all of the following in establishing a fee schedule for lie detector testing and in collecting lie detector fees:

(1) **BASIS OF FEE.** Base the lie detector fee payment schedule upon the offender's ability to pay with the goal of receiving payment for the costs of administering the test and a \$5 administrative fee with each payment.

(2) **TIMING OF PAYMENTS.** Permit payment of the fee to be paid in any of the following ways:

(a) Full payment of the fee within 30 days of the date the offender takes the lie detector test.

(b) Quarterly payment of the fee to be paid in full within one year of the date the offender takes the lie detector test.

(c) Monthly installment payments of the fee to continue until the fee is paid in full.

(3) **DEFERRAL OF PAYMENTS.** (a) Except if the offender has the present ability to pay the fee, permit deferral of payment if the offender meets one or more of the following conditions, until a time when the conditions no longer exist:

1. Has used all reasonable and appropriate means to obtain employment as determined by the offender's probation and parole agent, but has been unable to obtain employment which provides the offender sufficient income to pay the lie detector fee.

2. Is a student enrolled in a full-time course of instruction. In this subdivision, "full-time course of instruction" means

enrolled in an accredited course of instruction and registered for more than 9 credits in post secondary education or full-time high school or full-time junior high school, and "school" means a public school under s. 115.01 (1), Stats., a charter school as defined in s. 115.001 (1), Stats., or a private school as defined in s. 115.001 (3r), Stats. The offender shall provide a release of information to verify enrollment and registration of credits. If the offender fails to provide the release of information, no deferral may be given. The educational institution shall certify to the department that the offender is enrolled and attending a full-time course work at the educational institution.

3. Is undergoing psychological, chemical or medical treatment consistent with the supervision plan approved by the department and is unable to be employed. The treatment provider shall certify the status to the department.

4. Has a statement from a licensed physician excusing the offender from work for medical reasons and the offender is unable to be employed because of the medical reasons.

(b) The agent shall make a determination concerning an offender's deferral of payment of the lie detector fee within 10 working days of determining that an offender is required to participate in the lie detector examination process or within 10 working days of a change in the offender's financial or employment status as reported in accordance with s. DOC 328.04 (3) (f).

(c) The agent's supervisor shall review all decisions made by the offender's probation and parole agent to defer payment of the lie detector fee.

(4) COLLECTION. Develop procedures for the collection of lie detector fees. The offender who is a sex offender shall pay the lie detector fees to the department according to the procedures established by the department.

(5) COPIES OF FEE SCHEDULE AND PAYMENT PROCEDURES. Provide the offender who is a sex offender with copies of the lie detector fee schedule, administrative fee requirement, and lie detector fee payment procedures.

(6) RECORD OF PAYMENTS. Record all lie detector fees paid by the offender, and on request of the offender, provide the offender with a copy of the record of payments to verify receipt of the payments.

(7) NOTICE TO OFFENDER WHEN PAYMENT IS NOT RECEIVED. Advise the offender in writing if payment of the lie detector fee has not been made in accordance with the payment schedule.

(8) POSSIBLE ACTIONS IF FEE IS NOT PAID. Take action under s. DOC 332.17 (6) (a), if an offender who is a sex offender fails to pay a lie detector fee. The department may use any of the following actions in any order when an offender who is a sex offender fails to pay the lie detector fee:

(a) Counseling.

(b) Wage assignment.

(c) Review of supervision level to determine if more restrictive sanctions are needed, including an increase in the level of supervision, electronic monitoring or detention in a jail, correctional facility or house of correction.

(d) Issue a recommendation for revocation of parole or probation under the provisions of ch. DOC 331 for the offender's willful failure to pay the lie detector fee after the agent has taken action under sub. (1) and has determined that the offender has the ability to pay the lie detector fee.

(e) Any other appropriate means of obtaining the lie detector fee.

History: Emerg. cr. eff. 12-15-97; cr. Register, June, 1998, No. 510, eff. 7-1-98.