

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

2010 JUL 15 PM 2: 09

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: West Virginia State Police TITLE NUMBER: 81

RULE TYPE: Procedural CITE AUTHORITY: 15-13-1 and 15-2-25

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 16

TITLE OF RULE BEING AMENDED: Regulations and Procedures Pertaining to the West Virginia Child Abuse and Neglect Registration Act

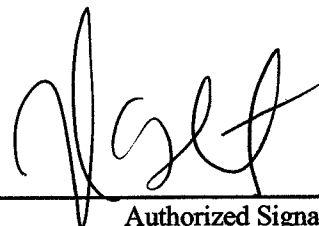
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 18, 2010 AT 4:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

F/Lt. Michael G. Corsaro  
West Virginia State Police  
Criminal Records Section  
725 Jefferson Road  
South Charleston, WV 25309

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**West Virginia State Police  
Title 81  
Series 16**

**Summary of Proposed Rule**

This rule as proposed serves to provide procedures which define the operation and responsibilities outlined for parties affected by the West Virginia Child Abuse and Neglect Registry as established under West Virginia Code § 15-13-1 et. seq.

**West Virginia State Police  
Title 81  
Series 16**

**Circumstances Requiring Filing of Rule**

The West Virginia State Police is charged with operation and maintenance of the West Child Abuse and Neglect Registry as established under West Virginia Code § 15-13-1 et. seq. This proposed amended rule will enable the West Virginia State Police to utilize electronic registration during the registration process to collect and forward required registerable information to the Child Abuse and Neglect Registry. The proposed amended rule also serves to clean up some clerical and context errors in the previous version of the rule.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Regulations and Procedures Pertaining to the West Virginia Child Abuse and Neglect Registration Act

Rule Title: \_\_\_\_\_

Type of Rule:

Legislative     Interpretive     Procedural

Agency:

West Virginia State Police

Address:

725 Jefferson Road  
South Charleston, WV 25309

Phone Number:

304-746-2100

Email: [mcorsaro@wvsp.state.wv.us](mailto:mcorsaro@wvsp.state.wv.us)

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The operation of the West Virginia Child Abuse and Neglect Registry is already provided for in the Department's budget and the proposed modifications to this rule will have no effect on current or future expenditures.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title: \_\_\_\_\_

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

Not applicable.

### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

The operation of the West Virginia Child Abuse and Neglect Registry is already provided for in the Department's budget and the proposed modifications to this rule will have no effect on current or future expenditures.

Date: July 14, 2010

Signature of Agency Head or Authorized Representative

Mayor K. J. Jaraman

FILED

TITLE 81  
PROCEDURAL RULE  
WEST VIRGINIA STATE POLICE

2010 JUL 15 PM 2:10

SERIES 16  
REGULATIONS AND PROCEDURES PERTAINING TO THE WEST VIRGINIA STATE  
CHILD ABUSE AND NEGLECT REGISTRATION ACT

OFFICE WEST VIRGINIA  
SECRETARY OF STATE**§81-16-1. General.**

1.1. Scope. -- This procedural rule explains the responsibilities and the administration of the West Virginia Child Abuse and Neglect Registry, and the responsibility of offenders of child abuse and neglect required to register, incarceration facilities, probation or parole officers, sentencing courts, Circuit Court, Prosecuting Attorney, State Police, all law enforcement agencies, and the Department of Health and Human Resources. The Child Abuse and Neglect Registration Act is regulatory in nature and is not penal. The provisions of this Act apply retroactively and prospectively.

1.2. Authority. -- This rule is issued under authority of W. Va. Code §§15-13-1 et. seq. and 15-2-25.

1.3 Filing Date- ~~April 7, 2008~~ July 15, 2010

1.4. Effective Date. - ~~May 15, 2008~~

**§81-16-2. Definitions.**

As used in this rule, unless in a context that clearly requires a different meaning, the following terms are defined as such:

2.1. "Central Registry" - herein known as the Registry, the West Virginia Child Abuse and Neglect Registry maintained by the West Virginia State Police and housed in the Criminal Records Section.

2.2. "Post conviction supervisory status" - monitored or supervised behavior of the person following their conviction or release from incarceration. This status may include, but is not limited to, probation, parole, home detention, work release, conditional release or a suspended sentence status.

2.3. "Child Abuse and Neglect Registration Act" - herein known as the Act, article §15-13-1 et. seq. of the West Virginia Criminal Code, that sets forth the duties of various entities as it pertains to the registration of offenders of child abuse and neglect and the duty of the West Virginia State Police to promulgate rules prescribing the manner of registration procedures.

2.4. "Qualifying child abuse and neglect criminal offenses" - those offenses that require registration as an offender of child abuse or neglect upon conviction or when found not guilty by reason of mental illness, mental retardation or addiction. These offenses include, but are not limited to, §§61-8D-2, 61-8D-2a, 61-8D-3, 61-8D-3a, 61-8D-4 or 61-8D-4a. These also include, but are not limited to, offenses with similar provisions in another state, federal or military jurisdiction or municipal ordinances which possess the same elements of the qualifying offenses. Also included are those offenses in which a person upon convicted of a criminal offense(s) against a child in his or her household or in which the person convicted has custodial responsibility, the sentencing judge makes a written finding that there is a continued likelihood that the person convicted will continue to have regular contact with that child or other children and that as such it is in the best interest of the child or children for that person to be monitored.

2.5. "Physical address" - the actual location of the residence(s). A post office box or other address that does not have a physical street address may not be provided in lieu of a physical residence address.

2.6. "Offender of child abuse or neglect"- a person convicted of any of the offenses referred to in W. Va. Code §15-13-2 as amended, or offenses with similar provisions in another state,

federal or military jurisdiction, or municipal ordinances which possess the same elements of the qualifying offenses or a person that was found not guilty of the above referenced offenses by reason of mental illness, mental retardation or addiction or a person convicted of a criminal offense against a child in his or her household or of whom he or she has custodial responsibility and with whom the sentencing judge makes a written finding that there is a continued likelihood that the person convicted will continue to have regular contact with that child or other children and that as such it is in the best interest of the child or children for that person to be monitored.

2.7. "Sentencing court" - Court that is authorized to invoke sentencing upon conviction or finding of not guilty by reason of mental illness, mental retardation or addiction, including but not limited to, federal courts, courts of military justice, West Virginia circuit courts, magistrate courts, municipal courts, mayoral courts and police courts, as well as similar courts in other states.

2.8. "Business days" - Days exclusive of Saturdays, Sundays and legal holidays as recognized by the State of West Virginia.

2.9. "Superintendent" - is the executive officer-in-charge and chief administrator of the State Police.

#### **§81-16-3. Purposes.**

3.1. Assist local law enforcement agencies efforts to protect the children exposed to the offenders of child abuse and neglect by regulating how offenders register with the Child Abuse and Neglect Registry at their local State Police detachments.

3.2. Provide the Department of Health and Human Resources notification of registered offenders of child abuse and neglect within five (5) business days in a format acceptable to the technologies of both the State Police and the Department of Health and Human Resources, so to assist in the performance and function of Child Protective Services and aid in the proper distribution and disclosure of offender information to persons specified in §15-13-5 (b).

3.3. Inform the law enforcement, criminal justice entities, other governmental agencies and the person of their rights and responsibilities as it pertains to the Act.

3.4. To prescribe the manner of how a person is to register and the manner of how information pertinent to the registry originating from the probation officers, parole officers, courts, law enforcement officers and officials of Department of Health and Human Resources responsible for overseeing the release of offenders of child abuse and neglect is to be forwarded to the Registry.

#### **§81-16-4. Objectives.**

4.1. To enter all offenders of child abuse or neglect into the Registry as prescribed in W. Va. Code §15-13-1 et. seq. in a timely and accurate manner.

4.2. Transmit copies of notification statements to the Department of Health and Human Resources as set forth in W. Va. Code §15-13-5.

4.3. Inform the Department of Health and Human Resources of any changes to the original notification statement as set forth in W. Va. Code §15-13-5.

4.4. Maintain accurate and current records of child abuse and neglect offenders so to assist in the investigative efforts of law enforcement, criminal justice entities and Child Protective Services in matters pertaining to child abuse and neglect.

4.5. Maintain accurate and current records of child abuse and neglect offenders to aid the Department of Health and Human Resources in its determination of effective action to secure the safety and wellbeing of children.

#### **§81-16-5. Intent, Findings and Severability.**

5.1. Legislative Intent and Findings: The intent of the Child Abuse and Neglect Registration Act is to assist law-enforcement agencies efforts to protect children from offenders of child abuse and neglect by requiring offenders of child abuse and neglect to register

with a State Police detachment in the county where they reside. It is not the intent of the Legislature that the information be used to inflict either retribution or additional punishment on any person requiring registration under the West Virginia Child Abuse and Neglect Registration Act. It is the intent of the Legislature to provide for the safety of children who are exposed to persons convicted of the crimes of child abuse and neglect; found not guilty solely by reason of mental illness, mental retardation or addiction of the crimes of child abuse and neglect or convicted of a criminal offense against a child in his or her household or of whom he or she has custodial responsibility and with whom the sentencing judge has made a written finding that there is a continued likelihood that the person convicted will continue to have regular contact with that child or other children and that as such it is in the best interest of the child or children for that person to be monitored.

5.2. Severability. If any sections or subsections of this rule are determined to be invalid, it shall not be construed to invalidate any of the provisions not otherwise affected.

#### **§81-16-6. Persons Required to Register.**

6.1. All persons who are convicted, enter a plea of guilty or found not guilty by reason of mental illness, mental retardation or addiction, of committing any of the following criminal offenses of child abuse and neglect are to register:

6.1.a. Murder of child by parent, guardian or custodian or other person by refusal or failure to supply necessities, or by delivery, administration or ingestion of a controlled substance, W. Va. Code §61-8D-2,

6.1.b. Death of a child by a parent, guardian or custodian or other person by child abuse, W. Va. Code §61-8D-2a,

6.1.c. Child abuse resulting in injury; child abuse or neglect creating risk of injury, W. Va. Code §61-8D-3, as amended,

6.1.d. Female genital mutilation, W. Va. Code §61-8D-3a,

6.1.e. Child neglect resulting in injury; child neglect creating risk of injury, W. Va. Code §61-8D-4, as amended,

6.1.f. Child neglect resulting in death, W. Va. Code §61-8D-4a.

6.2. All persons convicted of offenses with similar provisions in another state, federal or military jurisdictions or convicted of municipal ordinances which possess the same elements of the qualifying offenses are to register in West Virginia if they reside in the state.

6.3. Any person convicted of any criminal offense against a child in his or her household or of whom he or she has custodial responsibility and with whom the sentencing judge makes a written finding that there is a continued likelihood that the person convicted will continue to have regular contact with that child or other children and that as such it is in the best interest of the child or children for that person to be monitored.

6.4. Any person convicted, entered a plea of guilty or found not guilty by reason of mental illness, mental retardation or addiction, of committing any of the criminal offenses set forth in 6.1, 6.2 and 6.3 of this procedural rule and has been accepted into supervision from another state under the terms and conditions of the Interstate Compact for Supervision of Adult offenders.

6.5. All persons convicted of offenses with similar provisions in another state, federal or military jurisdiction, if they reside, work, attend school or if they visit for more than fifteen (15) continuous days in the state.

#### **§81-16-7. Duration of Registration.**

7.1. Persons required to register shall comply with this rule, except during ensuing periods of incarceration, for a minimum period of ten (10) years from the time of release from prison, jail or mental health facility or ten (10) years have elapsed since the person was placed on probation, parole, or supervised or conditional release

7.1.a. The ten (10) year registration requirement shall not be reduced by the offender's release from probation, parole suspended sentence or supervised or conditional release.

7.1.b. If the conviction which required the person to register is overturned, the registrant shall petition the court to have their name removed from the registry.

**§81-16-8. Responsibilities of Administrators of Incarceration Facilities, Administrators of Mental Health Facilities, Probation or Parole Officers.**

8.1. Administrator, probation or parole officers include, but are not limited to:

8.1.a. Commissioner of Corrections or his/her designee or;

8.1.b. Regional jail administrator or his/her designee or;

8.1.c. Chief or Sheriff operating a jail or his/her designee or;

8.1.d. Secretary of Department of Health and Human Resources or his/her designee or;

8.1.e. Probation officer or;

8.1.f. Parole officer or;

8.1.g. Person(s) assigned to the supervision of the person to be registered following their release from incarceration or confinement or;

8.1.h. Person(s) accepting supervision and has legal authority over a person from another state under the terms and conditions of the Interstate Compact for Supervision of Adult offenders and required to register under 6.1, 6.2 or 6.3 of this procedural rule.

8.2. Release from incarceration or confinement shall include, but is not limited to:

8.2.a. Granted probation or;

8.2.b. Granted a suspended sentence or;

8.2.c. Release on probation or;

8.2.d. Release on parole or;

8.2.e. Release on home detention or confinement or;

8.2.f. Release on work release or;

8.2.g. Discharge the sentence or;

8.2.h. Conditional release or;

8.2.i. Release from a mental health facility following confinement due to a finding of not guilty by reason of mental illness, retardation or addiction or;

8.2.j. Any other type of release, transfer or change of disposition status from incarceration or confinement.

8.3. The administrator, probation or parole officer who supervises a person required to be registered or accepts supervision and has legal authority over a person from another state under the terms and conditions of the Interstate Compact for Supervision of Adult offenders and required to register under 6.1, 6.2, 6.3, or 6.4 of this procedural rule, shall within three (3) business days of the persons' release date, obtain the information required by way of a written notice.

8.3.a. The written notice shall be completed on registration form(s) designated by the Superintendent or an agency equivalent and shall include:

8.3.a.1. Full name of the person to be registered including any aliases, nicknames and other names used by the person.

8.3.a.2. Date of birth and;

8.3.a.3. Person's social security number and;

8.3.a.4. Full physical address, including any and or all county(ies), where the person resides or intends to reside and;

8.3.a.5. Name and full address of employer or place of occupation at time of registration or any anticipated future employers or places of occupation including county and;

8.3.a.6. Name and full address of any school or training facility the person is attending at time of registration or expects to attend including county and;

8.3.a.7. Ages, names and relationship to the registrant, of any children in the household of the registrant, of any children currently living or subsequently born to the registrant and;

8.3.a.8. Right thumb print and;

8.3.a.9. Brief description of the crime for which the person was convicted and;

8.3.a.10. Jurisdiction of arrest or conviction and;

8.3.a.11. The date of conviction and;

8.3.a.12. If incarcerated, the date of release from incarceration and;

8.3.a.13. If applicable, the name and telephone number of the probation or parole officer and;

8.4. The administrator, probation or parole officer shall provide the person with a statement acknowledging that the person has been informed of his or her duty to register.

8.5. The administrator, probation or parole officer shall have the person sign and date the registration form(s) advising the person of their responsibility to register.

8.6. The administrator, probation or parole officer shall send the original registration form(s) to the Registry and a copy to the State Police detachment in the county(ies) where the person will reside.

8.6.a. A copy of the registration form(s) will be maintained by the administrator, probation or parole officer and;

8.6.b. A copy of the completed registration form(s) shall be given to the person to be registered.

8.7. The administrator, probation or parole officer shall have the signatures applied to the registration form(s) notarized. The form shall have an embossed/raised official seal or official stamp of the controlling government agency placed upon said form.

8.8. Upon request of the West Virginia State Police, the administrator, probation or parole officer shall provide any and all requested records relating to an offender of child abuse and neglect to the West Virginia State Police.

**§81-16-9. Responsibilities of the Sentencing Court.**

9.1. At the time the person is convicted of the crimes set forth in 6.1 or 6.3 of this procedural rule, the sentencing court shall:

9.1.a. Inform the person so convicted of the requirements to register imposed by this article and shall further satisfy itself by interrogation of the defendant or his or her counsel that the defendant has received notice of the provisions of this article and that the defendant understands said provisions.

9.1.b. Have the person sign in open court, a statement acknowledging that the person understands the requirements imposed by the Act.

9.2. If the person convicted has not requested an appeal within thirty days of the sentencing for such conviction, the clerk or recorder of the sentencing court shall, within ten (10) business days of the end of the appeal period, forward to the Registry by certified or registered mail, a copy of the court's final order and the registry form(s) designated by the Superintendent or an agency equivalent that shall include:

9.2.a. Full name of the person to be registered including any aliases, nicknames and other names used by the person and;

9.2.b. Date of birth and;

9.2.c. Person's social security number and;

9.2.d. Full physical address, including any and or all county(ies), where the person resides or intends to reside and;

9.2.e. Name and full address of employer or place of occupation at time of registration or any anticipated future employers or places of occupation including county and;

9.2.f. Name and full address of any school or training facility the person is attending at time of registration or expects to attend including county and;

9.2.g. Ages, names and relationship to the registrant, of any children in the household of the registrant, of any children currently living or subsequently born to the registrant and;

9.2.h. Right thumb print and;

9.2.i. Brief description of the crime for which the person was convicted and;

9.2.j. Jurisdiction of arrest or conviction and;

9.2.k. The date of conviction and;

9.2.l. Sentence imposed and;

9.2.m. If applicable, the name and telephone number of the probation or parole officer and;

9.2.n. A complete set of fingerprints.

9.3. If following an appeal, the person was convicted in circuit court, the circuit clerk shall, within thirty (30) days after entry of the judgment, forward to the Registry by certified or registered mail, a copy of the court's final order and a registry form(s) designated by the Superintendent or an agency equivalent that shall include the information included in 9.2 of this rule.

9.4. A court shall, upon presiding over a criminal matter resulting in a finding of not guilty by reason of mental illness, mental

retardation or addiction of a qualifying offense, cause, within three (3) business days the finding, forward to the Registry by certified or registered mail, a copy of the court's final order and a registry form(s) designated by the Superintendent or an agency equivalent that shall include the information listed in 9.2 of this rule.

9.5. Upon request of the West Virginia State Police, the sentencing court shall provide any and all requested records relating to an offender of child abuse or neglect to the West Virginia State Police.

#### **§81-16-10. Responsibilities of the State Police.**

10.1. The State Police detachments shall serve as the local law enforcement agency that in actuality administers the registration procedures upon the person required to be registered.

10.2. The registration of child abuse or neglect offenders shall include ~~on registration form(s) designated by the Superintendent;~~ the completion of WVSP 271 Notice of Child Abuser Responsibility and Registration Certification and the entry of the following information into the Livescan device;

10.2.a. Full name;

10.2.b. Any aliases, nicknames and other names used by the person;

10.2.c. Date of birth;

10.2.d. Social Security number;

10.2.e. Sex, race, height, weight, hair and eye color;

10.2.f. Current physical and mailing address(es);

10.2.g. County of residence(s);

10.2.h. Previous address and date of address change;

10.2.i. Ages, names and relationship to the registrant, of any children in the household of the registrant, of any children currently living or subsequently born to the registrant;

10.2.j. Name and address of employer or place of occupation at time of registration or any anticipated future employers or places of occupation including county;

10.2.k. Name and address of any school or training facility the person is attending at time of registration or expects to attend including county and;

10.2.l. Jurisdiction (State and County of conviction) and conviction date;

10.2.m. Date released from incarceration or placed on probation;

10.2.n. Conviction offense;

10.2.o. Parole or Probation officer name and telephone number;

10.2.p. ~~Right thumb print of the person; Left and right finger slaps, both thumbprints, rolled fingerprints, left and right upper and lower palm prints, and left and right writer's palms;~~

10.2.q. Required signatures of the person; ~~and date signed;~~

10.2.r. Required ~~signatures~~ and information of uniformed member(s) ~~and date signed;~~

10.2.s. The detachment shall retain a copy of the registration form(s).

10.3. When a person required to be registered arrives at a State Police detachment located in the county where the person resides, the Detachment Commander, or in his/her absence, another uniformed member, shall;

10.3.a. Completion of WVSP 271 and enter into the Livescan device ~~Complete the registration form(s) on the person that shall include all information stipulated in 10.2 of this procedural rule and;~~

10.3.b. ~~Take two (2) full sets of fingerprints on FD 249 (FBI Fingerprint Card) or its authorized technological equivalent~~ Obtain fingerprints utilizing procedures outlined in 10.2.p;

10.3.c. ~~The completed original registration form(s), and the two (2) full sets of fingerprints (FD 249) or its authorized technological equivalent shall be mailed or electronically transmitted to the Registry within five (5) business days. All information entered into the Livescan device shall be submitted electronically to the Registry and the original WVSP 271 Child Abuser Responsibility and Registration Certification shall be mailed to the Child Abuse Registry within five (5) business days.~~

10.3.d. A copy of the completed registration form(s) shall be kept in the detachment Child Abuse and Neglect Registry file and may be obtained by accessing the Intranet Livescan files and printing the completed form.

10.3.e. If for any reason the Livescan device is unavailable the detachment commander or, in his/her absence, another uniformed member shall ;

10.3.e.1. Complete the registration form(s), to include all information stipulated in 10.2 of this procedural rule;

10.3.e.2. Take two (2) full sets of fingerprints on FD 249 ( FBI Fingerprint Card);

10.3.e.3. Take at least (2) full face photographs without a hat or sunglasses (see procedural rule 13.2 r.) of the person using a placard with the name, detachment, and date of the photograph. Additional photographs may be taken and placed in an investigative file located at the detachment;

10.3.e.4. The completed original registration form(s), an original photograph, and the two (2) full sets of fingerprints (FD 249) shall be mailed to the Registry within five (5) business days. A copy of the form(s) shall be

kept in the detachment Sex Offender Registry file;

10.4. When a person previously registered arrives at the detachment to report a change of address or a change in any other registration information, the Detachment Commander or in his/her absence, another uniformed member shall;

10.4.a. Complete all information required in 10.2 of this procedural rule or if available, may retrieve offender's previous information from Livescan device and make necessary changes; Complete the update to registration form(s) including a right thumb print and signatures of the person, the uniformed member and the supervisor;

10.4.a.1. All information entered into the Livescan device shall be transmitted electronically to the Registry; The completed original WVSP 271 Child Abuser Responsibility and Registration Certification shall be mailed to the Child Abuse Registry within five (5) business days. The original completed update to registration form(s) shall be mailed to the Registry within five (5) business days.

10.4.a.2. A copy of the completed update to registration form(s) shall be kept in the detachment Offenders of Child Abuse and Neglect Registry file. These copies shall be obtained by accessing the Intranet Livescan files and printing the registration form.

10.4.b. If Livescan device is unavailable the detachment commander, or in his/her absence, another uniformed member, shall follow the procedure in 10.3.e. of this procedural rule.

10.5. When notified that a registered person has moved out of their county and has no other registration requirement within that county, the Detachment Commander shall maintain copies of registration and updates to registration documents at the detachment in an investigative file.

10.6. When notified of a registered person's intent to move out of state, the Detachment Commander, or in his/her absence, another

uniformed member, shall follow the process in 10.4.a. of this procedural rule.

10.7. If the Registry informs the Detachment Commander that additional fingerprints are needed on a person moving from another state or living in another state, the Detachment Commander shall;

10.7.a. Ascertain the location of the person and require the person to report to the detachment to be fingerprinted ~~using two (2) FD-249 (FBI fingerprint cards) or its authorized technological equivalent, using the Livescan device or if the Livescan device is unavailable~~ fingerprint using two (2) FD 249 (FBI fingerprint cards);

10.7.b. ~~Mail the completed FD-249 (FBI Fingerprint cards) or electronically submit its authorized technological equivalent to the Registry within five (5) business days. The information entered into the Livescan device, including the fingerprints requested by the Registry, shall be transmitted electronically to the Registry. If using the fingerprint cards (FD 249) these cards shall be mailed to the registry within five (5) business days.~~

10.8. When a uniformed member makes contact with anyone that may be required to register as defined in 6.1, 6.2 or 6.3 of this procedural rule but is not registered or has not signed a statement acknowledging that they have been informed of his or her duty to register, that officer shall report this contact to the Detachment Commander and the Registry for verification of registration requirements. This contact information shall be relayed to the Registry by telephone or fax and shall state the name and date of birth of the person, current address and the offense for which they were convicted or the qualifying offense.

10.9. Responsibly manage the information concerning offenders of child abuse or neglect residing within the county.

10.9.a. Refrain from secondary dissemination of the information.

10.9.b. Utilize the information for investigative purposes only.

**§81-16-11. Responsibilities of Law Enforcement Agencies, Other Than the State Police.**

11.1. Responsibly manage the information concerning offenders of child abuse or neglect residing within the county.

11.1.a. Refrain from secondary dissemination of the information.

11.1.b. Utilize the information for investigative purposes only.

11.2. When making contact with anyone that may be required to register as defined in 6.1, 6.2 or 6.3 of this procedural rule but is not registered or has not signed a statement acknowledging that they have been informed of his or her duty to register, the agency shall report that contact to the Registry for verification of registration requirements. This contact information shall be relayed to the Registry by telephone or fax and shall state the name and date of birth of the person, current address and the offense for which they were convicted or the qualifying offense.

11.3. As the provisions of this Act apply both retroactively and prospectively, if informed by the Registry that they have arrested a person who was convicted prior to the enactment of the Child Abuse and Neglect Registration Act, but who is not registered and may be required to register, the agency shall provide the Registry with the person's current address and any available information pertaining to the person.

11.4. Upon request of the West Virginia State Police, provide any and all requested records relating to an offender of child abuse or neglect to the West Virginia State Police.

**§81-16-12. Responsibilities of the Child Abuse and Neglect Registry.**

12.1. The Registry shall maintain the central registry of information on those persons who are required to be registered.

12.2. The Registry is authorized to release child abuse or neglect registration information

and documentation to federal, state and local governmental agencies responsible for conducting pre-employment checks.

12.3. The Registry may release child abuse or neglect registration information and documentation, when properly requested, to authorized law enforcement and governmental agencies of the United States, its territories, foreign countries authorized to receive the same, other state jurisdictions and the state of West Virginia.

12.3.a. These countries/government jurisdictions must stipulate in writing that this information is necessary in the interest of and administration of official duties and criminal laws.

12.4. Within five (5) business days of notification, the Registry shall remove a name from the Registry when properly ordered by a circuit court following a petition by a registered person whose conviction has been overturned and shall;

12.4.a. Within five (5) business days of receipt of the notice, inform the State Police detachment, in the county where the person resides, that the person has been removed from the Registry files.

12.4.b. Within five (5) business days of receipt of the notice, provide the updated information to the Department of Health and Human Resources that the person has been removed from the registry.

12.5. When notified that a person required to register has changed or intends to change their address to an address outside the county where the person has been residing the Registry shall;

12.5.a. Within five (5) business days of notification, update the Registry with the person's change of address or intended address.

12.5.b. Within five (5) business days of receipt of the notice, inform the State Police detachment, in the county where the person resides, of the person's change of address or intended address.

12.5.c. Within five (5) business days of receipt of the notice, inform the State Police detachment, in the county where the person intends to reside, of the person's change of address or intended address and the need for that person to register by physically appearing in that State Police detachment and providing the information required for registration.

12.5.d. Within five (5) business days of receipt of the notice, provide the information to the Department of Health and Human Resources of the person's change of address or intended address.

12.6. When notified that a person required to register has moved or intends to move outside of the state, or country, the Registry shall;

12.6.a. Within five (5) business days of notification, update the Registry with the person's change of address or intended address.

12.6.b. Within five (5) business days of receipt of the notice, inform the State Police detachment, in the county where the person resides, of the person's change of address or intended address.

12.6.c. Within five (5) business days of receipt of the notice, provide the information to the Department of Health and Human Resources of the person's change of address or intended address.

12.6.d. Within ten (10) business days of the notice, inform the law enforcement officials in the jurisdiction where the person indicated he or she intends to reside of the information provided by the person and any other information included in the Registry.

12.7. Upon request by a registered individual, the information pertaining to that individual shall be forwarded within fifteen (15) business days by certified or registered mail.

12.8. Upon receipt of a statement from a person included in the Registry that all or part of the recorded information is inaccurate, the Registry shall;

12.8.a. Within thirty (30) business days of receipt of the statement ascertain if the recorded information contains any inaccuracies.

12.8.b. Within fifteen (15) business days of verification of any inaccuracies, correct any identified inaccuracies.

12.8.c. Within five (5) business days of verification of any inaccuracies, inform the State Police detachment, in the county where the person resides of the corrected information.

12.8.d. Within five (5) business days of verification of any inaccuracies, provide the corrected information to the Department of Health and Human Resources.

12.9. The registry shall maintain an active file or log of requests for information included in the Registry for a period of one year of date of request. The file shall include;

12.9.a. Full name of the authorized requester;

12.9.b. If applicable, the full name and address of the authorized requester's agency or organization;

12.9.c. If not associated with an agency or organization, the full address of the authorized requester;

12.9.d. A statement detailing the need for the requested information or, if applicable, the provision of code(s) specifying the information is to be utilized for investigative purposes.

12.10. The registry is authorized to enter into agreement with other states providing for the reciprocal sharing of abuse and neglect registry information.

12.11. Provide registration form(s) designated by the Superintendent to law enforcement officers, circuit courts, court clerks, town recorders and parole and probation officers to facilitate submission of appropriate information necessary to administer the Child Abuse and Neglect Registry.

**§81-16-13. Responsibilities of Those Persons Required to Register.**

13.1. Responsibilities at the time of conviction or sentencing.

13.1.a. The person who has pled guilty, is convicted or found not guilty by reason of mental illness, mental retardation or addiction of those crimes listed in 6.1 or 6.2 of this procedural rule that require registration or is convicted of any criminal offense against a child in his or her household or of whom he or she has custodial responsibility and with whom the sentencing judge makes a written finding that there is a continued likelihood that the person convicted will continue to have regular contact with that child or other children and that as such it is in the best interest of the child or children for that person to be monitored, then that person shall sign in open court and on the record, a statement that they understand the registration requirements for offenders of child abuse and neglect.

13.1.a.1. The statement, once signed and witnessed, constitutes prima facie evidence that the person has knowledge of the registration requirements for offenders of child abuse and neglect.

13.1.b. The person shall respond to the court's interrogation to verify that the person has received notice and understands the provisions of the Act.

13.1.c. The person shall supply information necessary to complete the registration process form(s) and comply with the procedures in 9.2, 9.3, or 9.4 of this procedural rule

13.2. Responsibilities of the person to be released or transferred from an incarceration or confinement facility.

13.2.a. Within three (3) business days of release the person shall physically appear at a State Police Detachment in the county of residence and supply information necessary to complete the registration process registration form(s) and comply with the procedures in 10.2 of this procedural rule.

13.3. Responsibilities after conviction, plea of guilty, finding of not guilty due to mental illness, mental retardation or addiction, but prior to actual incarceration or confinement.

13.3.a. Providing that the person is not incarcerated, the person will within three (3) business days of conviction, entering of a guilty plea, or finding of not guilty due to mental illness, mental retardation or addiction, the person shall physically appear at a State Police Detachment in the county of residence and supply information necessary to complete the registration process registration form(s) and comply with the procedures in 10.2 of this procedural rule.

13.4. Responsibility of the person when changing address or encountering any change in registration information.

13.4.a. Within ten (10) business days prior to the actual change of address the person shall physically appear at the State Police detachment where they last registered and advise of their intent to move as well as provide their new address according to the change of address procedure in 10.4 of this procedural rule.

13.4.a.1. If incarcerated and intending to reside out-of-state or out-of-country, the person required to register must notify correctional officials before their release of such intent and the actual address where they will reside.

13.4.b. Within ten (10) business days following the move, the person must physically appear at the State Police detachment in the county(ies) where the new address is located and provide the new address according to the registration procedure outlined in 10.4 of this procedural rule.

13.4.c. Within ten (10) business days of a change in any of the registration information, the person must physically appear at a State Police detachment in the county(ies) where they reside and provide the information necessary to comply with the registration procedures outlined in 10.4. of this procedural rule.

13.5. Responsibilities of out-of-state registrants.

13.5a. All persons who are required to register as a child abuse or neglect offender in the state where they reside, and meet one of the following criteria, must register within three (3) business days of the start of their employment, work, school enrollment or visit;

13.5.a.1. Employed in West Virginia or;

13.5.a.2. Carry on a vocation in West Virginia or;

13.5.a.3. A student in West Virginia or;

13.5.a.4. Visiting for more than fifteen (15) continuous days.

13.5.b. The person required to register shall physically appear at a State Police Detachment in the county(ies) in which the place of employment, school, vocation and/or the place of visitation is located and provide all necessary information to comply with the registration procedures outlined in 10.3 of this procedural rule.

13.5.c. When directed by the State Police, physically appear at State Police Detachment in the county of residence to verify or provide any additional information or documentation necessary to ensure complete and accurate Registry records.

13.6. Responsibilities of a child abuse or neglect offender in another state moving to West Virginia.

13.6.a. Within ten (10) business days of the change of address, the person shall physically appear at the State Police detachment in the county(ies) where they reside or intend to reside and provide the information necessary to complete the registration procedures in 10.3 of this procedural rule.

13.7. Responsibility of a person convicted, entered a plea of guilty or found not guilty by reason of mental illness, mental retardation or

addiction, of committing any of the criminal offenses set forth in 6.1, 6.2 or 6.3 of this procedural rule and has been accepted into supervision from another state under the terms and conditions of the Interstate Compact for Supervision of Adult offenders.

13.7.a. Within three (3) business days of entering the state, the person shall physically appear at a State Police Detachment in the county of residence and supply information necessary to complete the registration process ~~registration form(s)~~ and comply with the procedures in ~~10.2~~ 10.3 of this procedural rule.

13.8. Responsibility of a person who is qualified to be registered as an offender of child abuse or neglect, but is not included in the Registry.

13.8.a. As the provisions of this Act apply both retroactively and prospectively, if a person has been convicted or found not guilty by reason of mental illness, mental retardation or addiction of any offense listed in 6.1 and 6.2 of this procedural rule or if the sentencing judge makes a written finding that there is a continued likelihood that the person convicted will continue to have regular contact with that child or other children and that as such it is in the best interest of the child or children for that person to be monitored and is required to register, but is not included in the Registry, the person must register as an offender of child abuse and neglect.

13.8.a.1. Within ten (10) business days of being notified, by certified mail from the Registry, of their responsibility to register, the person must physically appear at a State Police detachment in the county(ies) where they reside and provide information necessary to complete the registration procedures outlined in 10.3 of this procedural rule.

13.9. Any person who is required to register under the provisions of this rule, shall when directed by the State Police, physically appear at State Police Detachment in the county of residence to verify or provide any additional information or documentation necessary to ensure complete and accurate Registry records.

**§81-14-14. Documents Available.**

Unless otherwise specified in the proceeding rule, the following documents are available by contacting the Child Abuse and Neglect Registry at:

Child Abuse and Neglect Registry  
Criminal Records  
West Virginia State Police  
725 Jefferson Road  
South Charleston, WV 25309

Telephone number: 304-746-2133  
Fax number: 304-746-2402

14.1. Registration form(s).

14.2. FD-249, FBI fingerprint card.