



*Early Termination of Certain Person's  
Obligation to Register*

**Council on Sex Offender Treatment**

## Subchapter I. Early Termination of Certain Person's Obligation to Register

**Art. 62.401. DEFINITION.** This subchapter, “Council” means the Counsel on Sex Offender Treatment Reenacted and amended by Acts 2005, 79<sup>th</sup> Leg., Ch. [1008](#), Sec. 1.01, eff. September 1, 2005.

### **Art. 62.402. DETERMINATION OF MINIMUM REQUIRED REGISTRATION PERIOD.**

(a) The department by rule shall determine the minimum required registration period under federal law for each reportable conviction or adjudication under this chapter.

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(b) After determining the minimum required registration period for each reportable conviction or adjudication under Subsection (a), the department shall compile and publish a list of reportable convictions or adjudications for which a person must register under this chapter for a period that exceeds the minimum required registration period under federal law.

(c) To the extent possible, the department shall periodically verify with the United States Department of Justice's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking or another appropriate federal agency or office the accuracy

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Of the list of reportable convictions or adjudications described by Subsection (b).

Reenacted and amended by Acts 2005, 79<sup>th</sup> Leg., Ch. [1008](#), Sec, 1.01, eff. September 1, 2005. Amended by: Acts 2011, 82<sup>nd</sup> Leg., R.S., Ch. [134](#), Sec. 4, eff. September 1, 2011

### **Art. 62.403. INDIVIDUAL RISK**

**ASSESSMENT.** (a) The council by rule shall establish, develop, or adopt and individual risk assessment tool or a group of individual risk assessment tools that:

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(1) evaluates the criminal history of a person required to register under this chapter; and

(2) seeks to predict:

(A) the likelihood that person will engage in criminal activity that may result in the person receiving a second or subsequent reportable adjudication or conviction; and

(B) the continuing danger, if any, that the person poses to the community

(b) On the written request of a person with a single reportable adjudication or conviction that appears on the

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list published under Article 62.402 (b), the council shall:

(1) evaluate the person using the individual risk assessment tool or group of individual risk assessment tools established, developed, or adopted under Subsection (a); and

(2) provide to the person a written report detailing the outcome of an evaluation conducted under Subdivision (1).

(c) An individual risk assessment provided to a person under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code.

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Reenacted and amended by Acts 2005, 79<sup>th</sup> Leg., Ch. [1008](#), Sec. 1.01, eff. September 1, 2005.

### **Art. 62.404. MOTION FOR EARLY TERMINATION.**

(a) A person required to register under this chapter who has requested and received an individual risk assessment under Article 62.403 may file with the trial court that sentenced the person for the reportable conviction or adjudication a motion for early termination of the person's obligation to register under this chapter.

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(b) A motion filed under this article must be accompanied by:

(1) a written explanation of how the reportable conviction or adjudication giving rise to the movant's registration under this chapter qualifies as a reportable conviction or adjudication that appears on the list published under Article 62.402 (b); and

(2) a certified copy of a written report detailing the outcome of an individual risk assessment evaluation conducted under Article 62.403 (b)(1).

Reenacted and amended by Acts 2005, 79<sup>th</sup> Leg., Ch. [1008](#), Sec. 1.01, eff. September 1, 2005.

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**Art. 62.405. HEARING ON PETITION.** (a) After reviewing a motion filed with the court under Article 62.404, the court may:

(1) deny without a hearing the movant's request for early termination; or

(2) hold a hearing on the motion to determine whether to grant or deny the motion.

(b) The court may not grant a motion filed under Article 62.404 if:

(1) the motion is not accompanied by the documents required under Article 62.404(b); or

(2) the court determines that the reportable conviction or adjudication for which the movant is required to

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register under this chapter is not a reportable conviction or adjudication for which the movant is required to register for a period that exceeds the minimum required registration period under federal law.

Reenacted and amended by acts 2005, 79<sup>th</sup> Leg., Ch. [1008](#), Sec. 1.01, eff. September 1, 2005.

**Art. 62.406. COSTS OF INDIVIDUAL RISK ASSESSMENT AND OF COURT.** A person required to register under this Chapter who files a motion for early termination of the person's registration under this chapter is responsible for and shall remit to the council and to the court, as applicable, all costs associated with and incurred

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by the council in providing the individual risk assessment or by the court in holding a hearing under this subchapter.

Reenacted and amended by Acts 2005, 79<sup>th</sup> Leg., Ch. 1008, Sec. 1.01, eff. September 1, 2005.

**Art. 62.407. EFFECT OF ORDER GRANTING EARLY TERMINATION.** (a) If, after notice to the person and to the prosecuting attorney and a hearing, the court grants a motion filed under Article 62.404 for the early termination of a person's obligation to register under this chapter, notwithstanding Article 62.101, the person's obligation to

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register under this chapter ends on the later of:

(1) the date the court enters the order of early termination; or

(2) the date the person has paid each cost described by Section 62.406.

(b) If the court grants a motion filed under Article 62.404 for the early termination of a person's obligation to register under this chapter, all conditions of the person's parole, release to mandatory supervision, or community supervision shall be modified in accordance with the court's order.

Reenacted and amended by Acts 2005, 79<sup>th</sup> Leg., Ch. 1008, Sec. 1.01, eff. September , 2005.

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**Art. 62.408. NONAPPLICABILITY.** This chapter does not apply to a person without a reportable conviction or adjudication who is required to register as a condition of parole, release to mandatory supervision, or community supervision.

Reenacted and amended by Acts 2005, 79<sup>th</sup> Leg., Ch. 1008, Sec. 1.01, eff. September 1, 2005.

# *Application*



Department of State Health Services  
Office of General Counsel  
P.O. Box 149347, MC1919  
Austin, Texas 78714  
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Fax (512) 776-6989  
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**INITIAL ELIGIBILITY CHECKLIST FOR DEREGISTRATION EVALUATION**

(Please print)

Attorney of Record: \_\_\_\_\_ Date: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
Zip Code: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Registered Sex Offender's Full Name: \_\_\_\_\_  
Address: \_\_\_\_\_ SSN: \_\_\_\_\_  
DOB: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
Email Address: \_\_\_\_\_

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Reportable Conviction or Adjudication: \_\_\_\_\_ Texas Penal Code  
Age of the Victim at the time of the Offense: \_\_\_\_\_  
County of Sentencing Court: \_\_\_\_\_  
Sex Offender Treatment: Yes/No \_\_\_\_\_  
Community Supervision: Yes/No \_\_\_\_\_

## Procedural Step: One

- Applicant should confirm that he/she has only one reportable conviction or adjudication for a sexual offense. If an applicant has more than one reportable conviction or adjudication for a sexual offense, then **STOP**. The applicant is ineligible to seek the early termination of his/her obligation to register

Examples: An applicant's Order of Conviction or Deferred Adjudication Order recites two or more separate counts for sexual offenses.  
That person is ineligible.

- Only convictions or deferred adjudications handed down by Texas courts may be considered.
- A Deferred Adjudication Order is treated the same as a conviction pursuant to the Adam Walsh Act or Federal Law.

IF YOU HAVE ONLY ONE REPORTABLE CONVICTION OR ADJUDICATION, THEN PROCEED TO STEP TWO.

## Procedural Step: Two

- ▶ Go to Texas Council on Sex Offender Treatment website and **“Click”** on **“Deregistration”**
- ▶ Click on **“Texas Offenses Tiered Under the Adam Walsh Act”**. **Click on this box.**  
<https://records.txdps.state.tx.us/SexOffender/PublicSite/Index.aspx>
- ▶ Go to **“Additional Resources”**. Click on **“Texas Offenses Tiered Under the Adam Walsh Act”**.

## Procedural Step: Three

- ▶ Locate on the **DPS** list your particular **Texas Penal Code** citation relating to your reportable conviction or adjudication.
- ▶ The minimum registration period for your reportable conviction must **EXCEED** the minimum registration period under the federal law, or Adam Walsh, in order to move on to the next step.

## Procedural Step: Four

- ▶ An applicant must also meet any additional criteria required on the DPS list.

Example: See. Page 2 of list. Registrants who where 17 years of age or older at the time of their offense. **\*\*Indecency with a Child by Contact\*\***

- a. 21.11(a)(1) Indecency with a child by contact & involved “consensual Sexual conduct as defined by 42 U.S.C. 16911(5)(c); or
- b. 21.11(a)(1) Indecency with a child by contact & the victim is at least 13 years of age.

- ▶ **Council Analysis:**

- a. “Consensual sexual conduct” is defined under federal law to mean the victim was at least 13 years of age or older at the time of the offense and the offender was no more than 4 years older than the victim at the time of the offense.
- b. The victim must have been at least 13 years of age at the time of the offense.

## Procedural Step: Five

- ▶ In the example above, provided all other requirements are met, if an applicant meets the criteria in either (a) or (b) above, then that person is likely to be approved to move forward in the deregistration process and to be referred to a Council-approved Deregistration Evaluation Specialist to sit for a Deregistration Risk Assessment Evaluation. [See. Art. 62.403, CCP]
- ▶ If, on the other hand, the minimum registration period for the applicant's reportable conviction or adjudication DOES NOT EXCEED the minimum registration period for the same reportable conviction or adjudication under federal law [refer to DPS List] OR the applicant cannot meet the additional criteria, e.g. consensual sexual conduct or victim at least 13 years of age at the time of the offense, then **STOP**.
- ▶ The applicant is not eligible to seek the early termination of his/her obligation to register as a sex offender in Texas.
- ▶ Key Point: Only Texas convictions can be considered for deregistration purpose under this statute. No out of state convictions or adjudications are eligible even though the prospective applicant lives in Texas.

## Procedural Step: Six

### DOCUMENTS REQUIRED

If an Applicant meets the requirements above, then copies of the following required documents/fee must be submitted along with this form:

1. Order of Conviction/Deferred Adjudication Order;
2. If the reportable conviction or adjudication involved a minor, an applicant shall provide a copy of one of the following documents which indicates the age of the victim at the time of the offense:
  - a. Indictment
  - b. Offense Report
  - c. Probable Cause Affidavit
3. Current Criminal History Background Checks. Conducted by both the Texas Department of Public Safety and the Federal Bureau of Investigation. Click on the respective link and follow the directions provided by each governmental agency.

<http://records.txdps.state.tx.us>

<http://www.fbi.gov/about-us/cjis/background-checks>

**Six**  
**(Continued)**

4. Cashier's Check or Money Order in the Amount of \$50.00 made payable to: "Texas Council on Sex Offender Treatment". This fee is assessed for the administrative review of an applicant's file and/or request to early terminate his/her obligation to register as a sex offender in Texas.

**[Additional Documents Not Required to Support of an Application for Early Termination]**

5. If an applicant has undergone sex offender treatment and has successfully completed his/her treatment program, a letter from the LSOTP confirming the applicant's successful completion of treatment.
6. If an applicant successfully discharged community supervision or parole, a copy of the Order discharging applicant successfully from community supervision or parole:

**ALL DOCUMENTATION AND FEE SHOULD BE SENT TO:**

**Department of State Health Services  
Office of General Counsel  
P.O. Box 149347, MC 1919  
Austin, Texas 78714  
ATTN: C. David Richards**

# TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. Lamar Blvd., Austin, Texas 78752

[www.dps.texas.gov](http://www.dps.texas.gov)



**Steven C. McCraw**

**Director**

**David G. Baker**

**Cheryl MacBride**

**Deputy Director**

Dear Judge:

Chapter 62, Texas Code of Criminal Procedure (CCP), allows for an individual to file a motion for early termination of their obligation to register as a sex offender in the state of Texas. This letter is in regard to an *Order for Early Termination* that the Department has received from your office.

Subchapter I, Chapter 62, CCP, outlines the requirements that must be met in order for an individual to be granted early termination from the obligation to register. Art. 62.404, CCP, states that a motion filed under Subchapter I must be accompanied by the following:

- A written explanation of how the reportable conviction or adjudication giving rise to the movant's registrant under this chapter qualifies as a reportable conviction or adjudication that appears on the list published under Article 62.402(b); and
- A certified copy of a written report detailing the outcome of an individual risk assessment evaluation conducted under Article 62.403 (b)(1).

After reviewing the Order for Early Termination received from your office, it appears that the order fails to meet the requirements set forth by statute. At this time the Department is unable to recognize the enclosed order and us unable to remove this individual from the Sex Offender Registry and relieve them of their obligations regarding sex offender registration.

Our decision is based upon the following information:

-  The individual's reportable offense does not appear on the list published under Article 62.402(b). This list is published on the DPS Website.
-  The Individual did not received an individual risk assessment as required under Article 62.403(b)(1).

If you have any questions, please contact the DPS Crime Records Service legal Staff at 512-424-5841

## **CONTACT INFORMATION:**

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