



**TEXAS BOARD
OF
PARDONS AND PAROLES**

Number: BPP-POL. 145.256

Date: September 1, 2019

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Supersedes: July 19, 2018

BOARD POLICY

SUBJECT: SPECIAL CONDITION "M" (SEX OFFENDER REGISTRATION CONDITION AND DNA SUBMISSION)

PURPOSE: To establish Special Condition "M" (Sex Offender Registration and DNA Submission) as a special condition of parole or mandatory supervision and to establish a procedure for imposing a condition requiring sex offender registration and the submission of DNA as a condition of parole or mandatory supervision.

AUTHORITY: Texas Constitution Article 4, Section 11
Texas Code of Criminal Procedure Chapters 42 and 62
Texas Government Code Sections 508.044, 508.045, 508.186, 508.1862, 508.1864, and 508.228
Texas Administrative Code Title 37, Part 5, Chapter 148

DISCUSSION: The Texas Board of Pardons and Paroles (Board) determines conditions of parole and mandatory supervision. Except in special circumstances, Board Members and Parole Commissioners act in panels comprised of three persons, and panel decisions are made by majority vote. The Presiding Officer designates the parole panels. Special conditions are conditions imposed in addition to the standard conditions of parole or mandatory supervision. Unless otherwise provided, any condition may be imposed before or after release and shall remain in effect until specifically removed by a parole panel.

When a court makes an affirmative finding that, at the time of the offense, the defendant was not more than four years older than the victim or intended victim and the victim or intended victim was at least 14, the court may enter an order exempting the person from registration under certain circumstances pursuant to Texas Code of Criminal Procedure Article 62.301.

DEFINITIONS: Reportable conviction – a conviction or adjudication, regardless of the pendency of appeal, which is listed in Article 62.001(5), Code of Criminal Procedure.

Registration – a reportable conviction or adjudication, or required to register as a condition of parole, mandatory supervision or community supervision as authorized by Article 62.051(a), Code of Criminal Procedure.

POLICY: Special Condition “M” represents a cooperative effort between the Board, the Texas Department of Criminal Justice Parole Division (Division), and local law enforcement agencies to minimize the threat of sex offenders to the community when an offender is released on parole or mandatory supervision.

At any time Special Condition “M” is in effect, the offender shall fully comply with state laws governing sex offender registration and DNA submission as well as Board and Division policies governing sex offender registration.

COMPONENTS:

“M” – At any time this condition is in effect, unless modified or withdrawn by a parole panel, an offender shall:

- A. Register with local law enforcement authorities, and
- B. Submit a blood sample or other specimen to the Department of Public Safety for the creation of a DNA record, unless the releasee has already submitted the required specimen under other state law.

PROCEDURE:

- I. Criteria for Imposition
 - A. Offenders who have a reportable conviction under the Penal Code listed in Article 62.001(5), Code of Criminal Procedure, and the reportable conviction or adjudication occurred on or after September 1, 1970.
 - B. Offenders who have Special Condition “X”, which was imposed after an affirmative finding that the offender constituted a threat to society because of his lack of sexual control pursuant to Texas Government Code Section 508.228.
 - C. Offenders being supervised in Texas pursuant to the Interstate Compact Agreement who are required to register as a condition of parole imposed by the Sending State.
- II. Imposition of Special Condition
 - A. Unless otherwise directed, Special Condition “M” becomes effective on the date of the parole panel decision.
 - B. An offender is not in violation of this policy if the offender attempts to register and law enforcement authorities refuse to accept the registration or the offender declines to submit a specimen because the offender has already done so under other state law.

- III. Expiration of Registration or Exemption from Registration
- A. Life Registration – An offender is required to register for life when the reportable convictions or adjudications, other than an adjudication of delinquent conduct, is for an offense listed in Article 62.101(a).
 - B. Ten Year Registration
 - 1. An offender who has a conviction or order of deferred adjudication, including cases transferred from the Family Court to a district court or criminal district court, for an offense **not** listed in Article 62.101(a) duty to register ends on the 10th anniversary of the date on which the offender is released from a penal institution, discharges community supervision, or the court dismisses the criminal proceeding and discharges the person. This includes an attempt, conspiracy, or solicitation of an offense listed in 62.101(a); prohibited sexual contact; and second indecent exposure.
 - 2. A juvenile who has an adjudication of delinquent conduct for a reportable adjudication listed in Article 62.001 duty to register ends on the 10th anniversary of the date on which the disposition is made or completes the terms of the disposition.
 - C. Early Termination – An offender may file a motion with the trial court that sentenced the offender for the reportable conviction for early termination of the offender’s obligation to register. If the court grants the motion, the offender’s obligation to register ends on the later of the date the court enters the order of early termination or the date the offender pays the appropriate costs identified in Article 62.406.
 - D. Exemption from Registration – Even though an offender is convicted or receives an adjudication, deferred or delinquent conduct, of a reportable offense, the court may **not** require the offender to register. If the court makes that determination, it will be entered in a separate order identified in Articles 62.301 and 63.352. In those cases, the offender is not required to register.
- IV. Notification to Department of Public Safety and Licensing Authority – When a parole panel imposes Special Condition “M” and has knowledge that the offender holds or has applied for a license as a health care professional, the Board shall notify the Department of Public Safety and the licensing authority that the offender is required to register as a sex offender as a condition of release on parole or mandatory supervision.
- V. Withdrawal of Special Condition
- A. Special Condition “M” imposed under section I.A. shall remain in effect for the duration of the supervision period, provided such requirement does not conflict with Section III of this policy.
 - B. Special Condition “M” imposed under section I.B. may be withdrawn by a majority of a parole panel provided such action does not conflict with section I of this policy.

ADOPTED BY MAJORITY VOTE OF THE BOARD ON THE 18TH DAY OF JULY, 2019.

DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)

**Signature on file.*