

AN ACT

*Codification
District of
Columbia
Code
2000 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish a sex offender registration program that authorizes the Court Services and Offender Supervision Agency for the District of Columbia to create and maintain the sex offender registry for the District of Columbia; to require the Superior Court to issue orders to certify a person who is a sex offender; to establish a dispute resolution procedure for persons to challenge a registration requirement; to require the Department of Corrections to notify the Agency of the potential release of a sex offender to the community or a halfway house; to require the Commission on Mental Health Services to notify the Agency of a grant of leave privileges or other change of status granted to sex offenders in its custody; to authorize the Agency to adopt procedures and requirements for the registration of sex offenders, the verification of offender registration information, the reporting of sex offender change of address and other information to certain agencies, and the maintenance and release of sex offender information; to authorize the Metropolitan Police Department to release sex offender information and notify certain agencies and persons of the location of sex offenders in the District; to provide for interagency coordination of information on sex offenders; to provide immunity to the District of Columbia and the United States and their agencies, officials, and employees with respect to actions or omissions taken pursuant to this act; to exempt non-public sex offender information from Freedom of Information Act disclosure; to impose reporting and registration requirements on sex offenders; to impose monetary and imprisonment penalties for violations of the act by sex offenders; and to repeal the Sex Offender Registration Act of 1996.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sex Offender Registration Act of 1999".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Agency" means the Court Services and Offender Supervision Agency for

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the District of Columbia, established pursuant to section 11233 of the National Capital Revitalization and Self-Government Improvement Act of 1997, approved August 5, 1997 (111 Stat. 748; D.C. Code § 24-1233) ("Revitalization Act") or, until that agency assumes its duties, the Trustee appointed under section 11232(a) of the Revitalization Act (111 Stat. 746; D.C. Code § 24-1232(a)).

(2) "Attends school" means being enrolled on a full-time or part-time basis in any type of public or private educational institution.

(3)(A) "Committed a registration offense" means:

(i) Was convicted or found not guilty by reason of insanity of a registration offense; or

(ii) Was determined to be a sexual psychopath under An Act To provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes, approved June 9, 1948 (62 Stat. 346; D.C. Code § 22-3503 *et seq.*).

(B) A person is not deemed to have committed a registration offense for purposes of this act, if the disposition described in subparagraph (A) of this paragraph has been reversed or vacated, or if the person has been pardoned for the offense on the ground of innocence.

(4) "Court" means the Superior Court of the District of Columbia.

(5) "In custody or under supervision" means:

(A) Detained, incarcerated, confined, hospitalized, civilly committed, on probation, on parole, on supervised release, or on conditional release because of:

(i) Being convicted of or found not guilty by reason of insanity of an offense under the District of Columbia Code; or

(ii) A sexual psychopath determination under An Act To provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes, approved June 9, 1948 (62 Stat. 346; D.C. Code § 22-3503 *et seq.*); or

(B) In any comparable status under the jurisdiction of the District of Columbia pursuant to the Interstate Parole and Probation Compact Act, effective March 12, 1976 (D.C. Law 1-51; D.C. Code § 24-251 *et seq.*), the Authority to Enter the Interstate Corrections Compact Act of 1989, effective May 8, 1990 (D.C. Law 8-122; D.C. Code § 24-1001 *et seq.*), or any other transfer agreement between the District of Columbia and another jurisdiction.

(6) "Lifetime registration offense" means:

(A) First or second degree sexual abuse as proscribed by section 201 or 202 of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Code § 22-4102 or 22-4103); forcible rape as this offense was proscribed until May 23, 1995 by section 808 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Code § 22-2801); or sodomy as this offense was proscribed until May 23, 1995 by section 104(a) of An Act To provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes, approved June 9, 1948 (62 Stat. 347; D.C. Code § 22-3502(a)) where the offense was forcible;

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(B) First degree child sexual abuse as proscribed by section 207 of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Code § 22-4108) committed against a person under the age of 12 years, carnal knowledge or statutory rape as these offenses were proscribed until May 23, 1995 by section 808 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Code § 22-2801) committed against a person under the age of 12 years, or sodomy as this offense was proscribed until May 23, 1995 by section 104(a) of An Act To provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes, approved June 9, 1948 (62 Stat. 347; D.C. Code § 22-3502(a)) committed against a person under the age of 12 years;

(C) Murder or manslaughter as proscribed by section 798 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Code § 22-2401 *et seq.*) committed before, during or after engaging in or attempting to engage in a sexual act or sexual contact, or rape as this offense was proscribed until May 23, 1995 by section 808 of An Act To establish a code of law for the District of Columbia, approved March 1, 1901 (31 Stat. 1322; D.C. Code § 22-2801);

(D) An attempt or conspiracy to commit an offense as proscribed by section 906 or 908A of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1337; D.C. Code § 22-103 or 22-105a) or section 217 of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Code § 22-4118) or assault with intent to commit rape, carnal knowledge, statutory rape, first degree sexual abuse, second degree sexual abuse, or child sexual abuse, as proscribed by section 803 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Code § 22-501), which involved an attempt, conspiracy or assault with intent to commit an offense described in subparagraphs (A) through (C) of this paragraph; and

(E) An offense under the law of any state, under federal law, or under the law of any other jurisdiction, which involved conduct that would constitute an offense described in subparagraphs (A) through (D) of this paragraph if committed in the District of Columbia or prosecuted under the District of Columbia Code, or conduct which is substantially similar to that described in subparagraphs (A) through (D) of this paragraph.

(7) "Minor" means a person under 18 years of age.

(8) "Registration offense" means:

(A) An offense under the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Code § 22-4101 *et seq.*);

(B) Forcible rape, carnal knowledge or statutory rape as these offenses were proscribed until May 23, 1995 by section 808 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Code § 22-2801); indecent acts with children as this offense was proscribed until May 23, 1995 by section 103(a) of An Act To provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes, approved June 9, 1948 (62 Stat. 347; D.C. Code § 22-3501(a)); enticing a child as this offense was proscribed until May 23, 1995 by section 103(b) of An Act To provide for the

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treatment of sexual psychopaths in the District of Columbia, and for other purposes, approved June 9, 1948 (62 Stat. 347; D.C. Code § 22-3501(b)); or sodomy as this offense was proscribed until May 23, 1995 by section 104(a) of An Act To provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes, approved June 9, 1948 (62 Stat. 347; D.C. Code § 22-3502(a)) where the offense was forcible or committed against a minor;

(C) Any of the following offenses where the victim is a minor: acts proscribed by section 9 of An Act for the preservation of the public peace and the protection of property within the District of Columbia, approved July 29, 1892 (27 Stat. 324; D.C. Code § 22-1112) (lewd, indecent, or obscene acts), acts proscribed by section 872 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1332; D.C. Code § 22-2001) (obscenity), acts proscribed by section 3 of the District of Columbia Protection of Minors Act of 1982, effective March 9, 1983 (D.C. Law 4-173; D.C. Code § 22-2012) (sexual performances using minors), acts proscribed by section 875 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1332; D.C. Code § 22-1901) (incest), acts proscribed by section 812 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Code § 2101) (kidnapping), and acts proscribed by An Act for the suppression of prostitution in the District of Columbia, approved August 15, 1935 (49 Stat. 651; D.C. Code § 22-2701 *et seq.*) (prostitution; pandering);

(D) Any offense under the District of Columbia Code that involved a sexual act or sexual contact without consent or with a minor, assaulting or threatening another with the intent to engage in a sexual act or sexual contact or with the intent to commit rape, or causing the death of another in the course of, before, or after engaging or attempting to engage in a sexual act or sexual contact or rape;

(E) An attempt or a conspiracy to commit a crime, as proscribed by section 906 or 908A of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1337; D.C. Code § 22-103 or 22-105a) which involved an attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph, or assault with intent to commit rape, carnal knowledge, statutory rape, first degree sexual abuse, second degree sexual abuse, or child sexual abuse, as proscribed by section 803 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321; D.C. Code § 22-501);

(F) Assault with intent to commit any other crime, as proscribed by section 805 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Code § 22-503), or kidnapping or burglary, as proscribed by section 812 or 823 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Code § 22-1801 or 22-2101) where the offense involved an intent, attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph;

(G) An offense under the law of any state, under federal law, or under the law of any other jurisdiction, which involved conduct that would constitute an offense described in subparagraphs (A) through (F) of this paragraph if committed in the District of Columbia or

prosecuted under the District of Columbia Code, or conduct which is substantially similar to that described in subparagraphs (A) through (F) of this paragraph; and

(H) Any other offense where the offender agrees in a plea agreement to be subject to sex offender registration requirements.

(9) "Sex offender" means a person who lives, resides, works, or attends school in the District of Columbia, and who:

(A) Committed a registration offense on or after the effective date of this act;

(B) Committed a registration offense at any time and is in custody or under supervision on or after the effective date of this act;

(C) Was required to register under the law of the District of Columbia on the day before the effective date of this act; or

(D) Committed a registration offense at any time in another jurisdiction and, within the registration period, enters the District of Columbia to live, reside, work or attend school.

(10) "Sexual act" has the meaning stated in section 101(8) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Code § 22-4101(8)).

(11) "Sexual contact" has the meaning stated in section 101(9) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Code § 22-4101(9)).

(12) "State" means a state of the United States, or any territory, commonwealth, or possession of the United States.

(13) "Works" means engaging in any type of full-time or part-time employment or occupation, whether paid or unpaid, for a period of time exceeding 14 calendar days or for an aggregate period of time exceeding 30 days during any calendar year.

Sec. 3. Registration period.

(a) Except as set forth in subsection (b) of this section, the registration period shall start when a disposition described in section 2(3)(A) occurs and continue until the expiration of any time being served on probation, parole, supervised release, conditional release, or convalescent leave, or 10 years after the sex offender is placed on probation, parole, supervised release, conditional release, or convalescent leave, or is unconditionally released from a correctional facility, prison, hospital or other place of confinement, whichever is latest, except that:

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(1) The Agency may give a sex offender credit for the time the sex offender was registered in another jurisdiction;

(2) The Agency may deny a sex offender credit for any time in which the sex offender is detained, incarcerated, confined, civilly committed, or hospitalized and for any time in which a sex offender was registered prior to a revocation of probation, parole, supervised release, conditional release, or convalescent leave; and

(3) The registration period is tolled for any time the sex offender fails to register

or otherwise fails to comply with the requirements of this act.

(b) The registration period shall start when a disposition described in section 2(3)(A) occurs and continue throughout the lifetime of a sex offender who:

(1) Committed a registration offense that is a lifetime registration offense;

(2) Was determined to be a sexual psychopath under An Act To provide for the treatment of sexual psychopaths in the District of Columbia and for other purposes approved June 9, 1948 (62 Stat. 346; D.C. Code § 22-3503 *et seq.*);

(3) Has been subject on 2 or more occasions to a disposition described in section 2(3)(A) that involved a felony registration offense or a registration offense against a minor; or

(4) Has been subject to 2 or more dispositions described in section 2(3)(A), relating to different victims, each of which involved a felony registration offense or a registration offense against a minor.

(c) The Agency may suspend the requirement to register or any other requirement under this act during any period of time in which a sex offender is detained, incarcerated, confined, civilly committed or hospitalized in a secure facility.

(d) Other than a suspension under subsection (c) of this section, a sex offender shall not be eligible for relief from the registration requirements.

Sec. 4. Certification duties of the Superior Court.

(a) Upon a finding that a defendant committed a registration offense, the Court shall enter an order certifying that the defendant is a sex offender and that the defendant will be subject to registration for the period set forth in section 3(a) or 3(b). The Court shall advise the sex offender of that person's duties under this act, shall order the sex offender to report to the Agency to register as required by the Agency and to comply with the requirements of this act, and shall require the sex offender to read and sign the order.

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(b) The Court shall provide to the Agency a copy of the certification and order and such other records and information as will assist in the registration of the sex offender.

(c) In any case where the Court orders the release of a sex offender into the community following a period of detention, incarceration, confinement, civil commitment, or hospitalization, the Court shall:

(1) If the sex offender has been certified as a sex offender under subsection (a) of this section, provide the sex offender with a copy of the order required under subsection (a) of this section and require the sex offender to read and sign the copy of the order; or

(2) If the sex offender has not been certified as a sex offender under subsection (a) of this section, follow the procedures set forth under subsection (a) of this section.

(d) The applicability of the requirements of this act to a person otherwise subject to the act does not depend on the Court's making a certification under subsection (a) of this section. The Court is required to enter an order certifying that a person is a sex offender only when --

(1) A defendant is found in a proceeding before the Court to have committed a registration offense;

- (2) The Court, on or after the effective date of this act, orders the release of a sex offender into the community following a period of detention, incarceration, confinement, civil commitment, or hospitalization;
- (3) The government makes a motion for such a certification and the Court grants the motion; or
- (4) A motion is filed as authorized under section 5 and the Court denies the motion.

Sec. 5. Dispute resolution procedures in the Superior Court.

(a)(1) A person, other than a person for whom a certification has been made under section 4(a), may seek review of a determination by the Agency that the person is required to register or to register for life under this act if:

(A) The determination depends on a finding or findings which are not apparent from the disposition described in section 2(3)(A), including, but not limited to, a finding not apparent from the disposition as to:

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- (i) Whether the victim of an offense was a minor or under 12 years of age;
- (ii) Whether certain sexual acts or contacts were forcible;
- (iii) Whether the exemption of section 17(b) applies; or
- (iv) Whether the standards under section 2(6)(E) or 2(8)(G) for coverage of offenses under the laws of other jurisdictions are satisfied; or

(B) The person asserts that the records establishing that he or she was convicted or found not guilty by reason of insanity of a registration offense or offenses or a lifetime registration offense or offenses, or that he or she was determined to be a sexual psychopath as provided in section 2(3)(A)(ii), are erroneous.

(2) In order to seek review of a determination, as authorized by paragraph (1) of this subsection, the person shall:

(A) At the time the person is first informed by the Agency that it has determined that the person must register as a sex offender or must register as a sex offender for life, provide the Agency with a notice of intent to seek review of the determination; and

(B) Within 30 days of providing the notice of intent described in subparagraph (A) of this paragraph, file a motion in the Court setting forth the facts which he or she disputes and attaching any documents or affidavits upon which he or she intends to rely. The Court shall decide the motion within 60 days of its filing.

(3) If a person fails to follow the procedures set forth in paragraph (2) of this subsection, he or she may nevertheless seek review of a determination, as authorized by paragraph (1) of this subsection, but only for good cause shown and to prevent manifest injustice, by filing a motion within 3 years of the date on which a determination is made by the Agency that the person must register as a sex offender or must register as a sex offender for life. The release and dissemination of information concerning the person, including community notification, as

authorized by this act for sex offenders will, however, proceed unless and until the Court issues an order that the person is not required to register as a sex offender.

(b) Unless the motion described in subsection (a) of this section and attached documents and affidavits conclusively show that the person is entitled to no relief, the Court shall cause notice thereof to be served upon the prosecuting attorney.

(c)(1) The Court may, in its sole discretion, decide a motion made under subsection (a) of this section on the basis of the motion, affidavits, the files and records of the case, other written documents, proffers of the parties, or an evidentiary hearing. If the Court determines that a hearing is necessary to decide the issue or if the interests of justice otherwise require, the Court shall appoint counsel for the person if he or she is not represented by counsel and meets the financial criteria for the appointment of counsel.

(2) If the Court concludes that the person is required to register under this act, the Court shall follow the procedures set forth in section 4(a) and (b). If the Court concludes that the person is not required to register under this act or is not required to register for life under this act, the Court shall enter an order certifying that the person is not required to register under this act or is not required to register for life under this act and shall provide the Agency with a copy of that order.

Sec. 6. Duties of the Department of Corrections.

(a) Immediately before the release into the community of a sex offender in its custody or under its supervision, or immediately before the transfer of a sex offender to a halfway house, whichever is earlier, the Department of Corrections shall notify the Agency of the sex offender's proposed release, and shall provide to the Agency such records and information as will assist the Agency in carrying out its responsibilities under this act.

(b) Immediately before the release into the community of a sex offender in its custody or under its supervision or immediately before a sex offender transfers to a halfway house, whichever is earlier, the Department of Corrections shall inform the sex offender orally and in writing of the duty to register and of the time when and place where he or she is to appear to register and shall require the sex offender to read and sign the notice.

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Sec. 7. Duties of the Commission on Mental Health Services.

(a) The Agency shall have the authority to notify the Commission on Mental Health Services in writing of those sex offenders in the custody or under the supervision of the Commission on Mental Health Services who are required to register pursuant to this act.

(b) With respect to sex offenders for whom notice has been given pursuant to subsection (a) of this section, the Commission on Mental Health Services shall inform the Agency when a sex offender:

- (1) Is first granted unaccompanied access to the hospital grounds or is placed on convalescent leave;
- (2) Is first conditionally or unconditionally released; or

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(3) Is on unauthorized leave.

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(c) The information provided to the Agency by the Commission on Mental Health Services shall include:

(1) The name of and other identifying information about a sex offender, including a physical description and photograph, if available;

(2) The action taken under subsection (b) of this section;

(3) The date on which the action was taken;

(4) To the extent known, the address at which the sex offender is living or intends to live, works or intends to work, or attends school or intends to attend school; and

(5) Administrative information that may assist the Agency or the Metropolitan Police Department in locating the sex offender.

(d) The Agency and the Metropolitan Police Department are authorized to make further disclosures of the information provided by the Commission on Mental Health Services pursuant to this section as necessary to ensure compliance with this act and to prosecute violations of this act.

Sec. 8. Registration functions of the Court Services and Offender Supervision Agency.

(a) The Agency shall have the authority to adopt and implement procedures and requirements for the registration of sex offenders under this act. The procedures and requirements may include, but need not be limited to, requirements that a responsible officer or official shall:

(1) Inform the sex offender of the duty to register and the penalties for failure to register;

(2) Obtain the information required for registration, which may include such information as the sex offender's name, all aliases used, date of birth, sex, race, height, weight, eye color, identifying marks and characteristics, driver's license number, social security number, PDID, DCDC, FBI and NCIC numbers, home address or expected place of residence, and any current or expected place of employment or school attendance;

(3) Obtain a photograph and set of fingerprints of the sex offender;

(4) Obtain a detailed description of the offense on the basis of which the sex offender is required to register, the victim impact statement, the date of conviction or other disposition related to the offense, and any sentence imposed;

(5) Obtain the sex offender's criminal record and a detailed description of any relevant offense;

(6) Inform the sex offender of the duty to report any change of address, and of any duty to update other registration information, and the procedures for reporting such changes;

(7) Inform the sex offender that if the sex offender moves to another state, or works or attends school in another state, then the sex offender also must report this information, and must register in any such state;

(8) Require the sex offender to read and sign a form stating that the duties of the sex offender under this act have been explained; and

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(9) Inform a person that if the person disagrees with the determination that he or she is required to register or to register for life under this act, he or she must follow the procedures set forth in section 5.

(b) The Agency shall have the authority to direct that a sex offender meet with a responsible officer or official at a reasonable time for the purpose of complying with any requirement adopted by the Agency under this act.

(c) The Agency shall have the authority to ensure that the sex offender registry is updated regularly and that outdated information is promptly removed from publicly available information.

Sec. 9. Verification functions of the Court Services and Offender Supervision Agency.

(a) The Agency shall have the authority to adopt and implement procedures and requirements for verification of address information and other information required for registration under this act. The procedures and requirements may include, but need not be limited to, requirements that the sex offender:

- (1) Verify address information or other information at least annually, or at more frequent intervals as specified by the Agency;
- (2) Return address verification forms;
- (3) Appear in person for purposes of verification;
- (4) Cooperate in the taking of fingerprints and photographs, as part of the verification process; and
- (5) Update any information that has changed since any preceding registration or verification as part of the verification process.

(b) The Agency shall have the authority to immediately notify the Metropolitan Police Department if the Agency is unable to verify the address of or locate a sex offender who is required to register under this act or if the sex offender otherwise fails to comply with any requirements of this act.

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Sec. 10. Change of address or other information.

(a) The Agency shall have the authority to adopt and implement procedures and requirements for the reporting by sex offenders of changes in address and changes in other information required for registration.

(b)(1) The Agency shall have the authority to notify the responsible registration agency or authorities in any other jurisdiction to which a sex offender moves, or in which a sex offender works or attends school.

(2) The Agency shall have the authority to provide to the responsible agency or authorities in the other jurisdiction all information concerning the sex offender that may be necessary or useful for registration of the sex offender in that jurisdiction, or for purposes of risk assessment, community notification, or other comparable functions in that jurisdiction.

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Sec. 11. Maintenance and release of sex offender registration information by the Court Services and Offender Supervision Agency. New
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(a) The Agency shall have the authority to maintain and operate the sex offender registry for the District of Columbia, including the authority to maintain the information obtained on sex offenders.

(b) The Agency shall have the authority to enter the information obtained on sex offenders into appropriate record systems and databases and:

(1) Ensure that conviction data and fingerprints are promptly transmitted to the Federal Bureau of Investigation;

(2) Participate in the National Sex Offender Registry on behalf of the District, including providing to the Federal Bureau of Investigation all information required for such participation;

(3) Ensure that information concerning sex offenders is promptly provided or made available to the Metropolitan Police Department, and to other law enforcement and governmental agencies as appropriate; and Note, New
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(4) Inform the Metropolitan Police Department that a person has provided the Agency with a notice of intent to seek review of the determination that he or she must register under this act in conformity with section 5(a)(2)(A) and that registration information on the person shall not be made publicly available unless and until the Agency informs the Metropolitan Police Department that the Court has certified that the person must register under this act, the person has failed to file a motion in the Court within the time allowed by section 5(a)(2)(B), or the person's motion seeking review of the determination has been withdrawn or dismissed.

(c) This act does not authorize the Agency to make sex offender registration information publicly available, except as authorized by the rules promulgated under section 12(g), or through the provision of such information to the Metropolitan Police Department or other agencies or authorities as authorized by this act.

Sec. 12. Community notification and education duties of the Metropolitan Police Department.

(a) The Metropolitan Police Department shall have the authority to release and disseminate the information obtained on sex offenders. The authorized activities of the Metropolitan Police Department under this section include, but are not limited to, active and passive notification to all or parts of the community concerning a sex offender, including but not limited to:

(1) Victims and witnesses;

(2) Public and private educational institutions, day care entities and other institutions or organizations that provide services to or employ individuals who may be victimized by a sex offender;

(3) Members of the public or governmental agencies requesting information on identified individuals for employment or foster care background checks or similar purposes; New

(4) The public at large; and

(5) Any unit of the Metropolitan Police Department and other law enforcement agencies.

(b)(1)(A) Active notification under this section refers to affirmatively informing persons or entities about sex offenders. Authorized means of active notification include, but are not limited to, community meetings, flyers, telephone calls, door-to-door contacts, electronic notification, direct mailings, and media releases.

(B) Passive notification under this section refers to making information about sex offenders available for public inspection or in response to inquiries. Authorized means of passive notification include, but are not limited to, Internet postings, making registration lists and information about registrants available for inspection at police stations and other locations, and responding to written or oral inquiries in person, through the mail, by telephone, or through email or other electronic means. The Metropolitan Police Department shall develop and implement a system to make available for public inspection by means of the Internet all or part of the portions of the sex offender registry relating to Class A and Class B offenders, as defined in paragraph (2) of this subsection.

(2) For purposes of this section:

(A) Class A offenders shall consist of sex offenders who are required to register for life as provided in section 3(b);

(B) Class B offenders shall consist of sex offenders, other than Class A offenders, who are required to register for an offense against a minor, or who are required to register for sexual abuse of a ward or sexual abuse of a patient or client under the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Code §§ 22-4113 through 4116); and

(C) Class C offenders shall consist of sex offenders other than Class A and Class B offenders.

(3) Passive notification may be carried out concerning any sex offender, except that information made available under this section for public inspection by means of the Internet shall be limited to information on Class A and Class B offenders. Active notification concerning Class A offenders may be provided to any person or entity. Active notification concerning Class B and Class C offenders may be provided to:

(A) Law enforcement agencies;

(B) Organizations that deal with or provide services to vulnerable populations or victims of sexual offenses, including but not limited to schools, day care centers, other child care and youth-serving organizations, facilities caring for or providing services to the elderly or persons with impairments, shelters, churches, and victims rights and victims services entities;

(C) Victims of and witnesses to a sex offender's crime or crimes and parents, guardians, and family members of such persons; and

(D) Any person where the Metropolitan Police department has

information indicating that the sex offender may pose a specific risk to that person, and parents, guardians, and family members of such a person.

(c) The Metropolitan Police Department shall conduct community education about the appropriate use of sex offender registration information.

(d) All publicly disseminated sex offender registration information shall contain a warning that crimes committed against sex offenders will be prosecuted to the full extent of the law.

(e) This section does not limit the authority of the Metropolitan Police Department to release information concerning any person, except that the identity of a victim of an offense requiring registration shall be treated as confidential information as provided in the regulations issued under subsection (g) of this section.

(f) If the Agency informs the Metropolitan Police Department that a person has provided the Agency with a notice of intent to seek review of the determination that he or she must register under this act in conformity with section 5(a)(2)(A), the Metropolitan Police Department shall not release registration information on the person to the public unless and until the Agency informs the Metropolitan Police Department that the Court has certified that the person must register under this act, the person has failed to file a motion in the Court within the time allowed by section 5(a)(2)(B), or the person's motion for review of the determination has been withdrawn or dismissed.

(g) Within 210 days of the effective date of this act, the Mayor shall promulgate proposed rules, in accordance with the District of Columbia Administrative Procedure Act, approved October 12, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*), to carry out all functions of this act. Not less than 75 days prior to the proposed effective date of the proposed rules, the Mayor shall submit them to the Council for a 30-day review period, excluding Saturdays, Sundays, legal holidays and days of Council recess. If the Council does not approve or disapprove the proposed rules, or amendments to existing rules in whole or in part, by resolution within this 30-day review period, the proposed rules or amendments to existing rules shall be deemed approved.

Sec. 13. Interagency coordination.

(a) The Agency may request that any agency of the District of Columbia, of another state, or of the United States provide assistance in carrying out the functions described in this act.

(b) Notwithstanding any other law, all agencies of the District of Columbia shall:

(1) Have the authority to provide any requested assistance to the Agency in carrying out the functions described in this act;

(2) Make available to the Agency information requested by the Agency for the purpose of identifying sex offenders and otherwise carrying out its functions under this act; and

(3) Cooperate with the Agency in posting notices and making available information concerning registration requirements in locations where persons entering the District from other jurisdictions may apply for driver's licenses, motor vehicle tags and inspections,

housing, or other public assistance or benefits.

(c) Except for the disclosure of information authorized by section 7 of this act, nothing in this act shall supersede the non-disclosure provisions of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Code § 6-2001 *et seq.*).

New
§ 24-1132

Sec. 14. Immunity.

(a) The District of Columbia government and its agencies, officials, employees, and agents and the United States government and its agencies, officials, employees, and agents shall be immune from suit for any claim arising from any good faith act or omission under this act.

(b) Notwithstanding subsection (a) of this section, the District of Columbia government may be held liable for the negligent disclosure of information to the public in violation of this act. A person subjected to such a violation may bring suit in the Court for injunctive or declaratory relief to abate a continuing violation, and for compensatory damages. The action under this subsection shall be the exclusive remedy under the law of the District of Columbia for the negligent disclosure of information in violation of this act. Except as provided by this subsection or section 5(a), nothing in this act shall be construed to create any private right of action or give rise to any rights enforceable by injunction, mandamus, or otherwise.

(c) If the Court has made a determination under section 4 or section 5 that a person must register or must register for life, or if the Agency has made such a determination and the person has failed to seek review of the determination in conformity with section 5, then the person shall be barred in a suit under this section from contesting the determination or any fact, finding, or issue that was resolved by or necessary to the determination.

New
§ 24-1133

(d) Nothing in this section shall be construed as limiting any other defense or immunity that would otherwise be available to the District of Columbia government, its agencies, officials, employees, or agents or the United States government, its agencies, officials, employees, or agents, or to obligate the District of Columbia government or the United States government to represent or indemnify any official, employee, or agent where such person acts beyond the scope of his or her authority.

Sec. 15. Duties of sex offenders.

During the registration period, a sex offender shall, in the time and manner specified by the Agency:

- (1) Register with the Agency as a sex offender;
- (2) Provide any information required for registration, and cooperate in photographing and fingerprinting;
- (3) Report any change of residence or other change in registration information;

(4) Periodically verify address and such other registration information as the Agency may specify, including complying with any requirement to return address verification forms or appear in person for the purpose of verification;

(5) Report if the sex offender is moving to another state, or works or attends school in another state, and register in any such state;

(6) Acknowledge receipt of information concerning the sex offender's duties under this act, including reading and signing a form or forms stating that these duties have been explained to the sex offender; and

(7) Meet with responsible officers and officials for the purpose of carrying out any requirements adopted by the Agency under this act.

Sec. 16. Penalties; mandatory release condition.

(a) Any sex offender who knowingly violates any requirement of this act, including any requirement adopted by the Agency pursuant to this act, shall be fined not more than \$1,000, or imprisoned for not more than 180 days, or both. In the event that a sex offender convicted under this section has a prior conviction under this section, or a prior conviction in any other jurisdiction for failing to comply with the requirements of a sex offender registration program, the sex offender shall be fined not more than \$25,000, or imprisoned not more than 5 years, or both.

(b) Compliance with the requirements of this act, including any requirements adopted by the Agency pursuant to this act, shall be a mandatory condition of probation, parole, supervised release, and conditional release for any sex offender.

New
§ 24-1134

Sec. 17. No change in age of consent; registration not required for offenses between consenting adults.

(a) This act does not change the age of consent for any sexual conduct under any law of the District of Columbia.

(b) Notwithstanding any other provision of this act, the following do not constitute registration offenses:

(1) Any sexual offense between consenting adults or an attempt, conspiracy or solicitation to commit such an offense, except for offenses to which consent is not a defense as provided in section 218 of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Code § 22-4117);

(2) Any misdemeanor offense that involved a person's sexual touching or attempted or solicited sexual touching of an undercover law enforcement officer where the person believed that the officer was an adult; and

(3) Any misdemeanor offense committed against an adult, except where the offender agrees in a plea agreement to be subject to sex offender registration requirements.

New
§ 24-1135

Sec. 18. Freedom of Information Act exception.

Except for records made public according to the regulations promulgated by the Mayor

ENROLLED ORIGINAL

pursuant to section 12(g), no sex offender registration information shall be available as a public record under section 2 of the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Code § 1-1522).

Sec. 19. Repealer.

The Sex Offender Registration Act of 1996, effective June 3, 1997 (D.C. Law 11-274; D.C. Code § 24-1101 *et seq.*), is repealed.

New
§ 24-1136

Sec. 20. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 21. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(2)), and publication in the District of Columbia Register.

New
§ 24-1137

Chairman
Council of the District of Columbia

Repeal
§§ 24-1101 -
24-1117

Mayor
District of Columbia