

803 CMR 9.00: VICTIM NOTIFICATION REGISTRY (VNR)

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9.01: Purpose and Scope

- (1) 803 CMR 9.00 is promulgated in accordance with M.G.L. c. 6, § 172(n) and carries out the purposes described in M.G.L. c. 258B, § 3(t) and M.G.L. c. 6, §§ 172(a)(9), 172(k), and 178A.
- (2) 803 CMR 9.00 establishes procedures regarding the registration of individuals for advance notification of an offender's change in custody status and the registration of individuals for access to Criminal Offender Record Information (CORI). 803 CMR 9.00 further identifies user responsibilities regarding submission of applications, as well as access to and use of the information contained in the Victim Notification Registry (VNR).
- (3) 803 CMR 9.00 applies to any authorized state, county, or municipal agency that uses the VNR in the course of its criminal justice duties. Further, 803 CMR 9.00 applies to any individual who uses the VNR or obtains information from it under notice registration or 178A CORI access registration. Every authorized state, county, or municipal agency that uses the VNR shall be responsible for implementing, enforcing, and monitoring 803 CMR 9.00 within their respective jurisdictions.
- (4) Nothing contained in 803 CMR 9.00 shall be interpreted to limit the authority granted to the Criminal Record Review Board (CRRB) or to the Department of Criminal Justice Information Services (DCJIS) by the Massachusetts General Laws.

9.02: Definitions

As used in 803 CMR 9.00, the following words and phrases shall have the following meanings:

178A CORI Access. Pursuant to M.G.L. c. 6, § 178A, a registration via the Department of Criminal Justice Information Services (DCJIS) for a victim of crime, witness, family member of a homicide victim, parent/guardian of a minor victim, or parent/guardian of a minor witness as defined by M.G.L. c. 258B, § 1, that allows access to all available criminal record information of the person arraigned or convicted of said crime.

Applicant Information. Identifying information and contact information supplied by the applicant including name, date of birth, last four digits of social security number, address, phone number, applicant category, and e-mail address (if applicable).

Authenticated User. An individual authorized to access the VNR.

Authenticated User Agency. An agency authorized by DCJIS to access the VNR. The authenticated user agencies are DCJIS, the District Attorney's Office in each county, the Department of Correction (DOC), the Massachusetts Parole Board, the Attorney General's Office, the Sex Offender Registry Board (SORB), the Department of Youth Services (DYS), and the Sheriff's Department in each county.

Custodial Agency. The agency to which the offender is sentenced by the court to serve incarceration.

Criminal Offender Record Information (CORI). Information as defined in 803 CMR 2.03: *Criminal Offender Record Information Inclusions and Exclusions.*

Department of Criminal Justice Information Services (DCJIS or the Department). The Commonwealth agency statutorily designated to provide a public safety information system and network to support data collection, information sharing and interoperability for the Commonwealth's criminal justice and law enforcement community; to oversee the authorized provision of Criminal Offender Record Information to the non-criminal justice community; to provide support to the Criminal Record Review Board; to operate the Firearms Records Bureau; and to provide and technically support the Victim Notification Registry for the victims of crime.

Evaluative Information. Records, data, or reports concerning individuals charged with a crime and compiled by criminal justice agencies which appraise mental condition, physical condition, extent of social adjustment, rehabilitative progress, and the like, and which are primarily used in connection with bail, pre-trial or post-trial release proceedings, sentencing, correctional and rehabilitative planning, probation, or parole.

9.02: continued

Notice Registration. A registration recorded by DCJIS for certain eligible individuals to be notified of certain changes to an offender's change in custody status pursuant to M.G.L. c. 258B, § 3(t) and M.G.L. c. 6, §§ 172(a)(19) and (k).

Registration Misuse. The use of information obtained pursuant to notice registration or 178A CORI access, for other than its intended purpose.

Supervisory Agency. The agency responsible for the custody or supervision of an offender, such as the Massachusetts Parole Board, the Department of Correction (DOC), or a Sheriff's Department.

Victim Notification Registry (VNR). The internet-based application maintained by DCJIS and used in the Commonwealth to register eligible individuals affected by crime, family members of homicide victims, and family members of deceased or incompetent victims for notice of an offender's change in custody status or for access to Criminal Offender Record Information.

Youthful Offender. An individual who is subject to an adult or youthful offender sentence for having committed, while between the ages of 14 and 17, an offense that, if the individual were an adult, would be punishable by imprisonment in the state prison, as set forth in M.G.L. c. 119, §§ 52 and 58.

9.03: Availability of Information Contained in the VNR

- (1) The information contained in the VNR is not subject to public disclosure under the Massachusetts public records laws, M.G.L. c. 66, § 10 and 950 CMR 32.00: *Public Records Access*. Information contained in the VNR is presumptively withheld from public disclosure, as it contains confidential victim and witness information.
- (2) Information contained in the VNR will be treated as confidential unless expressly designated otherwise by the user.
- (3) The VNR also contains confidential CORI that is withheld from public disclosure under M.G.L. c. 6, § 172.
- (4) Certain information may cease to be confidential upon a finding of registration misuse.

9.04: Eligibility for Notice Registration

- (1) Pursuant to M.G.L. c. 258B, § 3(t), victims, upon request, have the right to be informed in advance by the appropriate custodial agency whenever the specified offender receives a temporary, provisional, or final release from custody; whenever a defendant is moved from a secure facility to a less-secure facility; and whenever a defendant escapes from custody. In order to receive such notification of an offender's change in custody status, a victim must register with the appropriate authenticated user agency.
- (2) Pursuant to M.G.L. c. 6, § 172(k), an authenticated user may, upon request, register an individual who articulates a fear of a specific named offender, in order to receive advance notification of the offender's change in custody status from the appropriate custodial or supervisory agency.

9.05: Eligibility for 178A CORI Access

Pursuant to M.G.L. c. 6, § 178A, a victim of crime, witness or family member of a homicide victim, all as defined in M.G.L. c. 258B, may obtain, upon registration approval, all available Criminal Offender Record Information of the person accused of or convicted of said crime. All information received pursuant to 803 CMR 9.05 is confidential and shall not be shared by the victim, witness, or family member with any other individual or entity, except as provided by law.

9.06: Information Available from 178A CORI Access

- (1) An individual registered for 178A CORI access shall receive:
  - (a) all pending criminal charges, including cases continued without a finding of guilt, as well as misdemeanor convictions and felony convictions dating from the subject's 17<sup>th</sup> birthday and, if the subject was adjudicated as an adult while younger than 17 years old, information relating to those offenses;
  - (b) information regarding charged criminal offenses that did not result in a conviction; and
  - (c) all criminal convictions and information relating to those offenses for which the subject was adjudicated as an adult while younger than 17 years old.
- (2) Criminal justice agencies may also disclose to individuals registered for 178A CORI access such additional information, including but not limited to evaluative information, as such agencies determine in their discretion is reasonably necessary for the security and well being of such persons.

9.07: Application for Notice Registration or 178A CORI Access

- (1) An applicant may apply for registration through one of the authenticated user agencies. An applicant also may, if technology allows, apply electronically through the VNR. If an applicant does not have access to the internet, the applicant may also contact DCJIS to request a registration application.
- (2) An individual cannot be registered without the individual's consent.

9.08: Responsibilities of Registered Individuals

- (1) A registered individual is responsible for providing any changes to the individual's registration information, including means of contact, name changes, address changes, phone number changes, and email address changes.
  - (a) In order to change or update this information, the individual must contact DCJIS or any authenticated user agency.
  - (b) A registered individual shall only use the information received pursuant to the registration for its intended purpose.

9.09: Duration and Cancellation of Registrations

- (1) Registration for both 178A CORI access and notice registration shall remain effective for the natural life of the registered individual or offender, unless cancelled by a custodial or supervising agency, by DCJIS, or by the registered individual.
- (2) A notice registration or a 178A CORI access registration may be cancelled by a custodial or supervising agency, or by DCJIS, in the following circumstances:
  - (a) the death of a registered individual;
  - (b) the death of the offender;
  - (c) a finding of registration misuse;
  - (d) a finding that a registered individual has made explicit threats or articulated plans to harm an offender upon release from custody; and
  - (e) a finding that the purpose of the registration no longer exists.

9.09: continued

- (3) A registered user may also voluntarily cancel a registration by contacting DCJIS, the appropriate custodial or supervisory agency, or a District Attorney's victim/witness advocate office.

If, after voluntarily cancelling a registration, an individual would like to re-register, the individual must submit a new application for registration.

9.10: Responsibilities of Authenticated User Agencies

- (1) Each authenticated user agency shall draft and enforce a VNR policy that shall include, at a minimum, provisions for the following:
  - (a) guidelines for agency employees who may have authorized access to VNR data;
  - (b) procedures regarding registration of VNR applicants;
  - (c) procedures regarding notification of registered individuals;
  - (d) procedures to ensure the confidentiality of information contained in the VNR; and
  - (e) procedures regarding the cancellation of individual accounts.
- (2) Authenticated user agencies shall determine which agency employees are granted access to the VNR.
- (3) Authenticated user agencies shall require training in the use of the VNR for all agency employees authorized for VNR access. In addition, all VNR authenticated users must take the CJIS Certification examination.
- (4) Authenticated user agencies shall require that each agency employee approved for VNR access provide a signed acknowledgment that the employee has received a copy of, and understands, the agency's VNR policy and 803 CMR 9.00.

Authenticated user agencies shall retain all signed acknowledgment forms for at least one year following the conclusion of the employment of each authorized VNR user.

- (5) Authenticated user agencies shall not disclose, in any manner, the existence or status of a registration without the express, written authorization of the registered individual.

9.10: continued

- (6) Authenticated user agencies shall update the applicant registration information in the VNR at the request of the applicant.
- (7) Authenticated user agencies shall report registration misuse by any individual to DCJIS as soon as practicable.
- (8) Prior to requesting the cancellation of a registration, the authenticated user agency shall attempt to contact the applicant by using, at a minimum, all applicant contact information provided by the individual.
- (9) If an individual registering for notification, or a person already registered, requests that only one particular type of notification be used for contact, the authenticated user agency will comply with that request.

9.11: Responsibilities of Custodial and Supervisory Agencies Relevant to Registered Individuals

- (1) Each custodial or supervisory agency shall check the VNR daily to ascertain if there are any new or pending registration applications to act on.
  - (a) Pending registration applications must be verified or returned to DCJIS as unverifiable.
  - (b) Notifications must be made, when applicable, on all approved registrations.
- (2) Each custodial or supervisory agency shall provide no less than 14 days advance notification for the offender's:
  - (a) temporary, provisional and final release from custody;
  - (b) parole, pardon, or commutation eligibility and hearing, and decision;
  - (c) move from a secure to less secure facility; and
  - (d) parole discharge or termination from supervision.
- (3) As soon as practicable, the custodial or supervising agency shall provide notification whenever an offender:
  - (a) dies; or
  - (b) receives a parole rescission or revocation.
  - (c) is transferred to a county facility from another county facility;
  - (d) is transferred to a state facility from a county facility; or

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- (e) is transferred to an out-of-state facility, including federal facilities.
- (4) The custodial or supervising agency shall provide emergency notification by both telephone and mail, whenever an offender:
  - (a) escapes from custody or absconds from supervision;
  - (b) receives a court ordered release from custody;
  - (c) receives an emergency temporary release under escort; or
  - (d) receives a short sentence that prohibits 14 days advance notice.
- (5) The custodial or supervising agency shall consider the location of the registered person's residence and workplace, if known, for safety reasons when making offender transfer or temporary and provisional release decisions.
- (6) The custodial or supervisory agency shall provide registered individuals with a description of any temporary or pre-release program activity when an offender is placed into the community.
- (7) The custodial or supervising agency shall provide registered individuals with the name and location of any agency having jurisdiction of an offender upon release from custody.
- (8) Nothing contained in 803 CMR 9.00 shall be interpreted as limiting additional or expanded notification to registered individuals as deemed appropriate by any custodial or supervisory agency.

9.12: Responsibilities of the Department of Criminal Justice Information Services (DCJIS)

- (1) Upon approving or denying an application for registration, DCJIS shall inform the applicant of the status of the request.
- (2) Upon cancellation of a notice registration or a 178A CORI access, DCJIS shall notify the registered individual.
- (3) Pursuant to M.G.L. c. 6, § 168 and 803 CMR 2.00: *Criminal Offender Record Information*, DCJIS shall investigate complaints of improper access to and dissemination of CORI.

9.13: Responsibilities of Users of the VNR Public Internet Site

- (1) An individual utilizing the VNR public internet site must use the VNR solely for its intended purposes.

9.13: continued

- (2) An applicant registering via the VNR public internet site shall submit all required supporting documentation to DCJIS within a reasonable amount of time of submitting the application.

9.14: Severability

If any provision of 803 CMR 9.00, or the application thereof, is held to be invalid, such invalidity shall not affect the other provisions or the application of any other part of 803 CMR 9.00 not specifically held invalid and, to this end, the provisions of 803 CMR 9.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY

803 CMR 9.00: M.G.L. c. 6, § 172(n) and carries out the purposes described in M.G.L. c. 258B, § 3(t) and M.G.L. c. 6, §§ 172(a)(19), 172(k), and 178A.