

 <b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE <b>Sexual Assault Reform Act (SARA) Mandatory Condition</b>		NO. 8305
			DATE 08/03/2021
SUPERSEDES DIR #8305 Dtd. 12/03/20	DISTRIBUTION A B	PAGES PAGE 1 OF 5	DATE LAST REVISED
REFERENCES (Include but are not limited to) Executive Law §259-c (14); Sexual Assault Reform Act; People ex rel. Negron v Superintendent, Woodbourne Corr. Facility (2020)	APPROVING AUTHORITY  		

- I. DESCRIPTION:** This policy provides direction regarding the condition of release to Community Supervision required by the Sexual Assault Reform Act (SARA) and referenced in Executive Law §259-c(14), in accordance with the interpretation of the NY Court of Appeals in People ex rel. Negron v Superintendent, Woodbourne Corr. Facility (2020). This condition applies to any offender released to Community Supervision on or after February 1, 2001, who is serving one or more sentences (including Juvenile Offenders and Youthful Offenders) for certain specified offenses (see Attachments A and B) and who meet additional specified criteria (see Attachment C).
- II. POLICY:** It is the policy of the Department of Corrections and Community Supervision (DOCCS) to identify persons being released on parole, conditional release, local conditional release, and post-release supervision who may be subject to mandatory imposition of a special condition of supervision pursuant to Executive Law §259-c(14) (see [Form #8305A](#), “Mandatory Condition of Release to Parole Supervision”); to identify such cases to the Board of Parole at the time of release or other point of eligibility determination; and to provide the Board with sufficient records for it to determine whether the underlying facts establish that the mandatory condition applies. This SARA condition will apply to offenders serving a sentence for an offense defined in Article 130, 135, or 263 of the Penal Law or Section 255.25, 255.26, or 255.27 of the Penal Law (Attachments A and B), who must also meet one or both of the following criteria:
- A. The victim of such offense was under the age of 18 at the time of such offense.
  - B. The offender has been designated as a Level 3 sex offender.
- III. FACILITY OPERATIONS**
- A. Offender Rehabilitation Coordinators (ORC)/Supervising Offender Rehabilitation Coordinators will review cases in preparation for scheduled Parole Board interviews and reviews to determine whether an individual should be identified to the Parole Board for a determination regarding the imposition of the mandatory condition.
    1. Where identified, the potential requirement for imposition of the mandatory condition must be noted on the Parole Board Report, or other report prepared for the Parole Board, and included in the ORC Recommended Special Conditions.
    2. Staff must ensure that records documenting the basis for this requirement are included in those provided to the Board for use in its determination.

- B. The incarcerated individual is to be notified regarding the mandatory condition prior to Board review. Individuals with a victim aged 18 or older pending assignment of a Sex Offender risk level should be advised that a Level 3 determination will require the mandatory condition.
- C. If, after the Board review, it is determined that the SARA condition should be imposed, facility staff must ensure the Board is informed that the condition may be required. Eligible cases include those found in Attachments A and B. Facility staff may use [Form #CS9201A](#), "Facility Request for Addition/Removal of e-STOP, Revised e-STOP, SARA," to make this request.
- D. For all individuals who have had the mandatory condition imposed by the Board, facility staff must ensure the condition is entered in the Guidelines Entry System (GES-SC 28), noted in the Case Management System (CMS 96), and recorded on the release documents.

#### IV. FIELD OPERATIONS

- A. Parole Officers/Senior Parole Officers will review cases under supervision to ensure that any eligible individual has the mandatory condition imposed. Since Sex Offender Registry risk levels may be determined subsequent to release, or may be modified by a Court, staff must monitor this on an ongoing basis and take action as appropriate. In order to assist with this, an online print report, NOSARA, will be printed whenever mainframe systems identify a case that may be eligible for the SARA condition. Staff must review any cases on this report to determine whether the SARA condition needs to be imposed.
- B. Where the Parole Officer believes that the mandatory condition may be required and the releasee does not have the required SARA condition, the Parole Officer will conference the case with the Senior Parole Officer/Bureau Chief. If it is determined the parolee is subject to the mandatory SARA condition, the Bureau Chief must send a written request to the Board of Parole to request the SARA condition be imposed. Staff may use [Form #CS9201B](#), "Community Supervision Request for Addition/Removal of e-STOP, Revised e-STOP, SARA," to make this request. Similarly, if it is determined that a parolee has the SARA condition but is not eligible, staff must make a request to the Board to have it removed and may use [Form #CS9201B](#). Such written request should include records sufficient to document the basis for concluding the condition is required, such as records reflecting the Sex Offender Registration Act (SORA) risk level or the age of a minor victim.

**NYS SEXUAL ASSAULT REFORM ACT (SARA)  
EXECUTIVE LAW §259-c SUBDIVISION 14**

EXECUTIVE LAW § 259-c, SUBDIVISION 14 REQUIRES THE BOARD OF PAROLE TO IMPOSE THE MANDATORY CONDITION OF RELEASE UPON ALL OFFENDERS WHO ARE RELEASED TO THE COMMUNITY ON OR AFTER 2/01/2001 WHO ARE SERVING ONE OR MORE SENTENCES (INCLUDING JUVENILE OFFENDERS AND YOUTHFUL OFFENDERS) FOR THE FOLLOWING SPECIFIED OFFENSES (INCLUDES AN ATTEMPT TO COMMIT ANY OF THE FOLLOWING) WHERE EITHER THE VICTIM WAS UNDER THE AGE OF 18 AT THE TIME OF THE OFFENSE OR A LEVEL 3 SEX OFFENDER.

SECTION	CRIME	CLASS	SECTION	CRIME	CLASS
130.20	Sexual Misconduct	A Misdemeanor	130.96	Predatory Sexual Assault Against a Child	A-II Felony
130.25	Rape – 3 <sup>rd</sup>	E Felony	135.05	Unlawful Imprisonment - 2 <sup>nd</sup>	A Misdemeanor
130.30	Rape – 2 <sup>nd</sup>	D Felony	135.10	Unlawful Imprisonment - 1 <sup>st</sup>	E Felony
130.35	Rape – 1 <sup>st</sup>	B Felony	135.20	Kidnapping - 2 <sup>nd</sup>	B Felony
130.40	Sodomy – 3 <sup>rd</sup> / Criminal Sexual Act 3 <sup>rd</sup>	E Felony	135.25	Kidnapping – 1 <sup>st</sup>	A-1 Felony
130.45	Sodomy – 2 <sup>nd</sup> / Criminal Sexual Act 2 <sup>nd</sup>	D Felony	135.35	Labor Trafficking	D Felony
130.50	Sodomy – 1 <sup>st</sup> / Criminal Sexual Act 1 <sup>st</sup>	B Felony	135.37	Aggravated Labor Trafficking	C Felony
130.52	Forcible Touching	A Misdemeanor	135.45	Custodial Interference – 2 <sup>nd</sup>	A Misdemeanor
130.53	Persistent Sexual Abuse	E Felony	135.50	Custodial Interference – 1 <sup>st</sup>	E Felony
130.55	Sexual Abuse – 3 <sup>rd</sup>	B Misdemeanor	135.55	Substitution of Children	E Felony
130.60	Sexual Abuse – 2 <sup>nd</sup>	A Misdemeanor	135.60	Coercion – 3 <sup>rd</sup>	A Misdemeanor
130.65	Sexual Abuse – 1 <sup>st</sup>	D Felony	135.61	Coercion – 2 <sup>nd</sup>	E Felony
130.65-a	Aggravated Sexual Abuse – 4 <sup>th</sup>	E Felony	135.65	Coercion – 1 <sup>st</sup>	D Felony
130.66	Aggravated Sexual Abuse – 3 <sup>rd</sup>	D Felony	255.25	Incest – 3 <sup>rd</sup>	E Felony
130.67	Aggravated Sexual Abuse – 2 <sup>nd</sup>	C Felony	255.26	Incest – 2 <sup>nd</sup>	D Felony
130.70	Aggravated Sexual Abuse – 1 <sup>st</sup>	B Felony	255.27	Incest – 1 <sup>st</sup>	B Felony
130.75	Course of Sexual Conduct Against a Child – 1 <sup>st</sup>	B Felony	263.05	Use of a Child in a Sexual Performance	C Felony
130.80	Course of Sexual Conduct Against a Child – 2 <sup>nd</sup>	D Felony	263.10	Promoting an Obscene Sexual Performance By A Child	D Felony
130.85	Female Genital Mutilation	E Felony	263.11	Possessing an Obscene Sexual Performance By A Child	E Felony
130.90	Facilitating a Sex Offense with a Controlled Substance	D Felony	263.15	Promoting A Sexual Performance by A Child	D Felony
130.91	Sexually Motivated Felony	Felony level same as specified offense	263.16	Possessing A Sexual Performance by A Child	E Felony
130.95	Predatory Sexual Assault	A-II Felony	263.30	Facilitating A Sexual Performance by a Child with a Controlled Substance or Alcohol	B Felony

December 2020

## NEW YORK STATE SEX OFFENDER REGISTRY REGISTERABLE OFFENSES

### SPECIFIED SEXUALLY MOTIVATED FELONIES - NYS PENAL LAW 130.91

Sex Offender Registration is required upon a conviction of a specified offense, or any felony attempt or conspiracy to commit a specified offense as a sexually motivated felony pursuant to Penal Law § 130.91.

The offense must have been committed on or after 4-13-07. It must have been committed by a person for the purpose, in whole or substantial part, of his or her own direct sexual gratification.

**Such conviction must be noted on the Sentence and Commitment or other Court documentation.**

**A "specified offense" is any of the following offenses:**

PL SECTION	CRIME	CLASS	PL SECTION	CRIME	CLASS
120.05	ASSAULT - 2ND	D FELONY	150.15	ARSON - 2ND:INTENT PERSON PRESNT	B FELONY
120.06	GANG ASSAULT - 2ND	C FELONY	150.20	ARSON - 1ST:CAUSE INJ/FOR PROFIT	A-1 FELONY
120.07	GANG ASSAULT - 1ST	B FELONY	160.05	ROBBERY - 3RD	D FELONY
120.10	ASSAULT - 1ST	B FELONY	160.10	ROBBERY - 2ND	C FELONY
120.60	STALKING - 1ST	D FELONY	160.15	ROBBERY - 1ST	B FELONY
121.12	STRANGULATION - 2ND	D FELONY	230.30	PROMOTING PROSTITUTION - 2ND	C FELONY
121.13	STRANGULATION - 1ST	C FELONY	230.32	PROMOTING PROSTITUTION - 1ST	B FELONY
125.15(1)	MANSLAUGHTER - 2ND	C FELONY	230.33	COMPELLING PROSTITUTION	B FELONY
125.20	MANSLAUGHTER - 1ST	B FELONY	230.34-a	SEX TRAFFICKING OF A CHILD (IF COMMITTED ON/AFTER 11/13/18)	B/FELONY
125.25	MURDER - 2ND	A-1 FELONY	235.22	DISSEM INDECENT MAT MINOR - 1ST	D FELONY
125.26	AGGRAVATED MURDER	A-1 FELONY	263.05	USE CHILD<17 - SEX PERFORMANCE	C FELONY
125.27	MURDER - 1ST	A-1 FELONY	263.10	PROM OBSCENE SEX PERF-CHILD<17	D FELONY
135.20	KIDNAPPING - 2ND	B FELONY	263.15	PROM SEX PERFORMANCE-CHILD<17	D FELONY
135.25	KIDNAPPING - 1ST	A-1 FELONY			
140.20	BURGLARY 3RD	D FELONY			
140.25	BURGLARY - 2ND	C FELONY			
140.30	BURGLARY - 1ST	B FELONY			

Updated 5/30/2019

## GRID FOR SARA, e-STOP AND REVISED e-STOP ELIGIBILITY

	NYS PL Offense	Interstate CO-OP (Supervision cases transferring to NYS)	Youthful Offender (YO)
<b>SARA</b> GES SC28 CMS SC96	MUST BE SERVING A SARA QUALIFYING OFFENSE <b>AND:</b> <ul style="list-style-type: none"> <li>• SOR LEVEL 3 OR</li> <li>• THE VICTIM IS UNDER AGE 18</li> </ul>	<b>NOT ELIGIBLE</b> - NOT SERVING "ENUMERATED OFFENSE" (SARA QUALIFYING OFFENSE) I.E. NOT A NYS PENAL LAW OFFENSE	MUST BE SERVING A SARA QUALIFYING OFFENSE <b>AND:</b> <ul style="list-style-type: none"> <li>• THE VICTIM IS UNDER AGE 18</li> </ul> <b>**SINCE A YO- NOT REGISTRY**</b>
<b>e-STOP</b> GES SC35 CMS SCA4	MUST BE SERVING OFFENSE FOR WHICH REGISTRATION ASA SEX OFFENDER IS REQUIRED <b>AND:</b> <ul style="list-style-type: none"> <li>• USED THE INTERNET TO COMMIT THE OFFENSE</li> </ul>	MUST BE SERVING OFFENSE FOR WHICH REGISTRATION ASA SEX OFFENDER IS REQUIRED EITHER IN NYS OR OUT OF STATE <b>AND:</b> <ul style="list-style-type: none"> <li>• USED THE INTERNET TO COMMIT THE OFFENSE</li> </ul>	<b>NOT ELIGIBLE</b> - NOT SERVING REGISTERABLE OFFENSE
<b>REVISED e-STOP</b> GES SC46 CMS SCB4	MUST BE SERVING OFFENSE FOR WHICH REGISTRATION ASA SEX OFFENDER IS REQUIRED <b>AND:</b> <ul style="list-style-type: none"> <li>• SOR LEVEL 3 OR</li> <li>• THE VICTIM IS UNDER AGE 18</li> </ul>	MUST BE SERVING OFFENSE FOR WHICH REGISTRATION ASA SEX OFFENDER IS REQUIRED EITHER IN NYS OR OUT OF STATE <b>AND:</b> <ul style="list-style-type: none"> <li>• SOR LEVEL 3 OR</li> <li>• THE VICTIM IS UNDER AGE 18</li> </ul>	<b>NOT ELIGIBLE</b> - NOT SERVING REGISTERABLE OFFENSE

March 2021