

# Sex Offenses Requiring Notification

## of Required Sex Offender Registration, Lifetime Community Parole Supervision, or Potential SDP Eligibility

A judge taking a guilty plea or admission to sufficient facts must notify the defendant if he or she: (1) may be required to register as a sex offender, or (2) may be subject to community parole supervision for life, or (3) may be subject to additional punishment based upon the sexually dangerous persons provisions of the General Laws. Mass. R. Crim. P. 12(c)(3)(B).

A judge accepting a plea for one of the sex offenses indicated below must inform the defendant (and obtain his or her written acknowledgement) that he or she may be subject to the sex offender registration provisions of §§ 178C-178P. G.L. c. 6, § 178E(d). A judge entering a conviction for one of the sex offenses indicated below who does not impose a forthwith committed sentence of 90 days or more must inform the defendant (and obtain his or her written acknowledgement) that he or she must register as a sex offender in Massachusetts and in any state of residence. G.L. c. 6, § 178E(c).

Statute	Offense Code	Offense Description <i>(Bolded offenses are within the District Court's final jurisdiction)</i>	Sex Offender Registration <sup>1</sup>		Subsequent Offense Requires Lifetime Community Parole Supervision <sup>2</sup>	Offense May Trigger SDP Eligibility <sup>3</sup>
			Required	Exemption May Be Available <sup>4</sup>		
c.6 §178H	6/178H/A 6/178H/B	<b>SEX OFFENDER FAIL TO REGISTER</b> <b>SEX OFFENDER FAIL TO REGISTER, SUBSQ.OFF.</b> <i>where (1) offender is a level 2 or 3 sex offender, or (2) underlying sex offense was G.L. c. 265, §§ 13B, 13F, 22A, 23, 24B, or 26 ¶4, or conspiracy or accessory to such an offense, or a like violation in another jurisdiction.</i>			✓ (whether first or subsequent offense)	
c.265 §13B	265/13B/A 265/13B/B	<b>INDECENT A&amp;B ON CHILD UNDER 14</b> <b>INDECENT A&amp;B ON CHILD UNDER 14, SUBSQ.OFF.</b>	✓		✓	✓
c.265 §13F	265/13F/A 265/13F/B	INDECENT A&B ON RETARDED PERSON INDECENT A&B ON RETARDED PERSON, SUBSQ.OFF.	✓		✓	✓
c.265 §13H	265/13H	<b>INDECENT A&amp;B ON PERSON 14 OR OVER</b>	✓	✓	✓	✓
c.265 §22	265/22/A 265/22/D 265/22/B 265/22/C	RAPE RAPE, SUBSQ.OFF. RAPE, AGGRAVATED RAPE, AGGRAVATED, SUBSQ.OFF.	✓		✓	✓
c.265 §22A	265/22A/A 265/22A/B	RAPE OF CHILD WITH FORCE RAPE OF CHILD WITH FORCE, SUBSQ.OFF.	✓		✓	✓
c.265 §23	265/23/A 265/23/B	RAPE OF CHILD, STATUTORY RAPE OF CHILD, STATUTORY, SUBSQ.OFF.	✓		✓	✓
c.265 §24	265/24/A 265/24/B	ASSAULT TO RAPE ASSAULT TO RAPE, SUBSQ.OFF.	✓		✓	✓
c.265 §24B	265/24B/A 265/24B/B	ASSAULT TO RAPE CHILD c265 §24B ASSAULT TO RAPE CHILD, SUBSQ.OFF.	✓		✓	✓
c.265 §26	265/26/A 265/26/B 265/26/C 265/26/D 265/26/E 265/26/F 265/26/G 265/26/G	KIDNAPPING (¶1) KIDNAPPING FOR EXTORTION (¶1) KIDNAPPING FOR EXTORTION, ARMED (¶2) KIDNAPPING WITH SERIOUS INJURY, ARMED (¶3) KIDNAPPING WITH SEXUAL ASSAULT, ARMED (¶3) KIDNAPPING, ARMED (¶2) KIDNAPPING OF CHILD UNDER 16 (¶4) <i>with intent to violate §§13B, 13F, 13H, 22, 22A, 23, 24 or 24B</i> KIDNAPPING OF CHILD UNDER 16 (¶4)				✓
c.265 §26C	265/26C	<b>ENTICE CHILD UNDER 16</b>	✓			
c.272 §2	272/2	<b>PROSTITUTION/UNLAW SEX, ABDUCT PERSON FOR</b>	✓	✓		✓
c.272 §3	272/3	SEXUAL INTERCOURSE, DRUG FOR	✓		✓	✓
c.272 §4A	272/4A	PROSTITUTION, INDUCE MINOR TO	✓			✓
c.272 §4B	272/4B	PROSTITUTION, DERIVE SUPPORT FROM CHILD	✓			✓
c.272 §16	272/16/A 272/16/B	<b>LEWDNESS, OPEN AND GROSS</b> <b>LEWDNESS, OPEN AND GROSS, SUBSQ.OFF.</b> <i>where offense is second or subsequent criminal, delinquency or juvenile offender conviction or adjudication, exclusive of any first-offense delinquency adjudication before 8/1/92</i>	✓	✓		✓

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			Required	Exemption May Be Available <sup>4</sup>		
c.272 §17	272/17	INCEST c.272 §17	✓	✓		
	272/17	INCEST c.272 §17 <i>where victim is under age 21</i>	✓	✓		✓
<b>c.272 §28</b>	<b>272/28/A</b> <b>272/28/B</b> <b>272/28/C</b>	<b>OBSCENE MATTER TO MINOR</b> <b>OBSCENE MATTER TO MINOR, 2ND OFF.</b> <b>OBSCENE MATTER TO MINOR, 3RD OFF.</b>	✓			✓
c.272 §29A	272/29A/A 272/29A/B	CHILD IN NUDE, LASCIVIOUS POSE/EXHIBIT CHILD IN SEXUAL ACT, POSE/EXHIBIT	✓			✓
c.272 §29B	272/29B/A 272/29B/B	CHILD IN NUDE, DISTRIB MATERIAL OF CHILD IN SEXUAL ACT, DISTRIB MATERIAL OF	✓			✓
c.272 §29C	<b>272/29C/A</b>	<b>CHILD PORNOGRAPHY, POSSESS</b>	✓	✓		✓
	272/29C/B 272/29C/C	CHILD PORNOGRAPHY, POSSESS, 2ND OFF. CHILD PORNOGRAPHY, POSSESS, 3RD OFF.	✓	✓		✓
c.272 §35A	<b>272/35A/A</b>	<b>UNNATURAL ACT WITH CHILD UNDER 16</b>	✓		✓	✓
	272/35A/B	UNNATURAL ACT WITH CHILD UNDER 16, SUBSQ.OFF.	✓		✓	✓
c.272 §53	272/53/D	ACCOST/ANNOY PERSON OF OPPOSITE SEX				✓
	272/53/E	LEWD, WANTON & LASCIVIOUS CONDUCT				✓
c.274 §6	274/6	ATTEMPT TO COMMIT CRIME <i>for any substantive crime listed above</i>	same as substantive crime above			✓
		OUT-OF-STATE ATTEMPT OFFENSES	same as substantive crime above			✓

#### NOTES

<sup>1</sup> This table reflects amendments to the Sex Offender Registration Law (G.L. c. 6, §§ 178C-178Q) through St. 2006, c. 303 (effective December 20, 2006).

<sup>2</sup> Community parole supervision for life is mandatory upon conviction of these offenses if the defendant has "one or more prior convictions of indecent assault and battery, rape, assault with intent to commit rape, unnatural and lascivious acts, drugging for sex, kidnap or of any offense which is the same as or necessarily includes the same elements of said offense." G.L. c. 265, § 45; c. 275, § 18. In *Commonwealth v. Pagan*, 445 Mass. 161, 834 N.E.2d 240 (2005), the S.J.C. held the portions of § 18 which permit the optional imposition of lifetime community parole supervision for first-offense convictions to be unconstitutionally vague.

Lifetime community parole supervision is also required for anyone convicted of failing to register as a sex offender if: (1) they have been categorized as a level 2 or 3 sex offender, or (2) their underlying sex offense was G.L. c. 265, §§ 13B (indecent A&B on a child under 14), 13F (indecent A&B on a retarded person), 22A (rape of a child with force), 23 (statutory rape), 24B (assault to rape a child), or 26 ¶ 4 (kidnapping of a child under 16), or conspiracy or accessory to such an offense, or a like violation in another jurisdiction. G.L. c. 6, § 178H(a)(1)-(3).

<sup>3</sup> Among the requirements for commitment as a sexually dangerous person is a prior conviction, or a delinquency or youthful offender adjudication, for one of these sex offenses. See G.L. c. 123A, §§ 1, 12.

<sup>4</sup> These offenses are neither "sex offenses involving a child" nor "sexually violent offenses" (as defined in G.L. c. 6, § 178C) and therefore, subject to other specified requirements, the offender may be eligible under § 178E(e) or (f) for exemption from registration. Section 178E(e) permits a sentencing judge, on motion of the prosecutor, to exempt an eligible defendant from the registration requirement if "the circumstances of the offense in conjunction with the offender's criminal history does not indicate a risk of reoffense or a danger to the public." Section 178E(f) directs the sentencing judge to consider the same issue sua sponte within 14 days of sentencing if an eligible defendant is not sentenced to immediate confinement.