NDAA SENTENCING GUIDELINES COMPILATION

(Last updated July 2010)

This compilation contains legislation, session laws, and codified statues. All statutes, laws, and bills listed in this compilation have been signed by the pertinent governor and enacted into law. This report was complied using State Net, and Lexis Search Services. This compilation is up-to-date as of the month it was created. However, please note we recommend checking both case law and current legislation for any possible modifications to the statutes listed below.

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ALABAMA

ALA. CODE § 13A-5-6 (2010). Prison terms; felonies.

(a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:

(1) For a Class A felony, for life or not more than 99 years or less than 10 years.

(2) For a Class B felony, not more than 20 years or less than 2 years.

(3) For a Class C felony, not more than 10 years or less than 1 year and 1 day.

(4) For a Class A felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 20 years.

(5) For a Class B or C felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class B felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 10 years.

(b) The actual time of release within the limitations established by subsection (a) of this section shall be determined under procedures established elsewhere by law.

(c) In addition to any penalties heretofore or hereafter provided by law, in all cases where an offender is designated as a sexually violent predator pursuant to Section 15-20-25.3, or where an offender is convicted of a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), and is sentenced to a county jail or the Alabama Department of Corrections, the sentencing judge shall impose an additional penalty of not less than 10 years of post-release supervision to be served upon the defendant's release from incarceration.

ALA. CODE § 13A-5-7 (2010). Prison terms; misdemeanors and violations.

(a) Sentences for misdemeanors shall be a definite term of imprisonment in the county jail or to hard labor for the county, within the following limitations:

(1) For a Class A misdemeanor, not more than one year.

(2) For a Class B misdemeanor, not more than six months.

(3) For a Class C misdemeanor, not more than three months.

(b) Sentences for violations shall be for a definite term of imprisonment in the county jail, not to exceed 30 days.

ALA. CODE § 13A-5-9 (2010). Repeat or habitual offenders; generally.

(a) In all cases when it is shown that a criminal defendant has been previously convicted of a felony and after the conviction has committed another felony, he or she must be punished as follows:

(1) On conviction of a Class C felony, he or she must be punished for a Class B felony.

(2) On conviction of a Class B felony, he or she must be punished for a Class A felony.

(3) On conviction of a Class A felony, he or she must be punished by imprisonment for life or for any term of not more than 99 years but not less than 15 years.

(b) In all cases when it is shown that a criminal defendant has been previously convicted of any two felonies and after such convictions has committed another felony, he or she must be punished as follows:

(1) On conviction of a Class C felony, he or she must be punished for a Class A felony.

(2) On conviction of a Class B felony, he or she must be punished by imprisonment for life or for any term of not more than 99 years but not less than 15 years.

(3) On conviction of a Class A felony, he or she must be punished by imprisonment for life or for any term of not less than 99 years.

(c) In all cases when it is shown that a criminal defendant has been previously convicted of any three felonies and after such convictions has committed another felony, he or she must be punished as follows:

(1) On conviction of a Class C felony, he or she must be punished by imprisonment for life or for any term of not more than 99 years but not less than 15 years.

(2) On conviction of a Class B felony, he or she must be punished by imprisonment for life or any term of not less than 20 years.

(3) On conviction of a Class A felony, where the defendant has no prior convictions for any Class A felony, he or she must be punished by imprisonment for life or life without the possibility of parole, in the discretion of the trial court.

(4) On conviction of a Class A felony, where the defendant has one or more prior convictions for any Class A felony, he or she must be punished by imprisonment for life without the possibility of parole.

ALA. CODE. § 13A-5-11 (2010). Fines; felonies.

(a) A sentence to pay a fine for a felony shall be for a definite amount, fixed by the court, within the following limitations:

(1) For a Class A felony, not more than $60,000;

(2) For a Class B felony, not more than $30,000;

(3) For a Class C felony, not more than $15,000; or

(4) Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

(b) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. "Value" shall be determined by the standards established in subdivision (14) of Section 13A-8-1.

(c) The court may conduct a hearing upon the issue of defendant's gain or the victim's loss from the crime according to procedures established by rule of court.

(d) This section shall not apply if a higher fine is otherwise authorized by law for a specific crime.

ALA. CODE § 13A-5-12 (2010). Fines; misdemeanors and violations.

(a) A sentence to pay a fine for a misdemeanor shall be for a definite amount, fixed by the court, within the following limitations:

(1) For a Class A misdemeanor, not more than $6,000;

(2) For a Class B misdemeanor, not more than $3,000;

(3) For a Class C misdemeanor, not more than $500; or

(4) Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

(b) A sentence to pay a fine for a violation shall be for a definite amount, fixed by the court, not to exceed $200, or any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

(c) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. "Value" shall be determined by the standards established in subdivision (14) of Section 13A-8-1.

(d) The court may conduct a hearing upon the issue of defendant's gain or the victim's loss from the crime according to procedures established by rule of court.

ALA. CODE § 13A-5-13 (2010). Hate crimes.

(a) The Legislature finds and declares the following:

(1) It is the right of every person, regardless of race, color, religion, national origin, ethnicity, or physical or mental disability, to be secure and protected from threats of reasonable fear,

intimidation, harassment, and physical harm caused by activities of groups and individuals.

(2) It is not the intent, by enactment of this section, to interfere with the exercise of rights protected by the Constitution of the State of Alabama or the United States.

(3) The intentional advocacy of unlawful acts by groups or individuals against other persons or groups and bodily injury or death to persons is not constitutionally protected when violence or civil disorder is imminent, and poses a threat to public order and safety, and such conduct should be subjected to criminal sanctions.

(b) The purpose of this section is to impose additional penalties where it is shown that a perpetrator committing the underlying offense was motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability.

(c) A person who has been found guilty of a crime, the commission of which was shown beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, shall be punished as follows:

(1) Felonies:

a. On conviction of a Class A felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the sentence shall not be less than 15 years.

b. On conviction of a Class B felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the sentence shall not be less than 10 years.

c. On conviction of a Class C felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the sentence shall not be less than two years.

d. For purposes of this subdivision, a criminal defendant who has been previously convicted of any felony and receives an enhanced sentence pursuant to this section is also subject to enhanced punishment under the Alabama Habitual Felony Offender Act, Section 13A-5-9.

(2) Misdemeanors:

On conviction of a misdemeanor which was found beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the defendant shall be sentenced for a Class A misdemeanor, except that the defendant shall be sentenced to a minimum of three months.

ALA. CODE § 13A-5-40 (2010). Capital offenses enumerated -- Accountability for behavior of another.

(a) The following are capital offenses:

(1) Murder by the defendant during a kidnapping in the first degree or an attempt thereof committed by the defendant.

(2) Murder by the defendant during a robbery in the first degree or an attempt thereof committed by the defendant.

(3) Murder by the defendant during a rape in the first or second degree or an attempt thereof committed by the defendant; or murder by the defendant during sodomy in the first or second degree or an attempt thereof committed by the defendant.

(4) Murder by the defendant during a burglary in the first or second degree or an attempt thereof committed by the defendant.

(5) Murder of any police officer, sheriff, deputy, state trooper, federal law enforcement officer, or any other state or federal peace officer of any kind, or prison or jail guard, while such officer or guard is on duty, regardless of whether the defendant knew or should have known the victim was an officer or guard on duty, or because of some official or job-related act or performance of such officer or guard.

(6) Murder committed while the defendant is under sentence of life imprisonment.

(7) Murder done for a pecuniary or other valuable consideration or pursuant to a contract or for hire.

(8) Murder by the defendant during sexual abuse in the first or second degree or an attempt thereof committed by the defendant.

(9) Murder by the defendant during arson in the first or second degree committed by the defendant; or murder by the defendant by means of explosives or explosion.

(10) Murder wherein two or more persons are murdered by the defendant by one act or pursuant to one scheme or course of conduct.

(11) Murder by the defendant when the victim is a state or federal public official or former public official and the murder stems from or is caused by or is related to his official position, act, or capacity.

(12) Murder by the defendant during the act of unlawfully assuming control of any aircraft by use of threats or force with intent to obtain any valuable consideration for the release of said aircraft or any passenger or crewmen thereon or to direct the route or movement of said aircraft, or otherwise exert control over said aircraft.

(13) Murder by a defendant who has been convicted of any other murder in the 20 years preceding the crime; provided that the murder which constitutes the capital crime shall be murder as defined in subsection (b) of this section; and provided further that the prior murder conviction referred to shall include murder in any degree as defined at the time and place of the prior conviction.

(14) Murder when the victim is subpoenaed, or has been subpoenaed, to testify, or the victim had testified, in any preliminary hearing, grand jury proceeding, criminal trial or criminal proceeding of whatever nature, or civil trial or civil proceeding of whatever nature, in any municipal, state, or federal court, when the murder stems from, is caused by, or is related to the capacity or role of the victim as a witness.

(15) Murder when the victim is less than fourteen years of age.

(16) Murder committed by or through the use of a deadly weapon fired or otherwise used from outside a dwelling while the victim is in a dwelling.

(17) Murder committed by or through the use of a deadly weapon while the victim is in a vehicle.

(18) Murder committed by or through the use of a deadly weapon fired or otherwise used within or from a vehicle.

(b) Except as specifically provided to the contrary in the last part of subdivision (a)(13) of this section, the terms "murder" and "murder by the defendant" as used in this section to define capital offenses mean murder as defined in Section 13A-6-2(a)(1), but not as defined in Section 13A-6-2(a)(2) and (3). Subject to the provisions of Section 13A-5-41, murder as defined in Section 13A-6-2(a)(2) and (3), as well as murder as defined in Section 13A-6-2(a)(1), may be a lesser included offense of the capital offenses defined in subsection (a) of this section.

(c) A defendant who does not personally commit the act of killing which constitutes the murder is not guilty of a capital offense defined in subsection (a) of this section unless that defendant is legally accountable for the murder because of complicity in the murder itself under the provisions of Section 13A-2-23, in addition to being guilty of the other elements of the capital offense as defined in subsection (a) of this section.

(d) To the extent that a crime other than murder is an element of a capital offense defined in subsection (a) of this section, a defendant's guilt of that other crime may also be established under Section 13A-2-23. When the defendant's guilt of that other crime is established under Section 13A-2-23, that crime shall be deemed to have been "committed by the defendant" within the meaning of that phrase as it is used in subsection (a) of this section.

ALA. CODE § 13A-5-49 (2010). Aggravating circumstances; enumerated.

Aggravating circumstances shall be the following:

(1) The capital offense was committed by a person under sentence of imprisonment;

(2) The defendant was previously convicted of another capital offense or a felony involving the use or threat of violence to the person;

(3) The defendant knowingly created a great risk of death to many persons;

(4) The capital offense was committed while the defendant was engaged or was an accomplice in the commission of, or an attempt to commit, or flight after committing, or attempting to commit, rape, robbery, burglary or kidnapping;

(5) The capital offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody;

(6) The capital offense was committed for pecuniary gain;

(7) The capital offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws;

(8) The capital offense was especially heinous, atrocious, or cruel compared to other capital offenses;

(9) The defendant intentionally caused the death of two or more persons by one act or pursuant to one scheme or course of conduct; or

(10) The capital offense was one of a series of intentional killings committed by the defendant.

ALA. CODE § 13A-11-200 (2010). Generally.

(a) The Legislature declares that its intent in imposing certain reporting and registration requirements on criminal sex offenders is to protect the public, especially children, from the dangers posed by criminal sex offenders and not to further punish such offenders.

(b) If any person, except a delinquent child, as defined in Section 12-15-1, residing in Alabama, has heretofore been convicted, or shall be convicted in any state or municipal court in Alabama, or federal court, or so convicted in another state in any court having jurisdiction similar to the jurisdiction of state and municipal courts in Alabama for any of the offenses hereinafter enumerated, such person shall, upon his or her release from legal custody, register with the sheriff of the county of his or her legal residence within seven days following such release or within 30 days after September 7, 1967, in case such person was released prior to such date. For purposes of this article, a conviction includes a plea of nolo contendere, regardless of whether adjudication was withheld. The offenses above referred to are generally any act of sexual perversion involving a member of the same or the opposite sex, or any sexual abuse of any member of the same or the opposite sex or any attempt to commit any of these acts, and without limiting the generality of the above statement shall include specifically: rape, as proscribed by Sections 13A-6-61 and 13A-6-62; sodomy, as proscribed by Sections 13A-6-63 and 13A-6-64; sexual misconduct, as proscribed by Section 13A-6-65; indecent exposure, as proscribed by Section 13A-6-68; promoting prostitution in the first or second degree, as proscribed by Sections 13A-12-111 and 13A-12-112; obscenity, as proscribed by Section 13A-12-131 [see note]; incest, as proscribed by Section 13A-13-3; or the attempt to commit any of the above offenses.

(c) Any person having been so convicted shall upon moving his legal residence from one county to another register with the sheriff of the county to which he has moved within seven days after such removal. It shall be unlawful for a convicted sex offender as described in this article to fail or refuse to register as required in this section and failure to do so is a Class C felony.

ALASKA

ALASKA STAT. § 12.55.015 (2010). Authorized sentences; forfeiture.

(a) Except as limited by AS 12.55.125 -- 12.55.175, the court, in imposing sentence on a defendant convicted of an offense, may singly or in combination

(1) impose a

(A) fine when authorized by law and as provided in AS 12.55.035; or

(B) *[Repealed, § 4 ch 33 SLA 2009.]*

(2) order the defendant to be placed on probation under conditions specified by the court that may include provision for active supervision;

(3) impose a definite term of periodic imprisonment, but only if an employment obligation of the defendant preexisted sentencing and the defendant receives a composite sentence of not more than two years to serve;

(4) impose a definite term of continuous imprisonment;

(5) order the defendant to make restitution under AS 12.55.045;

(6) order the defendant to carry out a continuous or periodic program of community work under AS 12.55.055;

(7) suspend execution of all or a portion of the sentence imposed under AS 12.55.080;

(8) suspend imposition of sentence under AS 12.55.085;

(9) order the forfeiture to the commissioner of public safety or a municipal law enforcement agency of a deadly weapon that was in the actual possession of or used by the defendant during the commission of an offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

(10) order the defendant, while incarcerated, to participate in or comply with the treatment plan of a rehabilitation program that is related to the defendant's offense or to the defendant's rehabilitation if the program is made available to the defendant by the Department of Corrections;

(11) order the forfeiture to the state of a motor vehicle, weapon, electronic communication device, or money or other valuables, used in or obtained through an offense that was committed for the benefit of, at the direction of, or in association with a criminal street gang;

(12) order the defendant to have no contact, either directly or indirectly, with a victim or witness of the offense until the defendant is unconditionally discharged.

(b) The court, in exercising sentencing discretion as provided in this chapter, shall impose a sentence involving imprisonment when

(1) the defendant deserves to be imprisoned, considering the seriousness of the present offense and the defendant's prior criminal history, and imprisonment is equitable considering sentences imposed for other offenses and other defendants under similar circumstances;

(2) imprisonment is necessary to protect the public from further harm by the defendant; or

(3) sentences of lesser severity have been repeatedly imposed for substantially similar offenses in the past and have proven ineffective in deterring the defendant from further criminal conduct.

(c) In addition to the penalties authorized by this section, the court may invoke any authority

conferred by law to order a forfeiture of property, suspend or revoke a license, remove a person from office, or impose any other civil penalty. When forfeiting property under this subsection, a court may award to a municipal law enforcement agency that participated in the arrest or conviction of the defendant, the seizure of property, or the identification of property for seizure, (1) the property if the property is worth $ 5,000 or less and is not money or some other thing that is divisible, or (2) up to 75 percent of the property or the value of the property if the property is worth more than $ 5,000 or is money or some other thing that is divisible. In determining the percentage a municipal law enforcement agency may receive under this subsection, the court shall consider the municipal law enforcement agency's total involvement in the case relative to the involvement of the state.

(d) *[Repealed, § 1 ch 188 SLA 1990.]*

(e) If the defendant is ordered to serve a definite term of imprisonment, the court may recommend that the defendant serve all or part of the term

(1) in a correctional restitution center;

(2) by electronic monitoring.

(f) Notwithstanding (a) of this section, the court shall order the forfeiture to the commissioner of public safety or a municipal law enforcement agency of a deadly weapon that was in the actual possession of or used by the defendant during the commission of a crime involving domestic violence.

(g) Unless a defendant is ineligible for a deduction under AS 33.20, when a defendant is sentenced to a term of imprisonment of two years or more, the sentence consists of two parts: (1) a minimum term of imprisonment that is equal to not less than two-thirds of the total term of imprisonment; and (2) a maximum term of supervised release on mandatory parole that is equal to not more than one-third of the total term of imprisonment; the amount of time that the inmate actually serves in imprisonment and on supervised release is subject to the provisions of AS 33.20.010 -- 33.20.060.

(h) In addition to penalties authorized by this section, the court shall order a person convicted of an offense requiring the state to collect a blood sample, oral sample, or both, for the deoxyribonucleic acid identification registration system under AS 44.41.035 to submit to the collection of

(1) the sample or samples when requested by a health care professional acting on behalf of the state to provide the sample or samples; or

(2) an oral sample when requested by a juvenile or adult correctional, probation, or parole officer, or a peace officer.

(i) In addition to penalties authorized by this section, the court may order a defendant convicted of a violation of AS 11.41.410 or 11.41.434 where the victim of the offense was under 13 years of age to be subject to electronic monitoring up to the maximum length of probation on the person's release from a correctional facility.

(j) In this section "deadly weapon" has the meaning given in AS 11.81.900.

ALASKA STAT. § 12.55.035 (2010). Fines.

(a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this section or as otherwise authorized by law.

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of no more than

(1) $ 500,000 for murder in the first or second degree, attempted murder in the first degree, murder of an unborn child, sexual assault in the first degree, sexual abuse of a minor in the first degree, kidnapping, promoting prostitution in the first degree under AS 11.66.110(a)(2), or misconduct involving a controlled substance in the first degree;

(2) $ 250,000 for a class A felony;

(3) $ 100,000 for a class B felony;

(4) $ 50,000 for a class C felony;

(5) $ 10,000 for a class A misdemeanor;

(6) $ 2,000 for a class B misdemeanor;

(7) $ 500 for a violation.

(c) Upon conviction of an offense, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of

(1) an amount that is

(A) $ 1,000,000 for a felony offense or for a misdemeanor offense that results in death;

(B) $ 200,000 for a class A misdemeanor offense that does not result in death;

(C) $ 25,000 for a class B misdemeanor offense that does not result in death;

(D) $ 10,000 for a violation;

(2) three times the pecuniary gain realized by the defendant as a result of the offense; or

(3) three times the pecuniary damage or loss caused by the defendant to another, or to the property of another, as a result of the offense.

(d) If a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments.

(e) In imposing a fine under (c) of this section, in addition to any other relevant factors, the court shall consider

(1) measures taken by the organization to discipline an officer, director, employee, or agent of the organization;

(2) measures taken by the organization to prevent a recurrence of the offense;

(3) the organization's obligation to make restitution to a victim of the offense, and the extent to which imposition of a fine will impair the ability of the organization to make restitution; and

(4) the extent to which the organization will pass on to consumers the expense of the fine.

(f) In imposing a fine, the court may not reduce the fine by the amount of a surcharge or otherwise consider the applicability of a surcharge to the offense.

ALASKA STAT. § 12.55.125 (2010). Sentences of Imprisonment for Felonies.

(a) A defendant convicted of murder in the first degree or murder of an unborn child under AS 11.41.150(a)(1) shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(3) the court finds by clear and convincing evidence that the defendant subjected the murder victim to substantial physical torture;

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery; or

(5) the court finds by clear and convincing evidence that the defendant is a peace officer who used the officer's authority as a peace officer to facilitate the murder.

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree or murder of an unborn child under AS 11.41.150(a)(2) -- (4) shall be

sentenced to a definite term of imprisonment of at least 10 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adoptive parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 -- 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470.

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 -- 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five to eight years;

(2) if the offense is a first felony conviction

(A) and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury or death during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven to 11 years;

(B) and the conviction is for manufacturing related to methamphetamine under AS 11.71.020(a)(2)(A) or (B), seven to 11 years, if

(i) the manufacturing occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of manufacturing or in preparation for manufacturing, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, 10 to 14 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (l) of this section, 15 to 20 years.

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 -- 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, one to three years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085 if, as a condition of probation under AS 12.55.086, the defendant is required to serve an active term of

imprisonment within the range specified in this paragraph, unless the court finds that a mitigation factor under AS 12.55.155 applies;

(2) if the offense is a first felony conviction,

(A) the defendant violated AS 11.41.130, and the victim was a child under 16 years of age, two to four years;

(B) two to four years if the conviction is for an attempt, solicitation, or conspiracy to manufacture related to methamphetamine under AS 11.31 and AS 11.71.020(a)(2)(A) or (B), and

(i) the attempted manufacturing occurred, or the solicited or conspired offense was to have occurred, in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of an attempt to manufacture, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, four to seven years;

(4) if the offense is a third felony conviction, six to 10 years.

(e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 -- 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (4) of this subsection, zero to two years; a defendant sentenced under this paragraph may, if the court finds it appropriate, be granted a suspended imposition of sentence under AS 12.55.085, and the court may, as a condition of probation under AS 12.55.086, require the defendant to serve an active term of imprisonment within the range specified in this paragraph;

(2) if the offense is a second felony conviction, two to four years;

(3) if the offense is a third felony conviction, three to five years;

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one to two years.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum or mandatory term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum or mandatory term may not be reduced, except as provided in (j) of this section.

(g) If a defendant is sentenced under (c), (d), (e), or (i) of this section, except to the extent permitted under AS 12.55.155 -- 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080 below the low end of the presumptive range;

(2) and except as provided in (d)(1) or (e)(1) of this section, imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided. Nothing in (a) of this section limits the court's discretion to impose a sentence of 99 years imprisonment, or to limit parole eligibility, for a person convicted of murder in the first or second degree in circumstances other than those enumerated in (a).

(i) A defendant convicted of

(1) sexual assault in the first degree, sexual abuse of a minor in the first degree, or promoting prostitution in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 -- 12.55.175:

(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was

(i) less than 13 years of age, 25 to 35 years;

(ii) 13 years of age or older, 20 to 30 years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 30 to 40 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 35 to 45 years;

(E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (l) of this section, 40 to 60 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (l) of this section, and the defendant has two prior convictions for sexual felonies, 99 years;

(2) attempt, conspiracy, or solicitation to commit sexual assault in the first degree, sexual abuse of a minor in the first degree, or promoting prostitution in the first degree under AS 11.66.110(a)(2) may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 -- 12.55.175:

(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was

(i) under 13 years of age, 20 to 30 years;

(ii) 13 years of age or older, 15 to 30 years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 25 to 35 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 30 to 40 years;

(E) if the offense is a third felony conviction, the offense does not involve circumstances described in (F) of this paragraph, and the defendant is not subject to sentencing under (l) of this section, 35 to 50 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (l) of this section, and the defendant has two prior convictions for sexual felonies, 99 years;

(3) sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 -- 12.55.175:

(A) if the offense is a first felony conviction, five to 15 years;

(B) if the offense is a second felony conviction and does not involve circumstances described in (C) of this paragraph, 10 to 25 years;

(C) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 15 to 30 years;

(D) if the offense is a third felony conviction and does not involve circumstances described in (E) of this paragraph, 20 to 35 years;

(E) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years;

(4) sexual assault in the third degree, incest, indecent exposure in the first degree, possession of child pornography, or attempt, conspiracy, or solicitation to commit sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography, may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 -- 12.55.175:

(A) if the offense is a first felony conviction, two to 12 years;

(B) if the offense is a second felony conviction and does not involve circumstances described in (C) of this paragraph, eight to 15 years;

(C) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 12 to 20 years;

(D) if the offense is a third felony conviction and does not involve circumstances described in (E) of this paragraph, 15 to 25 years;

(E) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years.

(j) A defendant sentenced to a (1) mandatory term of imprisonment of 99 years under (a) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without consideration of good time earned under AS 33.20.010, or (2) definite term of imprisonment under (l) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the definite term. A defendant may not file and a court may not entertain more than one motion for modification or reduction of a sentence subject to this subsection, regardless of whether or not the court granted or denied a previous motion.

(k) [Repealed, § 32 ch 2 SLA 2005.]

(l) Notwithstanding any other provision of law, a defendant convicted of an unclassified or class A felony offense, and not subject to a mandatory 99-year sentence under (a) of this section, shall be sentenced to a definite term of imprisonment of 99 years when the defendant has been previously convicted of two or more most serious felonies. If a defendant is sentenced to a definite term under this subsection,

(1) imprisonment for the prescribed definite term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed definite term may not be reduced, except as provided in (j) of this section.

(m) Notwithstanding (a)(4) and (f) of this section, if a court finds that imposition of a mandatory term of imprisonment of 99 years on a defendant subject to sentencing under (a)(4) of this section would be manifestly unjust, the court may sentence the defendant to a definite term of imprisonment otherwise permissible under (a) of this section.

(n) In imposing a sentence within a presumptive range under (c), (d), (e), or (i) of this section, the total term, made up of the active term of imprisonment plus any suspended term of imprisonment, must fall within the presumptive range, and the active term of imprisonment may not fall below the lower end of the presumptive range.

(o) Other than for convictions subject to a mandatory 99-year sentence, the court shall impose, in addition to an active term of imprisonment imposed under (i) of this section, a minimum period of (1) suspended imprisonment of five years and a minimum period of probation supervision of

15 years for conviction of an unclassified felony, (2) suspended imprisonment of three years and a minimum period of probation supervision of 10 years for conviction of a class A or class B felony, or (3) suspended imprisonment of two years and a minimum period of probation supervision of five years for conviction of a class C felony. The period of probation is in addition to any sentence received under (i) of this section and may not be suspended or reduced. Upon a defendant's release from confinement in a correctional facility, the defendant is subject to this probation requirement and shall submit and comply with the terms and requirements of the probation.

ALASKA STAT. § 12.55.127 (2010). Consecutive and concurrent terms of imprisonment.

(a) If a defendant is required to serve a term of imprisonment under a separate judgment, a term of imprisonment imposed in a later judgment, amended judgment, or probation revocation shall be consecutive.

(b) Except as provided in (c) of this section, if a defendant is being sentenced for two or more crimes in a single judgment, terms of imprisonment may be concurrent or partially concurrent.

(c) If the defendant is being sentenced for

(1) escape, the term of imprisonment shall be consecutive to the term for the underlying crime;

(2) two or more crimes under AS 11.41, a consecutive term of imprisonment shall be imposed for at least

(A) the mandatory minimum term under AS 12.55.125(a) for each additional crime that is murder in the first degree;

(B) the mandatory minimum term for each additional crime that is an unclassified felony governed by AS 12.55.125(b);

(C) the presumptive term specified in AS 12.55.125(c) or the active term of imprisonment, whichever is less, for each additional crime that is

(i) manslaughter; or

(ii) kidnapping that is a class A felony;

(D) two years or the active term of imprisonment, whichever is less, for each additional crime that is criminally negligent homicide;

(E) one-fourth of the presumptive term under AS 12.55.125(c) or (i) for each additional crime that is sexual assault in the first degree under AS 11.41.410 or sexual abuse of a minor in the first degree under AS 11.41.434, or an attempt, solicitation, or conspiracy to commit those offenses; and

(F) some additional term of imprisonment for each additional crime, or each additional attempt or solicitation to commit the offense, under AS 11.41.200 -- 11.41.250, 11.41.420 -- 11.41.432, 11.41.436 -- 11.41.458, or 11.41.500 -- 11.41.520.

(d) In this section,

(1) "active term of imprisonment" means the total term of imprisonment imposed for a crime, minus suspended imprisonment;

(2) "additional crime" means a crime that is not the primary crime;

(3) "presumptive term" means the middle of the applicable presumptive range set out in AS 12.55.125;

(4) "primary crime" means the crime

(A) for which the sentencing court imposes the longest active term of imprisonment; or

(B) that is designated by the sentencing court as the primary crime when no single crime has the longest active term of imprisonment.

ALASKA STAT. § 12.55.135 (2010). Sentences of imprisonment for misdemeanors.

(a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year.

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90 days unless otherwise specified in the provision of law defining the offense.

(c) A defendant convicted of assault in the fourth degree that is a crime involving domestic violence committed in violation of the provisions of an order issued or filed under AS 12.30.027 or AS 18.66.100 -- 18.66.180 and not subject to sentencing under (g) of this section shall be sentenced to a minimum term of imprisonment of 20 days.

(d) A defendant convicted of assault in the fourth degree or harassment in the first degree who knowingly directed the conduct constituting the offense at

(1) a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder or medical professional who was engaged in the performance of official duties at the time of the assault or harassment shall be sentenced to a minimum term of imprisonment of

(A) 60 days if the defendant violated AS 11.41.230(a)(1) or (2) or AS 11.61.118;

(B) 30 days if the defendant violated AS 11.41.230(a)(3);

(2) a person who was on school grounds during school hours or during a school function or a school-sponsored event, on a school bus, at a school-sponsored event, or in the administrative offices of a school district, if students are educated at that office, shall be sentenced to a minimum

term of imprisonment of 60 days if the defendant violated AS 11.41.230(a)(1) or (2); in this paragraph,

(A) "school bus" has the meaning given in AS 11.71.900;

(B) "school district" has the meaning given in AS 47.07.063;

(C) "school grounds" has the meaning given in AS 11.71.900.

(e) If a defendant is sentenced under (c), (d), or (h) of this section,

(1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served;

(2) imposition of a sentence may not be suspended except upon condition that the defendant be imprisoned for no less than the minimum term of imprisonment provided in the section; and

(3) the minimum term of imprisonment may not otherwise be reduced.

(f) A defendant convicted of vehicle theft in the second degree in violation of AS 11.46.365(a)(1) shall be sentenced to a definite term of imprisonment of at least 72 hours but not more than one year.

(g) A defendant convicted of assault in the fourth degree that is a crime involving domestic violence shall be sentenced to a minimum term of imprisonment of

(1) 30 days if the defendant has been previously convicted of a crime against a person or a crime involving domestic violence;

(2) 60 days if the defendant has been previously convicted two or more times of a crime against a person or a crime involving domestic violence, or a combination of those crimes.

(h) A defendant convicted of failure to register as a sex offender or child kidnapper in the second degree under AS 11.56.840 shall be sentenced to a minimum term of imprisonment of 35 days.

(i) If a defendant is sentenced under (g) of this section,

(1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served;

(2) imposition of sentence may not be suspended;

(3) the minimum term of imprisonment may not otherwise be reduced.

(j) A court may not impose a sentence of imprisonment or suspended imprisonment for possession of marijuana in violation of AS 11.71.060 if the defendant alleges, and the court finds, that the defendant was not under formal or informal probation or parole conditions in this or another jurisdiction at the time of the offense; that the defendant possessed the marijuana for the defendant's personal use within the defendant's permanent or temporary residence; and that the defendant has not been previously convicted more than once in this or another jurisdiction for possession of marijuana. If the defendant has not been previously convicted as described in this

subsection, the maximum unsuspended fine that the court may impose is $ 500. If the defendant has been previously convicted once as described in this subsection, the maximum unsuspended fine that the court may impose is $ 1,000. In this subsection,

(1) "permanent or temporary residence" means a permanent structure adopted for overnight accommodation; "permanent or temporary residence" does not include

(A) vehicles, tents, prisons or other correctional facilities, residential treatment facilities, or shelters operated by a charitable organization or a government agency;

(B) any place where the defendant's possession or use of marijuana violated established rules for residents, such as a ban on smoking or a ban on marijuana or other controlled substances;

(2) "previously convicted" means the defendant entered a plea of guilty, no contest, or nolo contendere, or has been found guilty by a court or jury, regardless of whether the conviction was set aside under AS 12.55.085 or a similar procedure in another jurisdiction, of possession of marijuana; "previously convicted" does not include a judgment that has been reversed or vacated by a court.

(k) In this section,

(1) "crime against a person" means a crime under AS 11.41, or a crime in this or another jurisdiction having elements similar to those of a crime under AS 11.41;

(2) "crime involving domestic violence" has the meaning given in AS 18.66.990;

(3) "medical professional" means a person who is an anesthesiologist, dentist, dental hygienist, health aide, nurse, nurse aid, nurse practitioner, mental health counselor, physician, physician assistant, chiropractor, psychiatrist, osteopath, psychologist, psychological associate, radiologist, surgeon, or x-ray technician, or who holds a substantially similar position.

ALASKA STAT. § 12.55.137 (2010). Penalties for gang activities punishable as misdemeanors.

(a) If a person commits an offense that would be a class B misdemeanor and the person committed the offense for the benefit of, at the direction of, or in association with a criminal street gang, the offense is a class A misdemeanor.

(b) If a person commits an offense that would be a class A misdemeanor and the person committed the offense for the benefit of, at the direction of, or in association with a criminal street gang, the offense is a class C felony.

ALASKA STAT. § 12.55.148 (2010). Judgment for sex offenses or child kidnappings.

(a) When a defendant is convicted of a sex offense or child kidnapping by a court of this state, the written judgment must set out the requirements of AS 12.63.010 and, if it can be determined by the court, whether that conviction will require the offender or kidnapper to register for life or a lesser period under AS 12.63.

(b) In this section, "sex offense" and "child kidnapping" have the meanings given in AS 12.63.100.

ALASKA STAT. § 12.55.155 (2010). Factors in aggravation and mitigation.

(a) Except as provided in (e) of this section, if a defendant is convicted of an offense and is subject to sentencing under AS 12.55.125(c), (d), (e), or (i) and

(1) the low end of the presumptive range is four years or less, the court may impose any sentence below the presumptive range for factors in mitigation or may increase the active term of imprisonment up to the maximum term of imprisonment for factors in aggravation;

(2) the low end of the presumptive range is more than four years, the court may impose a sentence below the presumptive range as long as the active term of imprisonment is not less than 50 percent of the low end of the presumptive range for factors in mitigation or may increase the active term of imprisonment up to the maximum term of imprisonment for factors in aggravation.

(b) Sentences under this section that are outside of the presumptive ranges set out in AS 12.55.125 shall be based on the totality of the aggravating and mitigating factors set out in (c) and (d) of this section.

(c) The following factors shall be considered by the sentencing court if proven in accordance with this section, and may allow imposition of a sentence above the presumptive range set out in AS 12.55.125:

(1) a person, other than an accomplice, sustained physical injury as a direct result of the defendant's conduct;

(2) the defendant's conduct during the commission of the offense manifested deliberate cruelty to another person;

(3) the defendant was the leader of a group of three or more persons who participated in the offense;

(4) the defendant employed a dangerous instrument in furtherance of the offense;

(5) the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, disability, ill health, homelessness, or extreme youth or was for any other reason substantially incapable of exercising normal physical or mental powers of resistance;

(6) the defendant's conduct created a risk of imminent physical injury to three or more persons, other than accomplices;

(7) a prior felony conviction considered for the purpose of invoking a presumptive range under this chapter was of a more serious class of offense than the present offense;

(8) the defendant's prior criminal history includes conduct involving aggravated assaultive

behavior or repeated instances of assaultive behavior; in this paragraph, "aggravated assaultive behavior" means assault that is a felony under AS 11.41, or a similar provision in another jurisdiction;

(9) the defendant knew that the offense involved more than one victim;

(10) the conduct constituting the offense was among the most serious conduct included in the definition of the offense;

(11) the defendant committed the offense under an agreement that the defendant either pay or be paid for the commission of the offense, and the pecuniary incentive was beyond that inherent in the offense itself;

(12) the defendant was on release under AS 12.30.020 or 12.30.040 for another felony charge or conviction or for a misdemeanor charge or conviction having assault as a necessary element;

(13) the defendant knowingly directed the conduct constituting the offense at an active officer of the court or at an active or former judicial officer, prosecuting attorney, law enforcement officer, correctional employee, fire fighter, emergency medical technician, paramedic, ambulance attendant, or other emergency responder during or because of the exercise of official duties;

(14) the defendant was a member of an organized group of five or more persons, and the offense was committed to further the criminal objectives of the group;

(15) the defendant has three or more prior felony convictions;

(16) the defendant's criminal conduct was designed to obtain substantial pecuniary gain and the risk of prosecution and punishment for the conduct is slight;

(17) the offense was one of a continuing series of criminal offenses committed in furtherance of illegal business activities from which the defendant derives a major portion of the defendant's income;

(18) the offense was a felony

(A) specified in AS 11.41 and was committed against a spouse, a former spouse, or a member of the social unit made up of those living together in the same dwelling as the defendant;

(B) specified in AS 11.41.410 -- 11.41.458 and the defendant has engaged in the same or other conduct prohibited by a provision of AS 11.41.410 -- 11.41.460 involving the same or another victim; or

(C) specified in AS 11.41 that is a crime involving domestic violence and was committed in the physical presence or hearing of a child under 16 years of age who was, at the time of the offense, living within the residence of the victim, the residence of the perpetrator, or the residence where the crime involving domestic violence occurred;

(19) the defendant's prior criminal history includes an adjudication as a delinquent for conduct that would have been a felony if committed by an adult;

(20) the defendant was on furlough under AS 33.30 or on parole or probation for another felony

charge or conviction that would be considered a prior felony conviction under AS 12.55.145(a)(1)(B);

(21) the defendant has a criminal history of repeated instances of conduct violative of criminal laws, whether punishable as felonies or misdemeanors, similar in nature to the offense for which the defendant is being sentenced under this section;

(22) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, physical or mental disability, ancestry, or national origin;

(23) the defendant is convicted of an offense specified in AS 11.71 and

(A) the offense involved the delivery of a controlled substance under circumstances manifesting an intent to distribute the substance as part of a commercial enterprise; or

(B) at the time of the conduct resulting in the conviction, the defendant was caring for or assisting in the care of a child under 10 years of age;

(24) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the transportation of controlled substances into the state;

(25) the defendant is convicted of an offense specified in AS 11.71 and the offense involved large quantities of a controlled substance;

(26) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance that had been adulterated with a toxic substance;

(27) the defendant, being 18 years of age or older,

(A) is legally accountable under AS 11.16.110(2) for the conduct of a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant; or

(B) is aided or abetted in planning or committing the offense by a person who, at the time the offense was committed, was under 18 years of age and at least three years younger than the defendant;

(28) the victim of the offense is a person who provided testimony or evidence related to a prior offense committed by the defendant;

(29) the defendant committed the offense for the benefit of, at the direction of, or in association with a criminal street gang;

(30) the defendant is convicted of an offense specified in AS 11.41.410 -- 11.41.455, and the defendant knowingly supplied alcohol or a controlled substance to the victim in furtherance of the offense with the intent to make the victim incapacitated; in this paragraph, "incapacitated" has the meaning given in AS 11.41.470;

(31) the defendant's prior criminal history includes convictions for five or more crimes in this or another jurisdiction that are class A misdemeanors under the law of this state, or having elements similar to a class A misdemeanor; two or more convictions arising out of a single continuous

episode are considered a single conviction; however, an offense is not a part of a continuous episode if committed while attempting to escape or resist arrest or if it is an assault upon a uniformed or otherwise clearly identified peace officer; notice and denial of convictions are governed by AS 12.55.145(b), (c), and (d);

(32) the offense is a violation of AS 11.41 or AS 11.46.400 and the offense occurred on school grounds, on a school bus, at a school-sponsored event, or in the administrative offices of a school district if students are educated at that office; in this paragraph,

(A) "school bus" has the meaning given in AS 11.71.900;

(B) "school district" has the meaning given in AS 47.07.063;

(C) "school grounds" has the meaning given in AS 11.71.900;

(33) the offense was a felony specified in AS 11.41.410 -- 11.41.455, the defendant had been previously diagnosed as having or having tested positive for HIV or AIDS, and the offense either (A) involved penetration, or (B) exposed the victim to a risk or a fear that the offense could result in the transmission of HIV or AIDS; in this paragraph, "HIV" and "AIDS" have the meanings given in AS 18.15.310;

(34) the defendant committed the offense on, or to affect persons or property on, the premises of a recognized shelter or facility providing services to victims of domestic violence or sexual assault.

(d) The following factors shall be considered by the sentencing court if proven in accordance with this section, and may allow imposition of a sentence below the presumptive range set out in AS 12.55.125:

(1) the offense was principally accomplished by another person, and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim;

(2) the defendant, although an accomplice, played only a minor role in the commission of the offense;

(3) the defendant committed the offense under some degree of duress, coercion, threat, or compulsion insufficient to constitute a complete defense, but that significantly affected the defendant's conduct;

(4) the conduct of a youthful defendant was substantially influenced by another person more mature than the defendant;

(5) the conduct of an aged defendant was substantially a product of physical or mental infirmities resulting from the defendant's age;

(6) in a conviction for assault under AS 11.41.200 -- 11.41.220, the defendant acted with serious provocation from the victim;

(7) except in the case of a crime defined by AS 11.41.410 -- 11.41.470, the victim provoked the crime to a significant degree;

(8) before the defendant knew that the criminal conduct had been discovered, the defendant fully compensated or made a good faith effort to fully compensate the victim of the defendant's criminal conduct for any damage or injury sustained;

(9) the conduct constituting the offense was among the least serious conduct included in the definition of the offense;

(10) the defendant was motivated to commit the offense solely by an overwhelming compulsion to provide for emergency necessities for the defendant's immediate family;

(11) after commission of the offense for which the defendant is being sentenced, the defendant assisted authorities to detect, apprehend, or prosecute other persons who committed an offense;

(12) the facts surrounding the commission of the offense and any previous offenses by the defendant establish that the harm caused by the defendant's conduct is consistently minor and inconsistent with the imposition of a substantial period of imprisonment;

(13) the defendant is convicted of an offense specified in AS 11.71 and the offense involved small quantities of a controlled substance;

(14) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the distribution of a controlled substance, other than a schedule IA controlled substance, to a personal acquaintance who is 19 years of age or older for no profit;

(15) the defendant is convicted of an offense specified in AS 11.71 and the offense involved the possession of a small amount of a controlled substance for personal use in the defendant's home;

(16) in a conviction for assault or attempted assault or for homicide or attempted homicide, the defendant acted in response to domestic violence perpetrated by the victim against the defendant and the domestic violence consisted of aggravated or repeated instances of assaultive behavior;

(17) except in the case of an offense defined by AS 11.41 or AS 11.46.400, the defendant has been convicted of a class B or C felony, and, at the time of sentencing, has successfully completed a court-ordered treatment program as defined in AS 28.35.028 that was begun after the offense was committed;

(18) except in the case of an offense defined under AS 11.41 or AS 11.46.400 or a defendant who has previously been convicted of a felony, the defendant committed the offense while suffering from a mental disease or defect as defined in AS 12.47.130 that was insufficient to constitute a complete defense but that significantly affected the defendant's conduct;

(19) the defendant is convicted of an offense under AS 11.71, and the defendant sought medical assistance for another person who was experiencing a drug overdose contemporaneously with the commission of the offense.

(e) If a factor in aggravation is a necessary element of the present offense, or requires the imposition of a sentence within the presumptive range under AS 12.55.125(c)(2), that factor may not be used to impose a sentence above the high end of the presumptive range. If a factor in mitigation is raised at trial as a defense reducing the offense charged to a lesser included offense, that factor may not be used to impose a sentence below the low end of the presumptive range.

(f) If the state seeks to establish a factor in aggravation at sentencing

(1) under (c)(7), (8), (12), (15), (18)(B), (19), (20), (21), or (31) of this section, or if the defendant seeks to establish a factor in mitigation at sentencing, written notice must be served on the opposing party and filed with the court not later than 10 days before the date set for imposition of sentence; the factors in aggravation listed in this paragraph and factors in mitigation must be established by clear and convincing evidence before the court sitting without a jury; all findings must be set out with specificity;

(2) other than one listed in (1) of this subsection, the factor shall be presented to a trial jury under procedures set by the court, unless the defendant waives trail by jury, stipulates to the existence of the factor, or consents to have the factor proven under procedures set out in (1) of this subsection; a factor in aggravation presented to a jury is established if proved beyond a reasonable doubt; written notice of the intent to establish a factor in aggravation must be served on the defendant and filed with the court

(A) 20 days before trial, or at another time specified by the court;

(B) within 48 hours, or at a time specified by the court, if the court instructs the jury about the option to return a verdict for a lesser included offense; or

(C) five days before entering a plea that results in a finding of guilt, or at another time specified by the court.

(g) Voluntary alcohol or other drug intoxication or chronic alcoholism or other drug addiction may not be considered an aggravating or mitigating factor.

(h) In this section, "serious provocation" has the meaning given in AS 11.41.115(f).

ALASKA STAT. § 12.55.165 (2010). Extraordinary circumstances.

(a) If the defendant is subject to sentencing under AS 12.55.125(c), (d), (e), or (i) and the court finds by clear and convincing evidence that manifest injustice would result from failure to consider relevant aggravating or mitigating factors not specifically included in AS 12.55.155 or from imposition of a sentence within the presumptive range, whether or not adjusted for aggravating or mitigating factors, the court shall enter findings and conclusions and cause a record of the proceedings to be transmitted to a three-judge panel for sentencing under AS 12.55.175.

(b) In making a determination under (a) of this section, the court may not refer a case to a three-judge panel based on the defendant's potential for rehabilitation if the court finds that a factor in aggravation set out in AS 12.55.155(c)(2), (8), (10), (12), (15), (17), (18)(B), (20), (21), or (28) is present.

ALASKA STAT. § 12.63.010 (2010). Registration of sex offenders and related requirements.

(a) A sex offender or child kidnapper who is physically present in the state shall register as provided in this section. The sex offender or child kidnapper shall register

(1) within the 30-day period before release from an in-state correctional facility;

(2) by the next working day following conviction for a sex offense or child kidnapping if the sex offender is not incarcerated at the time of conviction; or

(3) by the next working day of becoming physically present in the state.

(b) A sex offender or child kidnapper required to register under (a) of this section shall register with the Department of Corrections if the sex offender or child kidnapper is incarcerated or in person at the Alaska state trooper post or municipal police department located nearest to where the sex offender or child kidnapper resides at the time of registration. To fulfill the registration requirement, the sex offender or child kidnapper shall

(1) complete a registration form that includes, at a minimum,

(A) the sex offender's or child kidnapper's name, address, place of employment, and date of birth;

(B) each conviction for a sex offense or child kidnapping for which the duty to register has not terminated under AS 12.63.020, the date of the sex offense or child kidnapping convictions, the place and court of the sex offense or child kidnapping convictions, and whether the sex offender or child kidnapper has been unconditionally discharged from the conviction for a sex offense or child kidnapping and the date of the unconditional discharge; if the sex offender or child kidnapper asserts that the offender or kidnapper has been unconditionally discharged, the offender or kidnapper shall supply proof of that discharge acceptable to the department;

(C) all aliases used;

(D) the sex offender's or child kidnapper's driver's license number;

(E) the description, license numbers, and vehicle identification numbers of motor vehicles the sex offender or child kidnapper has access to, regardless of whether that access is regular or not;

(F) any identifying features of the sex offender or child kidnapper;

(G) anticipated changes of address;

(H) a statement concerning whether the offender or kidnapper has had treatment for a mental abnormality or personality disorder since the date of conviction for an offense requiring registration under this chapter; and

(I) each electronic mail address, instant messaging address, and other Internet communication identifier used by the sex offender or child kidnapper;

(2) allow the Alaska state troopers, Department of Corrections, or municipal police to take a complete set of the sex offender's or child kidnapper's fingerprints and to take the sex offender's or child kidnapper's photograph.

(c) If a sex offender or child kidnapper changes residence after having registered under (a) of this section, the sex offender or child kidnapper shall provide written notice of the change by the next

working day following the change to the Alaska state trooper post or municipal police department located nearest to the new residence or, if the residence change is out of state, to the central registry. If a sex offender or child kidnapper establishes or changes an electronic mail address, instant messaging address, or other Internet communication identifier, the sex offender or child kidnapper shall, by the next working day, notify the department in writing of the changed or new address or identifier.

(d) A sex offender or child kidnapper required to register

(1) for 15 years under (a) of this section and AS 12.63.020(a)(2) shall, annually, during the term of a duty to register under AS 12.63.020, on a date set by the department at the time of the sex offender's or child kidnapper's initial registration, provide written verification to the department, in the manner required by the department, of the sex offender's or child kidnapper's address and notice of any changes to the information previously provided under (b)(1) of this section;

(2) for life under (a) of this section and AS 12.63.020(a)(1) shall, not less than quarterly, on a date set by the department, provide written verification to the department, in the manner required by the department, of the sex offender's or child kidnapper's address and any changes to the information previously provided under (b)(1) of this section.

(e) The registration form required to be submitted under (b) of this section and the annual or quarterly verifications must be sworn to by the offender or kidnapper and contain an admonition that a false statement shall subject the offender or kidnapper to prosecution for perjury.

(f) In this section, "correctional facility" has the meaning given in AS 33.30.901.

ALASKA STAT. § 12.63.100 (2010). Definitions.

In this chapter,

(1) "aggravated sex offense" means

(A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit a sexual offense, or a similar offense under the laws of the other jurisdiction; in this subparagraph, "sexual offense" has the meaning given in AS 11.41.100(a)(3);

(B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit one of the following crimes, or a similar law of another jurisdiction:

(i) sexual assault in the first degree;

(ii) sexual assault in the second degree;

(iii) sexual abuse of a minor in the first degree; or

(iv) sexual abuse of a minor in the second degree; or

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under AS 11.41.410,

11.41.434, or a similar law of another jurisdiction or a similar provision under a former law of this state;

(2) "child kidnapping" means

(A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit kidnapping;

(B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit kidnapping if the victim was under 18 years of age at the time of the offense; or

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under AS 11.41.300, or a similar law of another jurisdiction or a similar provision under a former law of this state, if the victim was under 18 years of age at the time of the offense;

(3) "conviction" means that an adult, or a juvenile charged as an adult under AS 47.12 or a similar procedure in another jurisdiction, has entered a plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or guilty but mentally ill by a court or jury, of a sex offense or child kidnapping regardless of whether the judgment was set aside under AS 12.55.085 or a similar procedure in another jurisdiction or was the subject of a pardon or other executive clemency; "conviction" does not include a judgment that has been reversed or vacated by a court;

(4) "department" means the Department of Public Safety;

(5) "sex offender or child kidnapper" means a person convicted of a sex offense or child kidnapping in this state or another jurisdiction regardless of whether the conviction occurred before, after, or on January 1, 1999;

(6) "sex offense" means

(A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit a sexual offense, or a similar offense under the laws of the other jurisdiction; in this subparagraph, "sexual offense" has the meaning given in AS 11.41.100(a)(3);

(B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit one of the following crimes, or a similar law of another jurisdiction:

(i) sexual assault in the first degree;

(ii) sexual assault in the second degree;

(iii) sexual abuse of a minor in the first degree; or

(iv) sexual abuse of a minor in the second degree;

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under the following statutes or a similar law of another jurisdiction:

(i) AS 11.41.410 -- 11.41.438;

(ii) AS 11.41.440(a)(2);

(iii) AS 11.41.450 -- 11.41.458;

(iv) AS 11.41.460 if the indecent exposure is before a person under 16 years of age and the offender has a previous conviction for that offense;

(v) AS 11.61.125 -- 11.61.128;

(vi) AS 11.66.110 or 11.66.130(a)(2) if the person who was induced or caused to engage in prostitution was 16 or 17 years of age at the time of the offense; or

(vii) former AS 11.15.120, former 11.15.134, or assault with the intent to commit rape under former AS 11.15.160, former AS 11.40.110, or former 11.40.200;

(7) "unconditional discharge" has the meaning given in AS 12.55.185.

ARIZONA

ARIZ. REV. STAT. § 13-701 (2010). Sentence of imprisonment for felony; presentence report; aggravating and mitigating factors; consecutive terms of imprisonment; definition.

A. A sentence of imprisonment for a felony shall be a definite term of years and the person sentenced, unless otherwise provided by law, shall be committed to the custody of the state department of corrections.

B. No prisoner may be transferred to the custody of the state department of corrections without a certified copy of the judgment and sentence, signed by the sentencing judge, and a copy of a recent presentence investigation report unless the court has waived preparation of the report.

C. The minimum or maximum term imposed pursuant to section 13-702, 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be imposed only if one or more of the circumstances alleged to be in aggravation of the crime are found to be true by the trier of fact beyond a reasonable doubt or are admitted by the defendant, except that an alleged aggravating circumstance under subsection D, paragraph 11 of this section shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of such findings are set forth on the record at the time of sentencing.

D. For the purpose of determining the sentence pursuant to subsection C of this section, the trier of fact shall determine and the court shall consider the following aggravating circumstances, except that the court shall determine an aggravating circumstance under paragraph 11 of this subsection:

1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-704.

2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-704.

3. If the offense involves the taking of or damage to property, the value of the property taken or damaged.

4. Presence of an accomplice.

5. Especially heinous, cruel or depraved manner in which the offense was committed.

6. The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

7. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

8. At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to the defendant's office or employment.

9. The victim or, if the victim has died as a result of the conduct of the defendant, the victim's immediate family suffered physical, emotional or financial harm.

10. During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.

11. The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense that if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.

12. The defendant was wearing body armor as defined in section 13-3116.

13. The victim of the offense is at least sixty-five years of age or is a disabled person as defined in section 38-492, subsection B.

14. The defendant was appointed pursuant to title 14 as a fiduciary and the offense involved conduct directly related to the defendant's duties to the victim as fiduciary.

15. Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.

16. The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol

concentration at the time of committing the offense was 0.15 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.

17. Lying in wait for the victim or ambushing the victim during the commission of any felony.

18. The offense was committed in the presence of a child and any of the circumstances exists that are set forth in section 13-3601, subsection A.

19. The offense was committed in retaliation for a victim either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity.

20. The defendant was impersonating a peace officer as defined in section 1-215.

21. The defendant was in violation of 8 United States Code section 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

22. The defendant used a remote stun gun or an authorized remote stun gun in the commission of the offense. For the purposes of this paragraph:

(a) "Authorized remote stun gun" means a remote stun gun that has all of the following:

(i) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.

(ii) A serial or identification number on all projectiles that are discharged from the remote stun gun.

(iii) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.

(iv) A training program that is offered by the manufacturer.

(b) "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.

23. During or immediately following the commission of the offense, the defendant committed a violation of section 28-661, 28-662 or 28-663.

24. Any other factor that the state alleges is relevant to the defendant's character or background or to the nature or circumstances of the crime.

E. For the purpose of determining the sentence pursuant to subsection C of this section, the court shall consider the following mitigating circumstances:

1. The age of the defendant.

2. The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.

3. The defendant was under unusual or substantial duress, although not to a degree that would constitute a defense to prosecution.

4. The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.

5. During or immediately following the commission of the offense, the defendant complied with all duties imposed under sections 28-661, 28-662 and 28-663.

6. Any other factor that is relevant to the defendant's character or background or to the nature or circumstances of the crime and that the court finds to be mitigating.

F. If the trier of fact finds at least one aggravating circumstance, the trial court may find by a preponderance of the evidence additional aggravating circumstances. In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to justify the lesser term. If the trier of fact finds aggravating circumstances and the court does not find any mitigating circumstances, the court shall impose an aggravated sentence.

G. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

H. This section does not affect any provision of law that imposes the death penalty, that expressly provides for imprisonment for life or that authorizes or restricts the granting of probation and suspending the execution of sentence.

I. The intentional failure by the court to impose the mandatory sentences or probation conditions provided in this title is malfeasance.

J. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

ARIZ. REV. STAT. § 13-702 (2010). First time felony offenders; sentencing; definition.

A. Unless a specific sentence is otherwise provided, the term of imprisonment for a first felony offense shall be the presumptive sentence determined pursuant to subsection D of this section. Except for those felonies involving a dangerous offense or if a specific sentence is otherwise provided, the court may increase or reduce the presumptive sentence within the ranges set by subsection D of this section. Any reduction or increase shall be based on the aggravating and mitigating circumstances listed in section 13-701, subsections D and E and shall be within the ranges prescribed in subsection D of this section.

B. If a person is convicted of a felony without having previously been convicted of any felony and if at least two of the aggravating factors listed in section 13-701, subsection D apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense to an aggravated term. If a person is convicted of a felony without having previously been convicted of any felony and if the court finds at least two mitigating factors listed in section 13-701, subsection E apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense to a mitigated term.

C. The aggravated or mitigated term imposed pursuant to subsection D of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under section 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

D. The term of imprisonment for a presumptive, minimum, maximum, mitigated or aggravated sentence shall be within the range prescribed under this subsection. The terms are as follows:

Felony	Mitigated	Minimum	Presumptive	Maximum	Aggravated
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	2 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1 year	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.33 years	.5 years	1 year	1.5 years	2 years

E. The court shall inform all of the parties before sentencing occurs of its intent to increase or decrease a sentence to the aggravated or mitigated sentence pursuant this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

F. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

ARIZ. REV. STAT. § 13-703 (2010). Repetitive offenders; sentencing.

A. A person shall be sentenced as a category one repetitive offender if the person is convicted of two felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions.

B. A person shall be sentenced as a category two repetitive offender if the person either:

1. Is convicted of three or more felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions.

2. Except as provided in section 13-704 or 13-705, is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has one historical prior felony conviction.

C. Except as provided in section 13-704 or 13-705, a person shall be sentenced as a category three repetitive offender if the person is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has two or more historical prior felony convictions.

D. The presumptive term set by this section may be aggravated or mitigated within the range under this section pursuant to section 13-701, subsections C, D and E.

E. If a person is sentenced as a category one repetitive offender pursuant to subsection A of this section and if at least two aggravating circumstances listed in section 13-701, subsection D apply or at least two mitigating circumstances listed in section 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection H of this section.

F. If a person is sentenced as a category two repetitive offender pursuant to subsection B, paragraph 2 of this section and if at least two aggravating circumstances listed in section 13-701, subsection D apply or at least two mitigating circumstances listed in section 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection I of this section.

G. If a person is sentenced as a category three repetitive offender pursuant to subsection C of this section and at least two aggravating circumstances listed in section 13-701, subsection D or at least two mitigating circumstances listed in section 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection J of this section.

H. A category one repetitive offender shall be sentenced within the following ranges:

Felony	Mitigated	Minimum	Presumptive	Maximum	Aggravated
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	1.8 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1.1 years	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.3 years	.5 years	1 year	1.5 years	1.8 years

I. A category two repetitive offender shall be sentenced within the following ranges:

Felony	Mitigated	Minimum	Presumptive	Maximum	Aggravated
Class 2	4.5 years	6 years	9.25 years	18.5 years	23.1 years
Class 3	3.3 years	4.5 years	6.5 years	13 years	16.25 years
Class 4	2.25 years	3 years	4.5 years	6 years	7.5 years
Class 5	1 year	1.5 years	2.25 years	3 years	3.75 years
Class 6	.75 years	1 year	1.75 years	2.25 years	2.75 years

J. A category three repetitive offender shall be sentenced within the following ranges:

Felony	Mitigated	Minimum	Presumptive	Maximum	Aggravated
Class 2	10.5 years	14 years	15.75 years	28 years	35 years
Class 3	7.5 years	10 years	11.25 years	20 years	25 years
Class 4	6 years	8 years	10 years	12 years	15 years
Class 5	3 years	4 years	5 years	6 years	3.75 years

Class 6 2.25 years 3 years 3.75 years 4.5 years 5.75 years

K. The aggravated or mitigated term imposed pursuant to subsection H, I or J of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under section 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

L. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for the purposes of subsection B, paragraph 2 and subsection C of this section.

M. FOR THE PURPOSES OF SUBSECTION B, PARAGRAPH 2 AND SUBSECTION C OF THIS SECTION, a person who has been convicted in any court outside the jurisdiction of this state of an offense that if committed in this state would be punishable as a felony is subject to this section. A person who has been convicted as an adult of an offense punishable as a felony under the provisions of any prior code in this state is subject to this section.

N. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if an allegation of prior conviction is charged in the indictment or information and admitted or found by the court. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or a provision of law that specifies a later release or completion of the sentence imposed before release. The court shall allow the allegation of a prior conviction at any time before the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the person was in fact prejudiced by the untimely filing and states the reasons for these findings. If the allegation of a prior conviction is filed, the state must make available to the person a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction shall not be read to the jury. For the purposes of this subsection, "substantive offense" means the felony offense that the trier of fact found beyond a reasonable doubt the person committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the person otherwise would be subject.

O. A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis, except as specifically authorized by section 31-233, subsection A or B, until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

P. The court shall inform all of the parties before sentencing occurs of its intent to impose an aggravated or mitigated sentence pursuant to subsection H, I or J of this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

Q. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

ARIZ. REV. STAT. § 13-704 (2010). Dangerous offenders; sentencing.

A. Except as provided in section 13-705, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a felony that is a dangerous offense shall be sentenced to a term of imprisonment as follows:

Felony	Minimum	Presumptive	Maximum
Class 2	7 years	10.5 years	21 years
Class 3	5 years	7.5 years	15 years
Class 4	4 years	6 years	8 years
Class 5	2 years	3 years	4 years
Class 6	1.5 years	2.25 years	3 years

B. Except as provided in section 13-705, a person who is convicted of a class 4, 5 or 6 felony that is a dangerous offense and who has one historical prior felony conviction involving a dangerous offense shall be sentenced to a term of imprisonment as follows:

Felony	Minimum	Presumptive	Maximum
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

C. Except as provided in section 13-705 or section 13-706, subsection A, a person who is convicted of a class 4, 5 or 6 felony that is a dangerous offense and who has two or more historical prior felony convictions involving dangerous offenses shall be sentenced to a term of imprisonment as follows:

Felony	Minimum	Presumptive	Maximum
Class 4	12 years	14 years	16 years
Class 5	6 years	7 years	8 years
Class 6	4.5 years	5.25 years	6 years

D. Except as provided in section 13-705 or section 13-706, subsection A, a person who is convicted of a class 2 or 3 felony involving a dangerous offense and who has one historical prior felony conviction that is a class 1, 2 or 3 felony involving a dangerous offense shall be sentenced to a term of imprisonment as follows:

Felony	Minimum	Presumptive	Maximum
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

E. Except as provided in section 13-705 or section 13-706, subsection A, a person who is convicted of a class 2 or 3 felony involving a dangerous offense and who has two or more historical prior felony convictions that are class 1, 2 or 3 felonies involving dangerous offenses shall be sentenced to a term of imprisonment as follows:

Felony	Minimum	Presumptive	Maximum
Class 2	21 years	28 years	35 years
Class 3	15 years	20 years	25 years

F. A person who is convicted of two or more felony offenses that are dangerous offenses and that were not committed on the same occasion but that are consolidated for trial purposes or that are not historical prior felony convictions shall be sentenced, for the second or subsequent offense, pursuant to this subsection. For a person sentenced pursuant to this subsection, the minimum term prescribed shall be the presumptive term. If the court increases or decreases a sentence pursuant to this subsection, the court shall state on the record the reasons for the increase or decrease. The court shall inform all of the parties before the sentencing occurs of its intent to increase or decrease a sentence pursuant to this subsection. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing. The terms are as follows:

1. For the second dangerous offense:

Felony	Minimum	Maximum	Increased Maximum
Class 2	10.5 years	21 years	26.25 years
Class 3	7.5 years	15 years	18.75 years
Class 4	6 years	8 years	10 years
Class 5	3 years	4 years	5 years
Class 6	2.25 years	3 years	3.75 years

2. For any dangerous offense subsequent to the second dangerous felony offense:

Felony	Minimum	Maximum	Increased Maximum
Class 2	15.75 years	28 years	35 years
Class 3	11.25 years	20 years	25 years
Class 4	10 years	12 years	15 years
Class 5	5 years	6 years	7.5 years
Class 6	3.75 years	4.5 years	5.6 years

G. A person who is sentenced pursuant to subsection A, B, C, D, E or F of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis, except as specifically authorized by section 31-233, subsection A or B, until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

H. The presumptive term authorized by this section may be mitigated or aggravated pursuant to the terms of section 13-701, subsections C, D and E.

I. For the purposes of determining the applicability of the penalties provided in subsection A, D or E of this section for second or subsequent class 2 or 3 felonies, the conviction for any felony committed before October 1, 1978 that, if committed after October 1, 1978, could be a dangerous offense under subsection A, D or E of this section may be designated by the state as a prior felony.

J. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for the purposes of subsection A, B, C, D or E of this section.

K. A person who has been convicted in any court outside the jurisdiction of this state of an offense that if committed in this state would be punishable as a felony is subject to subsection A, B, C, D or E of this section. A person who has been convicted of an offense punishable as a felony under the provisions of any prior code in this state is subject to subsection A, B, C, D or E of this section.

L. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if an allegation of prior conviction is charged in the indictment or information and admitted or found by the court or if an allegation of dangerous offense is charged in the indictment or information and admitted or found by the trier of fact. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or provision of law that specifies a later release or completion of the sentence imposed before release. The court shall allow the allegation of a prior conviction or the allegation of a dangerous offense at any time before the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the defendant was in fact prejudiced by the untimely filing and states the reasons for these findings. If the allegation of a prior conviction is filed, the state must make available to the defendant a copy of any material or information obtained concerning the prior conviction. The charge of prior conviction shall not be read to the jury. For the purposes of this subsection, "substantive offense" means the felony that the trier of fact found beyond a reasonable doubt the defendant committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the defendant otherwise would be subject.

M. Except as provided in section 13-705 or 13-751, if the victim is an unborn child in the womb at any stage of its development, the defendant shall be sentenced pursuant to this section.

ARIZ. REV. STAT. § 13-705 (2010). Dangerous crimes against children; sentences; definitions.

A. A person who is at least eighteen years of age and who is convicted of a dangerous crime against children in the first degree involving sexual assault of a minor who is twelve years of age or younger or sexual conduct with a minor who is twelve years of age or younger shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. This subsection does not apply to masturbatory contact.

B. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a dangerous crime against children in the

first degree involving attempted first degree murder of a minor who is under twelve years of age, second degree murder of a minor who is under twelve years of age, sexual assault of a minor who is under twelve years of age, sexual conduct with a minor who is under twelve years of age or manufacturing methamphetamine under circumstances that cause physical injury to a minor who is under twelve years of age may be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. If a life sentence is not imposed pursuant to this subsection, the person shall be sentenced to a term of imprisonment as follows:

Minimum	Presumptive	Maximum
13 years	20 years	27 years

C. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is twelve, thirteen or fourteen years of age, second degree murder of a minor who is twelve, thirteen or fourteen years of age, sexual assault of a minor who is twelve, thirteen or fourteen years of age, taking a child for the purpose of prostitution, child prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen years of age, continuous sexual abuse of a child, sex trafficking of a minor who is under fifteen years of age or manufacturing methamphetamine under circumstances that cause physical injury to a minor who is twelve, thirteen or fourteen years of age or involving or using minors in drug offenses shall be sentenced to a term of imprisonment as follows:

Minimum	Presumptive	Maximum
13 years	20 years	27 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows:

Minimum	Presumptive	Maximum
23 years	30 years	37 years

D. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a dangerous crime against children in the first degree involving aggravated assault, molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor, aggravated luring a minor for sexual exploitation, child abuse or kidnapping shall be sentenced to a term of imprisonment as follows:

Minimum	Presumptive	Maximum
10 years	17 years	24 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows:

Minimum	Presumptive	Maximum
21 years	28 years	35 years

E. Except as otherwise provided in this section, if a person who is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving luring a minor for sexual exploitation or unlawful age misrepresentation and is sentenced to a term of imprisonment, the term of imprisonment is as follows and the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

Minimum	Presumptive	Maximum
5 years	10 years	15 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

Minimum	Presumptive	Maximum
8 years	15 years	22 years

F. Except as otherwise provided in this section, if a person is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving sexual abuse or bestiality under section 13-1411, subsection A, paragraph 2 and is sentenced to a term of imprisonment, the term of imprisonment is as follows and the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A

or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted convicted:

Minimum	Presumptive	Maximum
2.5 years	5 years	7.5 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

Minimum	Presumptive	Maximum
8 years	15 years	22 years

G. The presumptive sentences prescribed in subsections B, C and D of this section or subsections E and F of this section if the person has previously been convicted of a predicate felony may be increased or decreased pursuant to section 13-701, subsections C, D and E.

H. Except as provided in subsection F of this section, a person who is sentenced for a dangerous crime against children in the first degree pursuant to this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served or commuted.

I. A person who is convicted of any dangerous crime against children in the first degree pursuant to subsection C or D of this section and who has been previously convicted of two or more predicate felonies shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not fewer than thirty-five years or the sentence is commuted.

J. Notwithstanding chapter 10 of this title, a person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a dangerous crime against children in the second degree pursuant to subsection B, C or D of this section is guilty of a class 3 felony and if the person is sentenced to a term of imprisonment, the term of imprisonment is as follows and the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

Minimum	Presumptive	Maximum
5 years	10 years	15 years

K. A person who is convicted of any dangerous crime against children in the second degree and who has been previously convicted of one or more predicate felonies is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

L. Section 13-704, subsection J and section 13-707, subsection B apply to the determination of prior convictions.

M. The sentence imposed on a person by the court for a dangerous crime against children under subsection D of this section involving child molestation or sexual abuse pursuant to subsection F of this section may be served concurrently with other sentences if the offense involved only one victim. The sentence imposed on a person for any other dangerous crime against children in the first or second degree shall be consecutive to any other sentence imposed on the person at any time, including child molestation and sexual abuse of the same victim.

N. In this section, for purposes of punishment an unborn child shall be treated like a minor who is under twelve years of age.

O. A dangerous crime against children is in the first degree if it is a completed offense and is in the second degree if it is a preparatory offense, except attempted first degree murder is a dangerous crime against children in the first degree.

P. For the purposes of this section:

1. "Dangerous crime against children" means any of the following that is committed against a minor who is under fifteen years of age:

(a) Second degree murder.

(b) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.

(c) Sexual assault.

(d) Molestation of a child.

(e) Sexual conduct with a minor.

(f) Commercial sexual exploitation of a minor.

(g) Sexual exploitation of a minor.

(h) Child abuse as prescribed in section 13-3623, subsection A, paragraph 1.

(i) Kidnapping.

(j) Sexual abuse.

(k) Taking a child for the purpose of prostitution as prescribed in section 13-3206.

(l) Child prostitution as prescribed in section 13-3212.

(m) Involving or using minors in drug offenses.

(n) Continuous sexual abuse of a child.

(o) Attempted first degree murder.

(p) Sex trafficking.

(q) Manufacturing methamphetamine under circumstances that cause physical injury to a minor.

(r) Bestiality as prescribed in section 13-1411, subsection A, paragraph 2.

(s) Luring a minor for sexual exploitation.

(t) Aggravated luring a minor for sexual exploitation.

(u) Unlawful age misrepresentation.

2. "Predicate felony" means any felony involving child abuse pursuant to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, or a dangerous crime against children in the first or second degree.

ARIZ. REV. STAT. § 13-707 (2010). Misdemeanors; sentencing.

A. A sentence of imprisonment for a misdemeanor shall be for a definite term to be served other than a place within custody of the state department of corrections. The court shall fix the term of imprisonment within the following maximum limitations:

1. For a class 1 misdemeanor, six months.

2. For a class 2 misdemeanor, four months.

3. For a class 3 misdemeanor, thirty days.

B. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the present offense shall be sentenced for the next higher class of offense

than that for which the person currently is convicted. Time spent incarcerated within the two years next preceding the date of the offense for which a person is currently being sentenced shall not be included in the two years required to be free of convictions.

C. If a person is convicted of a misdemeanor offense and the offense requires enhanced punishment because it is a second or subsequent offense, the court shall determine the existence of the previous conviction. The court shall allow the allegation of a prior conviction to be made in the same manner as the allegation prescribed by section 28-1387, subsection A.

D. A person who has been convicted in any court outside the jurisdiction of this state of an offense that if committed in this state would be punishable as a misdemeanor or petty offense is subject to this section. A person who has been convicted as an adult of an offense punishable as a misdemeanor or petty offense under the provisions of any prior code in this state is subject to this section.

E. The court may direct that a person who is sentenced pursuant to subsection A of this section shall not be released on any basis until the sentence imposed by the court has been served.

ARIZ. REV. STAT. § 13-709 (2010). Offenses committed in school safety zone; sentences; definitions.

A. Except as otherwise prescribed in section 13-3411, a person who is convicted of a felony offense that is committed in a school safety zone is guilty of the same class of felony that the person would otherwise be guilty of if the violation had not occurred within a school safety zone, except that the court may impose a sentence that is one year longer than the minimum, maximum and presumptive sentence for that violation if the person is not a criminal street gang member or up to five years longer than the minimum, maximum and presumptive sentence for that violation if the person is a criminal street gang member. The additional sentence imposed under this subsection is in addition to any other enhanced punishment that may be applicable under section 13-703, section 13-704, section 13-706, section 13-708, subsection D or chapter 34 of this title.

B. In addition to any other penalty prescribed by this title, the court may order a person who is subject to subsection A of this section to pay a fine of not less than two thousand dollars and not more than the maximum authorized by chapter 8 of this title.

C. Each school district governing board or its designee, or chief administrative officer in the case of a nonpublic or charter school, may place and maintain permanently affixed signs that are located in a visible manner at the main entrance of each school and that identify the school and its accompanying grounds as a school safety zone. A school may include information regarding the school safety zone boundaries on a sign that identifies the area as a drug free zone and not post separate school safety zone signs.

D. For the purposes of this section:

1. "School" means any public or nonpublic kindergarten program, common school or high school.

2. "School safety zone" means any of the following:

(a) The area within three hundred feet of a school or its accompanying grounds.

(b) Any public property within one thousand feet of a school or its accompanying grounds.

(c) Any school bus.

(d) A bus contracted to transport pupils to any school during the time when the contracted vehicle is transporting pupils on behalf of the school.

(e) A school bus stop.

(f) Any bus stop where school children are awaiting, boarding or exiting a bus contracted to transport pupils to any school.

ARIZ. REV. STAT. § 13-709.02 (2010). Special sentencing provisions; organized crime; fraud; terrorism.

A. If a person is convicted of a violation of section 13-2308.01 and the court finds at least one aggravating circumstance listed in section 13-701, subsection D, the court may impose a life sentence. If the court imposes a life sentence, the court may order that the defendant not be released on any basis for the remainder of the defendant's natural life. If the court does not sentence the defendant to natural life, the defendant shall not be released on any basis until the person has served twenty-five calendar years.

B. A person who is convicted of a knowing violation of section 13-2312, subsection C is not eligible for probation, pardon, suspension of sentence or release on any basis until the person has served the sentence imposed by the court or the sentence is commuted.

C. A person who is convicted of committing any felony offense with the intent to promote, further or assist any criminal conduct by a criminal street gang shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive, minimum and maximum sentence for the offense shall be increased by three years if the offense is a class 4, 5 or 6 felony or shall be increased by five years if the offense is a class 2 or 3 felony. The additional sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable.

ARIZ. REV. STAT. § 13-709.04 (2010). Special sentencing provisions; family offenses.

A. If a person is convicted of an offense involving domestic violence and the victim was pregnant at the time of the commission of the offense, at the time of sentencing the court shall take into consideration the fact that the victim was pregnant and may increase the sentence.

B. The maximum sentence otherwise authorized for a violation of section 13-3601, subsection A shall be increased by up to two years if the defendant committed a felony offense against a pregnant victim and knew that the victim was pregnant or if the defendant committed a felony offense causing physical injury to a pregnant victim and knew that the victim was pregnant.

ARIZ. REV. STAT. § 13-751 (2010). Sentence of death or life imprisonment; aggravating and mitigating circumstances; definition.

A. If the state has filed a notice of intent to seek the death penalty and the defendant is convicted of first degree murder as defined in section 13-1105, the defendant shall be sentenced to death or imprisonment in the custody of the state department of corrections for life or natural life as determined and in accordance with the procedures provided in section 13-752. A defendant who is sentenced to natural life is not eligible for commutation, parole, work furlough, work release or release from confinement on any basis. If the defendant is sentenced to life, the defendant shall not be released on any basis until the completion of the service of twenty-five calendar years if the murdered person was fifteen or more years of age and thirty-five years if the murdered person was under fifteen years of age or was an unborn child. In this section, for purposes of punishment an unborn child shall be treated like a minor who is under twelve years of age.

B. At the aggravation phase of the sentencing proceeding that is held pursuant to section 13-752, the admissibility of information relevant to any of the aggravating circumstances set forth in subsection F of this section shall be governed by the rules of evidence applicable to criminal trials. The burden of establishing the existence of any of the aggravating circumstances set forth in subsection F of this section is on the prosecution. The prosecution must prove the existence of the aggravating circumstances beyond a reasonable doubt.

C. At the penalty phase of the sentencing proceeding that is held pursuant to section 13-752, the prosecution or the defendant may present any information that is relevant to any of the mitigating circumstances included in subsection G of this section, regardless of its admissibility under the rules governing admission of evidence at criminal trials. The burden of establishing the existence of the mitigating circumstances included in subsection G of this section is on the defendant. The defendant must prove the existence of the mitigating circumstances by a preponderance of the evidence. If the trier of fact is a jury, the jurors do not have to agree unanimously that a mitigating circumstance has been proven to exist. Each juror may consider any mitigating circumstance found by that juror in determining the appropriate penalty.

D. Evidence that is admitted at the trial and that relates to any aggravating or mitigating circumstances shall be deemed admitted as evidence at a sentencing proceeding if the trier of fact considering that evidence is the same trier of fact that determined the defendant's guilt. The prosecution and the defendant shall be permitted to rebut any information received at the aggravation or penalty phase of the sentencing proceeding and shall be given fair opportunity to present argument as to whether the information is sufficient to establish the existence of any of the circumstances included in subsections F and G of this section.

E. In determining whether to impose a sentence of death or life imprisonment, the trier of fact shall take into account the aggravating and mitigating circumstances that have been proven. The trier of fact shall impose a sentence of death if the trier of fact finds one or more of the aggravating circumstances enumerated in subsection F of this section and then determines that there are no mitigating circumstances sufficiently substantial to call for leniency.

F. The trier of fact shall consider the following aggravating circumstances in determining whether to impose a sentence of death:

1. The defendant has been convicted of another offense in the United States for which under Arizona law a sentence of life imprisonment or death was imposable.

2. The defendant has been or was previously convicted of a serious offense, whether preparatory or completed. Convictions for serious offenses committed on the same occasion as the homicide, or not committed on the same occasion but consolidated for trial with the homicide, shall be treated as a serious offense under this paragraph.

3. In the commission of the offense the defendant knowingly created a grave risk of death to another person or persons in addition to the person murdered during the commission of the offense.

4. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

5. The defendant committed the offense as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value.

6. The defendant committed the offense in an especially heinous, cruel or depraved manner.

7. The defendant committed the offense while:

(a) In the custody of or on authorized or unauthorized release from the state department of corrections, a law enforcement agency or a county or city jail.

(b) On probation for a felony offense.

8. The defendant has been convicted of one or more other homicides, as defined in section 13-1101, that were committed during the commission of the offense.

9. The defendant was an adult at the time the offense was committed or was tried as an adult and the murdered person was under fifteen years of age, was an unborn child in the womb at any stage of its development or was seventy years of age or older.

10. The murdered person was an on duty peace officer who was killed in the course of performing the officer's official duties and the defendant knew, or should have known, that the murdered person was a peace officer.

11. The defendant committed the offense with the intent to promote, further or assist the objectives of a criminal street gang or criminal syndicate or to join a criminal street gang or criminal syndicate.

12. The defendant committed the offense to prevent a person's cooperation with an official law enforcement investigation, to prevent a person's testimony in a court proceeding, in retaliation for a person's cooperation with an official law enforcement investigation or in retaliation for a person's testimony in a court proceeding.

13. The offense was committed in a cold, calculated manner without pretense of moral or legal justification.

14. The defendant used a remote stun gun or an authorized remote stun gun in the commission of the offense. For the purposes of this paragraph:

(a) "Authorized remote stun gun" means a remote stun gun that has all of the following:

(i) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.

(ii) A serial or identification number on all projectiles that are discharged from the remote stun gun.

(iii) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.

(iv) A training program that is offered by the manufacturer.

(b) "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.

G. The trier of fact shall consider as mitigating circumstances any factors proffered by the defendant or the state that are relevant in determining whether to impose a sentence less than death, including any aspect of the defendant's character, propensities or record and any of the circumstances of the offense, including but not limited to the following:

1. The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.

2. The defendant was under unusual and substantial duress, although not such as to constitute a defense to prosecution.

3. The defendant was legally accountable for the conduct of another under section 13-303, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution.

4. The defendant could not reasonably have foreseen that his conduct in the course of the commission of the offense for which the defendant was convicted would cause, or would create a grave risk of causing, death to another person.

5. The defendant's age.

H. For purposes of determining whether a conviction of any dangerous crime against children is a serious offense pursuant to this section, an unborn child shall be treated like a minor who is under twelve years of age.

I. For the purposes of this section, "serious offense" means any of the following offenses if committed in this state or any offense committed outside this state that if committed in this state would constitute one of the following offenses:

1. First degree murder.

2. Second degree murder.

3. Manslaughter.

4. Aggravated assault resulting in serious physical injury or committed by the use, threatened use or exhibition of a deadly weapon or dangerous instrument.

5. Sexual assault.

6. Any dangerous crime against children.

7. Arson of an occupied structure.

8. Robbery.

9. Burglary in the first degree.

10. Kidnapping.

11. Sexual conduct with a minor under fifteen years of age.

12. Burglary in the second degree.

13. Terrorism.

ARIZ. REV. STAT. § 13-801 (2010). Fines for felonies.

A. A sentence to pay a fine for a felony shall be a sentence to pay an amount fixed by the court not more than one hundred fifty thousand dollars.

B. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

C. This section does not apply to an enterprise.

ARIZ. REV. STAT. § 13-802 (2010). Fines for misdemeanors.

A. A sentence to pay a fine for a class 1 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than two thousand five hundred dollars.

B. A sentence to pay a fine for a class 2 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than seven hundred fifty dollars.

C. A sentence to pay a fine for a class 3 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than five hundred dollars.

D. A sentence to pay a fine for a petty offense shall be a sentence to pay an amount, fixed by the court, of not more than three hundred dollars.

E. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

F. This section does not apply to an enterprise.

ARIZ. REV. STAT. § 13-3821 (2010). Persons required to register; procedure; identification card; assessment; definitions.

A. A person who has been convicted of a violation or attempted violation of any of the following offenses or who has been convicted of an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in this section or who is required to register by the convicting jurisdiction, within ten days after the conviction or within ten days after entering and remaining in any county of this state, shall register with the sheriff of that county:

1. Unlawful imprisonment pursuant to section 13-1303 if the victim is under eighteen years of age and the unlawful imprisonment was not committed by the child's parent.

2. Kidnapping pursuant to section 13-1304 if the victim is under eighteen years of age and the kidnapping was not committed by the child's parent.

3. Sexual abuse pursuant to section 13-1404 if the victim is under eighteen years of age.

4. Sexual conduct with a minor pursuant to section 13-1405.

5. Sexual assault pursuant to section 13-1406.

6. Sexual assault of a spouse if the offense was committed before August 12, 2005.

7. Molestation of a child pursuant to section 13-1410.

8. Continuous sexual abuse of a child pursuant to section 13-1417.

9. Taking a child for the purpose of prostitution pursuant to section 13-3206.

10. Child prostitution pursuant to section 13-3212.

11. Commercial sexual exploitation of a minor pursuant to section 13-3552.

12. Sexual exploitation of a minor pursuant to section 13-3553.

13. Luring a minor for sexual exploitation pursuant to section 13-3554.

14. Sex trafficking of a minor pursuant to section 13-1307.

15. A second or subsequent violation of indecent exposure to a person under fifteen years of age pursuant to section 13-1402.

16. A second or subsequent violation of public sexual indecency to a minor under the age of fifteen years pursuant to section 13-1403, subsection B.

17. A third or subsequent violation of indecent exposure pursuant to section 13-1402.

18. A third or subsequent violation of public sexual indecency pursuant to section 13-1403.

19. A violation of section 13-3822 or 13-3824.

20. Unlawful age misrepresentation.

21. Aggravated luring a minor for sexual exploitation pursuant to section 13-3560.

B. Before the person is released from confinement the state department of corrections in conjunction with the department of public safety and each county sheriff shall complete the registration of any person who was convicted of a violation of any offense listed under subsection A of this section. Within three days after the person's release from confinement, the state department of corrections shall forward the registered person's records to the department of public safety and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.

C. Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of chapter 14 or 35.1 of this title or for an offense for which there was a finding of sexual motivation pursuant to section 13-118 may require the person who committed the offense to register pursuant to this section.

D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches twenty-five years of age.

E. A person who has been convicted of or adjudicated delinquent and who is required to register in the convicting state for an act that would constitute an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:

1. Employed full-time or part-time in this state, with or without compensation, for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year.

2. Enrolled as a full-time or part-time student in any school in this state for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year. For the purposes of this paragraph, "school" means an educational institution of any description, public or private, wherever located in this state.

F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches twenty-five years of age.

G. The court may order the termination of any duty to register under this section on successful completion of probation if the person was under eighteen years of age when the offense for which the person was convicted was committed.

H. The court may order the suspension or termination of any duty to register under this section after a hearing held pursuant to section 13-923.

I. At the time of registering, the person shall sign or affix an electronic fingerprint to a statement giving such information as required by the director of the department of public safety, including all names by which the person is known, any required online identifier and the name of any website or internet communication service where the identifier is being used. The sheriff shall fingerprint and photograph the person and within three days thereafter shall send copies of the statement, fingerprints and photographs to the department of public safety and the chief of police, if any, of the place where the person resides. The information that is required by this subsection shall include the physical location of the person's residence and the person's address. If the person has a place of residence that is different from the person's address, the person shall provide the person's address, the physical location of the person's residence and the name of the owner of the residence if the residence is privately owned and not offered for rent or lease. If the person receives mail at a post office box, the person shall provide the location and number of the post office box. If the person does not have an address or a permanent place of residence, the person shall provide a description and physical location of any temporary residence and shall register as a transient not less than every ninety days with the sheriff in whose jurisdiction the transient is physically present.

J. On the person's initial registration and every year after the person's initial registration, the person shall confirm any required online identifier and the name of any website or internet communication service where the identifier is being used and the person shall obtain a new nonoperating identification license or a driver license from the motor vehicle division in the department of transportation and shall carry a valid nonoperating identification license or a driver license. Notwithstanding sections 28-3165 and 28-3171, the license is valid for one year from the date of issuance, and the person shall submit to the department of transportation proof of the person's address and place of residence. The motor vehicle division shall annually update the person's address and photograph and shall make a copy of the photograph available to the department of public safety or to any law enforcement agency. The motor vehicle division shall provide to the department of public safety daily address updates for persons required to register pursuant to this section.

K. Except as provided in subsection E or L of this section, the clerk of the superior court in the county in which a person has been convicted of a violation of any offense listed under subsection A of this section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction within ten days after entry of the judgment.

L. Within ten days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of a violation of section 13-1402. Within ten days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the offender is required to register, the law enforcement agency shall provide the information required by section 13-3825 to the department of public safety and shall make community notification as required by law.

M. A person who is required to register pursuant to this section because of a conviction for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions, for a period of ten years from the date that the person is released from prison, jail, probation, community supervision or parole and the person has fulfilled

all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction for an offense for which registration is required pursuant to this section is required to register for life.

N. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or who is employed, with or without compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person who is required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

O. At the time of registering, the sheriff shall secure a sufficient sample of blood or other bodily substances for deoxyribonucleic acid testing and extraction from a person who has been convicted of an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the offenses listed in subsection A of this section or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in subsection A of this section or who is required to register by the convicting jurisdiction. The sheriff shall transmit the sample to the department of public safety.

P. Any person who is required to register under subsection A of this section shall register the person's required online identifier and the name of any website or internet communication service where the identifier is being used or is intended to be used with the sheriff from and after December 31, 2007, regardless of whether the person was required to register an identifier at the time of the person's initial registration under this section.

Q. On conviction of any offense for which a person is required to register pursuant to this section, in addition to any other penalty prescribed by law, the court shall order the person to pay an additional assessment of two hundred fifty dollars. This assessment is not subject to any surcharge. The court shall transmit the monies received pursuant to this section to the county treasurer. The county treasurer shall transmit the monies received to the state treasurer. The state treasurer shall deposit the monies received in the state general fund. Notwithstanding any other law, the court shall not waive the assessment imposed pursuant to this section.

R. For the purposes of this section:

1. "Address" means the location at which the person receives mail.

2. "Required online identifier" means any electronic e-mail address information or instant message, chat, social networking or other similar internet communication name, but does not include a social security number, date of birth or pin number.

3. "Residence" means the person's dwelling place, whether permanent or temporary.

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ARK. CODE ANN. § 5-4-104 (2010). Authorized sentences generally.

(a) No defendant convicted of an offense shall be sentenced otherwise than in accordance with this chapter.

(b) A defendant convicted of capital murder, § 5-10-101, or treason, § 5-51-201, shall be sentenced to death or life imprisonment without parole in accordance with §§ 5-4-601 -- 5-4-605, 5-4-607, and 5-4-608.

(c) (1) A defendant convicted of a Class Y felony or murder in the second degree, § 5-10-103, shall be sentenced to a term of imprisonment in accordance with §§ 5-4-401 -- 5-4-404.

(2) In addition to imposing a term of imprisonment, the trial court may sentence a defendant convicted of a Class Y felony or murder in the second degree, § 5-10-103, to any one (1) or more of the following:

(A) Pay a fine as authorized by §§ 5-4-201 -- 5-4-203;

(B) Make restitution as authorized by § 5-4-205; or

(C) Suspend imposition of an additional term of imprisonment, as authorized by subdivision (e)(3) of this section.

(d) A defendant convicted of an offense other than a Class Y felony, capital murder, § 5-10-101, treason, § 5-51-201, or murder in the second degree, § 5-10-103, may be sentenced to any one (1) or more of the following, except as precluded by subsection (e) of this section:

(1) Imprisonment as authorized by §§ 5-4-401 -- 5-4-404;

(2) Probation as authorized by §§ 5-4-301 -- 5-4-311;

(3) Payment of a fine as authorized by §§ 5-4-201 -- 5-4-203;

(4) Restitution as authorized by a provision of § 5-4-205; or

(5) Imprisonment and payment of a fine.

(e) (1) (A) The court shall not suspend imposition of sentence as to a term of imprisonment nor place the defendant on probation for the following offenses:

(i) Capital murder, § 5-10-101;

(ii) Treason, § 5-51-201;

(iii) A Class Y felony, except to the extent suspension of an additional term of imprisonment is permitted in subsection (c) of this section;

(iv) Driving while intoxicated, § 5-65-103;

(v) Murder in the second degree, § 5-10-103, except to the extent suspension of an additional term of imprisonment is permitted in subsection (c) of this section; or

(vi) Engaging in a continuing criminal enterprise, § 5-64-405.

(B) (i) In any other case, the court may suspend imposition of sentence or place the defendant on probation, in accordance with §§ 5-4-301 -- 5-4-311, except as otherwise specifically prohibited by statute.

(ii) The court may not suspend execution of sentence.

(2) If the offense is punishable by fine and imprisonment, the court may sentence the defendant to pay a fine and suspend imposition of the sentence as to imprisonment or place the defendant on probation.

(3) (A) The court may sentence the defendant to a term of imprisonment and suspend imposition of sentence as to an additional term of imprisonment.

(B) However, the court shall not sentence a defendant to imprisonment and place him or her on probation, except as authorized by § 5-4-304.

(f) (1) If the court determines that an offender under eighteen (18) years of age would be more amenable to a rehabilitation program of the Division of Youth Services of the Department of Health and Human Services and that he or she previously has not been committed to the division on more than one (1) occasion, the court may sentence the offender under eighteen (18) years of age to the Department of Correction for a term of years, suspend the sentence, and commit him or her to the custody of the division.

(2) In a case under subdivision (f)(1) of this section, if the offender under eighteen (18) years of age completes the program of the division satisfactorily, the division shall return him or her to the sentencing court and provide the sentencing court with a written report of his or her progress and a recommendation that the offender under eighteen (18) years of age be placed on probation.

(3) (A) In the event that the offender under eighteen (18) years of age violate a rule of the division's program or facility or is otherwise not amenable to the division's rehabilitative effort, the division may return him or her to the sentencing court with a written report of his or her conduct and a recommendation that the offender under eighteen (18) years of age be transferred to the Department of Correction.

(B) If the court finds that the offender under eighteen (18) years of age has violated a rule of the division's program or facility or is otherwise not amenable to the division's rehabilitative effort, the court shall then revoke the suspension of the sentence originally imposed and commit the offender under eighteen (18) years of age to the Department of Correction.

(g) This chapter does not deprive the court of any authority conferred by law to:

(1) Order a forfeiture of property;

(2) Suspend or cancel a license;

(3) Dissolve a corporation;

(4) Remove a person from office;

(5) Cite for contempt;

(6) Impose any civil penalty; or

(7) Assess costs as set forth in subsection (h) of this section.

(h) A defendant convicted of violating § 5-11-106, in which a minor was unlawfully detained, restrained, taken, enticed, or kept, may be assessed and ordered to pay expenses incurred by a law enforcement agency, the Department of Human Services, or the lawful custodian in searching for or returning the minor to the lawful custodian.

ARK. CODE ANN. § 5-4-201 (2010). Fines – Limitations on amount.

(a) A defendant convicted of a felony may be sentenced to pay a fine:

(1) Not exceeding fifteen thousand dollars ($15,000) if the conviction is of a Class A felony or Class B felony;

(2) Not exceeding ten thousand dollars ($10,000) if the conviction is of a Class C felony or Class D felony;

(3) In accordance with a limitation of the statute defining the felony if the conviction is of an unclassified felony.

(b) A defendant convicted of a misdemeanor may be sentenced to pay a fine:

(1) Not exceeding two thousand five hundred dollars ($2,500) if the conviction is of a Class A misdemeanor;

(2) Not exceeding one thousand dollars ($1,000) if the conviction is of a Class B misdemeanor;

(3) Not exceeding five hundred dollars ($500) if the conviction is of a Class C misdemeanor; or

(4) In accordance with a limitation of the statute defining the misdemeanor if the conviction is of an unclassified misdemeanor.

(c) A defendant convicted of a violation may be sentenced to pay a fine:

(1) Not exceeding one hundred dollars ($100) if the violation is defined by the Arkansas Criminal Code or defined by a statute enacted subsequent to January 1, 1976, that does not prescribe a different limitation on the amount of the fine; or

(2) In accordance with a limitation of the statute defining the violation if that statute prescribes limitations on the amount of the fine.

(d) (1) Notwithstanding a limit imposed by this section, if the defendant has derived pecuniary gain from commission of an offense, then upon conviction of the offense the defendant may be sentenced to pay a fine not exceeding two (2) times the amount of the pecuniary gain.

(2) As used in this subsection, "pecuniary gain" means the amount of money or the value of property derived from the commission of the offense, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to a lawful authority prior to the time sentence is imposed.

(e) An organization convicted of an offense may be sentenced to pay a fine authorized by subsection (d) of this section or not exceeding two (2) times the maximum fine otherwise authorized upon conviction of the offense by subsections (a), (b), or (c) of this section.

(f) (1) Notwithstanding a limit imposed by this section or the section defining the felony offense, if a defendant has derived pecuniary gain from the commission of a felony offense under § 5-68-201 et seq., § 5-68-301 et seq., the Arkansas Law on Obscenity, § 5-68-401 et seq., or § 5-68-501 et seq., then upon conviction of the felony offense, the defendant may be sentenced to pay a fine not exceeding two hundred fifty thousand dollars ($250,000).

(2) As used in this subsection, "derived pecuniary gain" means that a defendant received income, benefit, property, money, or anything of value from the commission of a felony offense under § 5-68-201 et seq., § 5-68-301 et seq., the Arkansas Law on Obscenity, § 5-68-401 et seq., or § 5-68-501 et seq.

ARK. CODE ANN. § 5-4-401 (2010). Sentence.

(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:

(1) For a Class Y felony, the sentence shall be not less than ten (10) years and not more than forty (40) years, or life;

(2) For a Class A felony, the sentence shall be not less than six (6) years nor more than thirty (30) years;

(3) For a Class B felony, the sentence shall be not less than five (5) years nor more than twenty (20) years;

(4) For a Class C felony, the sentence shall be not less than three (3) years nor more than ten (10) years;

(5) For a Class D felony, the sentence shall not exceed six (6) years; and

(6) For an unclassified felony, the sentence shall be in accordance with a limitation of the statute defining the felony.

(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:

(1) For a Class A misdemeanor, the sentence shall not exceed one (1) year;

(2) For a Class B misdemeanor, the sentence shall not exceed ninety (90) days;

(3) For a Class C misdemeanor, the sentence shall not exceed thirty (30) days; and

(4) For an unclassified misdemeanor, the sentence shall be in accordance with a limitation of the statute defining the misdemeanor.

ARK. CODE ANN. § 5-4-501 (2010). Habitual offenders – Sentencing for felony.

(a) (1) A defendant meeting the following criteria may be sentenced to pay any fine authorized by law for the felony conviction and to an extended term of imprisonment as set forth in subdivision (a)(2) of this section:

(A) A defendant who:

(i) Is convicted of a felony other than those enumerated in subsections (c) and (d) of this section committed after June 30, 1993; and

(ii) Has previously been convicted of more than one (1) felony but fewer than four (4) felonies or who has been found guilty of more than one (1) but fewer than four (4) felonies;

(B) A defendant who:

(i) Is convicted of any felony enumerated in subsection (c) of this section committed after August 31, 1997; and

(ii) Has previously been convicted of more than one (1) felony but fewer than four (4) felonies not enumerated in subsection (c) of this section or who has been found guilty of more than one (1) but fewer than four (4) felonies not enumerated in subsection (c) of this section; or

(C) A defendant who:

(i) Is convicted of any felony enumerated in subsection (d) of this section committed after August 31, 1997; and

(ii) Has previously been convicted of more than one (1) felony but fewer than four (4) felonies not enumerated in subsection (d) of this section or has been found guilty of more than one (1) but fewer than four (4) felonies not enumerated in subsection (d) of this section.

(2) The extended term of imprisonment for a defendant described in subdivision (a)(1) of this section is as follows:

(A) For a conviction of a Class Y felony, a term of imprisonment of not less than ten (10) years nor more than sixty (60) years, or life;

(B) For a conviction of a Class A felony, a term of imprisonment of not less than six (6) years nor more than fifty (50) years;

(C) For a conviction of a Class B felony, a term of imprisonment of not less than five (5) years nor more than thirty (30) years;

(D) For a conviction of a Class C felony, a term of imprisonment of not less than three (3) years nor more than twenty (20) years;

(E) For a conviction of a Class D felony, a term of imprisonment of not more than twelve (12) years;

(F) For a conviction of an unclassified felony punishable by less than life imprisonment, a term of imprisonment not more than five (5) years more than the maximum sentence for the unclassified felony; and

(G) For a conviction of an unclassified felony punishable by life imprisonment, a term of imprisonment not less than ten (10) years nor more than fifty (50) years, or life.

(b) (1) A defendant meeting the following criteria may be sentenced to pay any fine authorized by law for the felony conviction and to an extended term of imprisonment as set forth in subdivision (b)(2) of this section:

(A) A defendant who:

(i) Is convicted of a felony other than a felony enumerated in subsections (c) and (d) of this section committed after June 30, 1993; and

(ii) Has previously been convicted of four (4) or more felonies or who has been found guilty of four (4) or more felonies;

(B) A defendant who:

(i) Is convicted of any felony enumerated in subsection (c) of this section committed after June 30, 1997; and

(ii) Has previously been convicted of four (4) or more felonies not enumerated in subsection (c) of this section or who has been found guilty of four (4) or more felonies not enumerated in subsection (c) of this section; or

(C) A defendant who:

(i) Is convicted of any felony enumerated in subsection (d) of this section committed after June 30, 1997; and

(ii) Has previously been convicted of four (4) or more felonies not enumerated in subsection (d) of this section or who has been found guilty of four (4) or more felonies not enumerated in subsection (d) of this section.

(2) The extended term of imprisonment for a defendant described in subdivision (b)(1) of this section is as follows:

(A) For a conviction of a Class Y felony, a term of imprisonment of not less than ten (10) years nor more than life;

(B) For a conviction of a Class A felony, a term of imprisonment of not less than six (6) years nor more than sixty (60) years;

(C) For a conviction of a Class B felony, a term of imprisonment of not less than five (5) years nor more than forty (40) years;

(D) For a conviction of a Class C felony, a term of imprisonment of not less than three (3) years nor more than thirty (30) years;

(E) For a conviction of a Class D felony, a term of imprisonment of not more than fifteen (15) years;

(F) For a conviction of an unclassified felony punishable by less than life imprisonment, a term of imprisonment not more than two (2) times the maximum sentence for the unclassified felony offense; and

(G) For a conviction of an unclassified felony punishable by life imprisonment, a term of imprisonment not less than ten (10) years nor more than fifty (50) years, or life.

(c) (1) Except as provided in subdivision (c)(3) of this section, a defendant who is convicted of a serious felony involving violence enumerated in subdivision (c)(2) of this section and who has previously been convicted of one (1) or more of the serious felonies involving violence enumerated in subdivision (c)(2) of this section may be sentenced to pay any fine authorized by law for the serious felony involving violence conviction and shall be sentenced:

(A) To imprisonment for a term of not less than forty (40) years nor more than eighty (80) years, or life; and

(B) Without eligibility for parole or community correction transfer except under § 16-93-1302.

(2) As used in this subsection, "serious felony involving violence" means:

(A) Any of the following felonies:

(i) Murder in the first degree, § 5-10-102;

(ii) Murder in the second degree, § 5-10-103;

(iii) Kidnapping, § 5-11-102, involving an activity making it a Class Y felony;

(iv) Aggravated robbery, § 5-12-103;

(v) Terroristic act, § 5-13-310, involving an activity making it a Class Y felony;

(vi) Rape, § 5-14-103;

(vii) Sexual assault in the first degree, § 5-14-124;

(viii) Causing a catastrophe, § 5-38-202(a); or

(ix) Aggravated residential burglary, § 5-39-204; or

(B) A conviction of a comparable serious felony involving violence from another jurisdiction.

(3) A defendant who is convicted of rape, § 5-14-103, or sexual assault in the first degree, § 5-14-124, involving a victim less than fourteen (14) years of age and who has previously been convicted of one (1) or more of the serious felonies involving violence enumerated in subdivision (c)(2) of this section may be sentenced to pay any fine authorized by law for the rape or sexual assault in the first degree conviction and shall be sentenced to life in prison without the possibility of parole.

(4) (A) The following procedure governs a trial at which a sentence to an extended term of imprisonment is sought pursuant to this subsection:

(i) The jury shall first hear all evidence relevant to the serious felony involving violence with which the defendant is currently charged and shall retire to reach a verdict of guilt or innocence on this charge;

(ii) (a) If the defendant is found guilty of the serious felony involving violence, out of the hearing of the jury the trial court shall hear evidence of whether the defendant has pleaded guilty or nolo contendere to or been found guilty of a prior serious felony involving violence and shall determine the number of prior serious felony involving violence convictions, if any.

(b) The defendant has the right to hear and controvert evidence described in subdivision (c)(4)(A)(ii)(a) of this section and to offer evidence in his or her support;

(iii) (a) The trial court shall then instruct the jury as to the number of prior convictions for a serious felony involving violence and the statutory sentencing range.

(b) The jury may be advised as to the nature of a prior serious felony involving violence conviction and the date and place of a prior serious felony involving violence conviction; and

(iv) The jury shall retire again and then determine a sentence within the statutory range.

(B) The determination of whether a felony conviction from another jurisdiction is comparable to an enumerated serious felony involving violence under Arkansas criminal law lies within the discretion of the trial judge at the time of sentencing.

(d) (1) A defendant who is convicted of a felony involving violence enumerated in subdivision (d)(2) of this section and who has previously been convicted of two (2) or more of the felonies involving violence enumerated in subdivision (d)(2) of this section may be sentenced to pay any fine authorized by law for the felony involving violence conviction and shall be sentenced to an extended term of imprisonment without eligibility for parole or community correction transfer except under § 16-93-1302 as follows:

(A) For a conviction of a Class Y felony, a term of imprisonment of not less than life in prison;

(B) For a conviction of a Class A felony, a term of imprisonment of not less than forty (40) years nor more than life in prison;

(C) For a conviction of a Class B felony or for a conviction of an unclassified felony punishable by life imprisonment, a term of imprisonment of not less than thirty (30) years nor more than sixty (60) years;

(D) For a conviction of a Class C felony, a term of imprisonment of not less than twenty-five (25) years nor more than forty (40) years;

(E) For a conviction of a Class D felony, a term of imprisonment of not less than twenty (20) years nor more than forty (40) years; and

(F) For a conviction of an unclassified felony punishable by less than life imprisonment, a term of imprisonment not more than three (3) times the maximum sentence for the unclassified felony offense.

(2) As used in this subsection, "felony involving violence" means:

(A) Any of the following felonies:

(i) Murder in the first degree, § 5-10-102;

(ii) Murder in the second degree, § 5-10-103;

(iii) Kidnapping, § 5-11-102;

(iv) Aggravated robbery, § 5-12-103;

(v) Rape, § 5-14-103;

(vi) Battery in the first degree, § 5-13-201;

(vii) Terroristic act, § 5-13-310;

(viii) Sexual assault in the first degree, § 5-14-124;

(ix) Sexual assault in the second degree, § 5-14-125;

(x) Domestic battering in the first degree, § 5-26-303;

(xi) Aggravated residential burglary, § 5-39-204;

(xii) Unlawful discharge of a firearm from a vehicle, § 5-74-107;

(xiii) Criminal use of prohibited weapons, § 5-73-104, involving an activity making it a Class B felony; or

(xiv) A felony attempt, solicitation, or conspiracy to commit:

(a) Capital murder, § 5-10-101;

(b) Murder in the first degree, § 5-10-102;

(c) Murder in the second degree, § 5-10-103;

(d) Kidnapping, § 5-11-102;

(e) Aggravated robbery, § 5-12-103;

(f) Rape, § 5-14-103;

(g) Battery in the first degree, § 5-13-201;

(h) Domestic battering in the first degree, § 5-26-303; or

(i) Aggravated residential burglary, § 5-39-204; or

(B) A conviction of a comparable felony involving violence from another jurisdiction.

(3) (A) The following procedure governs a trials at which a sentence to an extended term of imprisonment is sought pursuant to this subsection:

(i) The jury shall first hear all evidence relevant to the felony involving violence with which the defendant is currently charged and shall retire to reach a verdict of guilt or innocence on this charge;

(ii) (a) If the defendant is found guilty of the felony involving violence, out of the hearing of the jury the trial court shall hear evidence of whether the defendant has pleaded guilty or nolo contendere to or been found guilty of two (2) or more prior felonies involving violence and shall determine the number of prior felony involving violence convictions, if any.

(b) The defendant has the right to hear and controvert evidence described in subdivision (d)(3)(A)(ii)(a) of this section and to offer evidence in his or her support;

(iii) (a) The trial court shall then instruct the jury as to the number of prior felony involving violence convictions and the statutory sentencing range.

(b) The jury may be advised as to the nature of a prior felony involving violence conviction and the date and place of a prior felony involving violence conviction; and

(iv) The jury shall retire again and then determine a sentence within the statutory range.

(B) The determination of whether a felony conviction from another jurisdiction is comparable to an enumerated felony involving violence under Arkansas criminal law lies within the discretion of the trial judge at the time of sentencing.

(e) (1) For the purpose of determining whether a defendant has previously been convicted or found guilty of two (2) or more felonies, a conviction or finding of guilt of burglary, § 5-39-201, and of the felony that was the object of the burglary are considered a single felony conviction or finding of guilt.

(2) A conviction or finding of guilt of an offense that was a felony under the law in effect prior to January 1, 1976, is considered a previous felony conviction or finding of guilt.

(f) For the purposes of determining whether a defendant has previously been convicted of a serious felony involving violence or a felony involving violence under subsections (c) and (d) of this section, the entry of a plea of guilty or nolo contendere or a finding of guilt by a court to a felony enumerated in subsections (c) and (d) of this section, respectively, as a result of which a court places the defendant on a suspended imposition of sentence, a suspended sentence, or probation, or sentences the defendant to the Department of Correction, is considered a previous felony conviction.

(g) Any defendant deemed eligible to be sentenced under a provision of both subsections (c) and (d) of this section shall be sentenced only under subsection (d) of this section.

(h) If the provisions of subsection (c) or (d) of this section, or both, are held invalid by a court, the defendant's case shall be remanded to the trial court for resentencing of the defendant under the provisions of subsections (a) and (b) of this section.

ARK. CODE ANN. § 5-4-503 (2010). Habitual offenders – Previous conviction in another jurisdiction.

For purposes of § 5-4-501, a conviction or finding of guilt of an offense in another jurisdiction constitutes a previous conviction or finding of guilt of a felony if a sentence of death or of imprisonment for a term in excess of one (1) year was authorized under a law of the other jurisdiction.

ARK. CODE ANN. § 5-4-604 (2010). Aggravating circumstances.

An aggravating circumstance is limited to the following:

(1) The capital murder was committed by a person imprisoned as a result of a felony conviction;

(2) The capital murder was committed by a person unlawfully at liberty after being sentenced to imprisonment as a result of a felony conviction;

(3) The person previously committed another felony, an element of which was the use or threat of violence to another person or the creation of a substantial risk of death or serious physical injury to another person;

(4) The person in the commission of the capital murder knowingly created a great risk of death to a person other than the victim or caused the death of more than one (1) person in the same criminal episode;

(5) The capital murder was committed for the purpose of avoiding or preventing an arrest or effecting an escape from custody;

(6) The capital murder was committed for pecuniary gain;

(7) The capital murder was committed for the purpose of disrupting or hindering the lawful exercise of any government or political function;

(8) (A) The capital murder was committed in an especially cruel or depraved manner.

(B) (i) For purposes of subdivision (8)(A) of this section, a capital murder is committed in an especially cruel manner when, as part of a course of conduct intended to inflict mental anguish, serious physical abuse, or torture upon the victim prior to the victim's death, mental anguish, serious physical abuse, or torture is inflicted.

(ii) (a) "Mental anguish" means the victim's uncertainty as to his or her ultimate fate.

(b) "Serious physical abuse" means physical abuse that creates a substantial risk of death or that causes protracted impairment of health, or loss or protracted impairment of the function of any bodily member or organ.

(c) "Torture" means the infliction of extreme physical pain for a prolonged period of time prior to the victim's death.

(C) For purposes of subdivision (8)(A) of this section, a capital murder is committed in an especially depraved manner when the person relishes the murder, evidencing debasement or perversion, or shows an indifference to the suffering of the victim and evidences a sense of pleasure in committing the murder;

(9) The capital murder was committed by means of a destructive device, bomb, explosive, or similar device that the person planted, hid, or concealed in any place, area, dwelling, building, or structure, or mailed or delivered, or caused to be planted, hidden, concealed, mailed, or delivered, and the person knew that his or her act would create a great risk of death to human life; or

(10) The capital murder was committed against a person whom the defendant knew or reasonably should have known was especially vulnerable to the attack because:

(A) Of either a temporary or permanent severe physical or mental disability which would interfere with the victim's ability to flee or to defend himself or herself; or

(B) The person was twelve (12) years of age or younger.

ARK. CODE ANN. § 5-4-615 (2010). Conviction -- Punishments.

A person convicted of a capital offense shall be punished by death by lethal injection or by life imprisonment without parole pursuant to this subchapter.

ARK. CODE ANN. § 5-4-702 (2010). Enhanced penalties for offenses committed in presence of a child.

(a) Any person who commits a felony offense involving homicide, § 5-10-101 -- § 5-10-103, assault or battery, § 5-13-201 et seq., or domestic battering or assault on a family member or household member, § 5-26-303 -- 5-26-309, may be subject to an enhanced sentence of an additional term of imprisonment of not less than one (1) year and not greater than ten (10) years if the offense is committed in the presence of a child.

(b) Any person who commits the offense of aggravated cruelty to a dog, cat, or horse under § 5-62-104 may be subject to an enhanced sentence of an additional term of imprisonment not to exceed five (5) years if the offense is committed in the presence of a child.

(c) (1) To seek an enhanced penalty established in this section, a prosecuting attorney shall notify the defendant in writing that the defendant is subject to the enhanced penalty.

(2) If the defendant is charged by information or indictment, the prosecuting attorney may include the written notice in the information or indictment.

(d) The enhanced portion of the sentence is consecutive to any other sentence imposed.

(e) Any person convicted under this section is not eligible for early release on parole or community correction transfer for the enhanced portion of the sentence.

ARK. CODE ANN. § 12-12-903 (2010). Definitions.

As used in this subchapter:

(1) "Adjudication of guilt" or other words of similar import mean a:

(A) Plea of guilty;

(B) Plea of nolo contendere;

(C) Negotiated plea;

(D) Finding of guilt by a judge; or

(E) Finding of guilt by a jury;

(2) (A) "Administration of criminal justice" means performing functions of investigation, apprehension, detention, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(B) "Administration of criminal justice" also includes criminal identification activities and the collection, maintenance, and dissemination of criminal justice information;

(3) "Aggravated sex offense" means an offense in the Arkansas Code substantially equivalent to "aggravated sexual abuse" as defined in 18 U.S.C. § 2241 as it existed on March 1, 2003, which principally encompasses:

(A) Causing another person to engage in a sexual act:

(i) By using force against that other person; or

(ii) By threatening or placing or attempting to threaten or place that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

(B) Knowingly:

(i) Rendering another person unconscious and then engaging in a sexual act with that other person; or

(ii) Administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or similar substance and thereby:

(a) Substantially impairing the ability of that other person to appraise or control conduct; and

(b) Engaging or attempting to engage in a sexual act with that other person; or

(C) Crossing a state line with intent to:

(i) Engage or attempt to engage in a sexual act with a person who has not attained twelve (12) years of age;

(ii) Knowingly engage or attempt to engage in a sexual act with another person who has not attained twelve (12) years of age; or

(iii) Knowingly engage or attempt to engage in a sexual act under the circumstances described in subdivisions (3)(A) and (B) of this section with another person who has attained twelve (12) years of age but has not attained sixteen (16) years of age and is at least four (4) years younger than the alleged offender;

(4) "Change of address" or other words of similar import mean a change of residence or a change for more than thirty (30) days of temporary domicile, change of location of employment, education or training, or any other change that alters where a sex offender regularly spends a substantial amount of time;

(5) "Criminal justice agency" means a government agency or any subunit thereof which is authorized by law to perform the administration of criminal justice and which allocates more than one-half (1/2) of its annual budget to the administration of criminal justice;

(6) "Local law enforcement agency having jurisdiction" means the:

(A) Chief law enforcement officer of the municipality in which a sex offender:

(i) Resides or expects to reside;

(ii) Is employed; or

(iii) Is attending an institution of training or education; or

(B) County sheriff, if:

(i) The municipality does not have a chief law enforcement officer; or

(ii) A sex offender resides or expects to reside, is employed, or is attending an institution of training or education in an unincorporated area of a county;

(7) "Mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminally sexual acts to a degree that makes the person a menace to the health and safety of other persons;

(8) "Personality disorder" means an enduring pattern of inner experience and behavior that:

(A) Deviates markedly from the expectation of the person's culture;

(B) Is pervasive and inflexible across a broad range of personal and social situations;

(C) Leads to clinically significant distress or impairment in social, occupational, or other important areas of functioning;

(D) Is stable over time;

(E) Has its onset in adolescence or early adulthood;

(F) Is not better accounted for as a manifestation or consequence of another mental disorder; and

(G) Is not due to the direct physiological effects of a substance or a general medical condition;

(9) "Predatory" describes an act directed at a stranger or a person with whom a relationship has been established or promoted for the primary purpose of victimization of that person or individuals over whom that person has control;

(10) (A) "Residency" means the place where a person lives notwithstanding that there may be an intent to move or return at some future date to another place.

(B) "Residency" also includes place of employment, training, or education;

(11) "Sentencing court" means the judge of the court that sentenced the sex offender for the sex offense;

(12) (A) "Sex offense" includes, but is not limited to:

(i) The following offenses:

(a) Rape, § 5-14-103;

(b) Sexual indecency with a child, § 5-14-110;

(c) Sexual assault in the first degree, § 5-14-124;

(d) Sexual assault in the second degree, § 5-14-125;

(e) Sexual assault in the third degree, § 5-14-126;

(f) Sexual assault in the fourth degree, § 5-14-127;

(g) Incest, § 5-26-202;

(h) Engaging children in sexually explicit conduct for use in visual or print medium, § 5-27-303;

(i) Transportation of minors for prohibited sexual conduct, § 5-27-305;

(j) Employing or consenting to the use of a child in a sexual performance, § 5-27-402;

(k) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, § 5-27-304;

(l) Producing, directing, or promoting a sexual performance by a child, § 5-27-403;

(m) Promoting prostitution in the first degree, § 5-70-104;

(n) Stalking when ordered by the sentencing court to register as a sex offender, § 5-71-229;

(o) Indecent exposure, § 5-14-112, if a felony level offense;

(p) Exposing another person to human immunodeficiency virus, § 5-14-123, when ordered by the sentencing court to register as a sex offender;

(q) Kidnapping pursuant to § 5-11-102(a) when the victim is a minor and the offender is not the parent of the victim;

(r) False imprisonment in the first degree and false imprisonment in the second degree, §§ 5-11-103 and 5-11-104, when the victim is a minor and the offender is not the parent of the victim;

(s) Permitting abuse of a minor, § 5-27-221;

(t) Computer child pornography, § 5-27-603;

(u) Computer exploitation of a child, § 5-27-605;

(v) Permanent detention or restraint, § 5-11-106, when the offender is not the parent of the victim;

(w) Distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child, § 5-27-602;

(x) Internet stalking of a child, § 5-27-306;

(y) Crime of video voyeurism, § 5-16-101, if a felony level offense;

(z) Voyeurism, § 5-16-102, if a felony level offense; and

(aa) Any felony-homicide offense under § 5-10-101, § 5-10-102, or § 5-10-104 if the underlying felony is an offense listed in this subdivision (12)(A)(i);

(ii) An attempt, solicitation, or conspiracy to commit any of the offenses enumerated in subdivision (12)(A)(i) of this section;

(iii) An adjudication of guilt for an offense of the law of another state, for a federal offense, for a tribal court offense, or for a military offense:

(a) Which is similar to any of the offenses enumerated in subdivision (12)(A)(i) of this section; or

(b) When that adjudication of guilt requires registration under another state's sex offender registration laws; or

(iv) A violation of any former law of this state that is substantially equivalent to any of the offenses enumerated in this subdivision (12)(A).

(B) (i) The sentencing court has the authority to order the registration of any offender shown in court to have attempted to commit or to have committed a sex offense even though the offense is not enumerated in subdivision (12)(A)(i) of this section.

(ii) This authority applies to sex offenses enacted, renamed, or amended at a later date by the General Assembly unless the General Assembly expresses its intent not to consider the offense to be a true sex offense for the purposes of this subchapter;

(13) (A) "Sex offender" means a person who is adjudicated guilty of a sex offense or acquitted on the grounds of mental disease or defect of a sex offense.

(B) Unless otherwise specified, "sex offender" includes those individuals classified by the court as "sexually violent predators";

(14) "Sexually violent offense" means any state, federal, tribal, or military offense which includes a sexual act as defined in 18 U.S.C. §§ 2241 and 2242 as they existed on March 1, 2003, with another person if the offense is nonconsensual regardless of the age of the victim; and

(15) "Sexually violent predator" means a person who has been adjudicated guilty or acquitted on the grounds of mental disease or defect of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

ARK. CODE ANN. § 12-12-905 (2010). Applicability.

(a) The registration or registration verification requirements of this subchapter apply to a person who:

(1) Is adjudicated guilty on or after August 1, 1997, of a sex offense, aggravated sex offense, or sexually violent offense;

(2) Is serving a sentence of incarceration, probation, parole, or other form of community supervision as a result of an adjudication of guilt on or after August 1, 1997, for a sex offense, aggravated sex offense, or sexually violent offense;

(3) Is acquitted on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense;

(4) Is serving a commitment as a result of an acquittal on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense; or

(5) Was required to be registered under the Habitual Child Sex Offender Registration Act, former § 12-12-901 et seq.

(b) A person who has been adjudicated guilty of a sex offense and whose record of conviction will be expunged under the provisions of §§ 16-93-301 -- 16-93-303 is not relieved of the duty to register or verify registration.

(c) (1) If the underlying conviction of the registrant is reversed, vacated, or set aside or if the registrant is pardoned, the registrant is relieved from the duty to register or verify registration.

(2) Registration or registration verification shall cease upon the receipt and verification by the Arkansas Crime Information Center of documentation from the:

(A) Court verifying the fact that the conviction has been reversed, vacated, or set aside; or

(B) Governor's office that the Governor has pardoned the registrant.

ARK. CODE ANN. § 12-12-910 (2010). Fine.

(a) Unless finding that undue hardship would result, the sentencing court shall assess at the time of sentencing a mandatory fine of two hundred fifty dollars ($250) on any person who is required to register under this subchapter.

(b) The fine provided in subsection (a) of this section and collected in circuit court, district court, or city court shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Office of Administrative Services of the Department of Finance and Administration on a form provided by that office for deposit into the Sex and Child Offenders Registration Fund as established by § 12-12-911.

CALIFORNIA

CAL. PENAL CODE § 18 (2010). Punishment of felony not otherwise prescribed.

Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a felony, or to be punishable by imprisonment in a state prison, is punishable by imprisonment in any of the state prisons for 16 months, or two or three years; provided, however, every offense which is prescribed by any law of the state to be a felony punishable by imprisonment in any of the state prisons or by a fine, but without an alternate sentence to the county jail, may be punishable by imprisonment in the county jail not exceeding one year or by a fine, or by both.

CAL. PENAL CODE § 19 (2009). Punishment for misdemeanor

Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both.

CAL. PENAL CODE § 19.2 (2009). Maximum punishment for misdemeanor.

In no case shall any person sentenced to confinement in a county or city jail, or in a county or joint county penal farm, road camp, work camp, or other county adult detention facility, or committed to the sheriff for placement in any county adult detention facility, on conviction of a misdemeanor, or as a condition of probation upon conviction of either a felony or a misdemeanor, or upon commitment for civil contempt, or upon default in the payment of a fine upon conviction of either a felony or a misdemeanor, or for any reason except upon conviction of more than one offense when consecutive sentences have been imposed, be committed for a period in excess of one year; provided, however, that the time allowed on parole shall not be considered as a part of the period of confinement.

CAL. PENAL CODE § 186.22 (2010). (First of two; Repealed January 1, 2011) Street gang.

(a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, or two or three years.

(b)

(1) Except as provided in paragraphs (4) and (5), any person who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished as follows:

(A) Except as provided in subparagraphs (B) and (C), the person shall be punished by an additional term of two, three, or four years at the court's discretion.

(B) If the felony is a serious felony, as defined in subdivision (c) of Section 1192.7, the person shall be punished by an additional term of five years.

(C) If the felony is a violent felony, as defined in subdivision (c) of Section 667.5, the person shall be punished by an additional term of 10 years.

(2) If the underlying felony described in paragraph (1) is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school-related programs or when minors are using the facility, that fact shall be a circumstance in aggravation of the crime in imposing a term under paragraph (1).

(3) The court shall select the sentence enhancement which, in the court's discretion, best serves the interests of justice and shall state the reasons for its choice on the record at the time of the sentencing in accordance with the provisions of subdivision (d) of Section 1170.1.

(4) Any person who is convicted of a felony enumerated in this paragraph committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, be sentenced to an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of:

(A) The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 3046, if the felony is any of the offenses enumerated in subparagraph (B) or (C) of this paragraph.

(B) Imprisonment in the state prison for 15 years, if the felony is a home invasion robbery, in violation of subparagraph (A) of paragraph (1) of subdivision (a) of Section 213; carjacking, as defined in Section 215; a felony violation of Section 246; or a violation of Section 12022.55.

(C) Imprisonment in the state prison for seven years, if the felony is extortion, as defined in Section 519; or threats to victims and witnesses, as defined in Section 136.1.

(5) Except as provided in paragraph (4), any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life shall not be paroled until a minimum of 15 calendar years have been served.

(c) If the court grants probation or suspends the execution of sentence imposed upon the defendant for a violation of subdivision (a), or in cases involving a true finding of the enhancement enumerated in subdivision (b), the court shall require that the defendant serve a minimum of 180 days in a county jail as a condition thereof.

(d) Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of or in association with, any criminal street gang with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the

execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in a county jail.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the following offenses, provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Discharging or permitting the discharge of a firearm from a motor vehicle, as defined in subdivisions (a) and (b) of Section 12034.

(7) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(8) The intimidation of witnesses and victims, as defined in Section 136.1.

(9) Grand theft, as defined in subdivision (a) or (c) of Section 487.

(10) Grand theft of any firearm, vehicle, trailer, or vessel.

(11) Burglary, as defined in Section 459.

(12) Rape, as defined in Section 261.

(13) Looting, as defined in Section 463.

(14) Money laundering, as defined in Section 186.10.

(15) Kidnapping, as defined in Section 207.

(16) Mayhem, as defined in Section 203.

(17) Aggravated mayhem, as defined in Section 205.

(18) Torture, as defined in Section 206.

(19) Felony extortion, as defined in Sections 518 and 520.

(20) Felony vandalism, as defined in paragraph (1) of subdivision (b) of Section 594.

(21) Carjacking, as defined in Section 215.

(22) The sale, delivery, or transfer of a firearm, as defined in Section 12072.

(23) Possession of a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (1) of subdivision (a) of Section 12101.

(24) Threats to commit crimes resulting in death or great bodily injury, as defined in Section 422.

(25) Theft and unlawful taking or driving of a vehicle, as defined in Section 10851 of the Vehicle Code.

(26) Felony theft of an access card or account information, as defined in Section 484e.

(27) Counterfeiting, designing, using, attempting to use an access card, as defined in Section 484f.

(28) Felony fraudulent use of an access card or account information, as defined in Section 484g.

(29) Unlawful use of personal identifying information to obtain credit, goods, services, or medical information, as defined in Section 530.5.

(30) Wrongfully obtaining Department of Motor Vehicles documentation, as defined in Section 529.7.

(31) Prohibited possession of a firearm in violation of Section 12021.

(32) Carrying a concealed firearm in violation of Section 12025.

(33) Carrying a loaded firearm in violation of Section 12031.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e), having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(g) Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(h) Notwithstanding any other provision of law, for each person committed to the Division of Juvenile Facilities for a conviction pursuant to subdivision (a) or (b) of this section, the offense shall be deemed one for which the state shall pay the rate of 100 percent of the per capita

institutional cost of the Division of Juvenile Facilities, pursuant to Section 912.5 of the Welfare and Institutions Code.

(i) In order to secure a conviction or sustain a juvenile petition, pursuant to subdivision (a) it is not necessary for the prosecution to prove that the person devotes all, or a substantial part, of his or her time or efforts to the criminal street gang, nor is it necessary to prove that the person is a member of the criminal street gang. Active participation in the criminal street gang is all that is required.

(j) A pattern of gang activity may be shown by the commission of one or more of the offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), and the commission of one or more of the offenses enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive of subdivision (e). A pattern of gang activity cannot be established solely by proof of commission of offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), alone.

(k) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

CAL. PENAL CODE § 186.22 (2010). (Second of two; Operative January 1, 2011) Street gang.

(a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, or two or three years.

(b)

(1) Except as provided in paragraphs (4) and (5), any person who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished as follows:

(A) Except as provided in subparagraphs (B) and (C), the person shall be punished by an additional term of two, three, or four years at the court's discretion.

(B) If the felony is a serious felony, as defined in subdivision (c) of Section 1192.7, the person shall be punished by an additional term of five years.

(C) If the felony is a violent felony, as defined in subdivision (c) of Section 667.5, the person shall be punished by an additional term of 10 years.

(2) If the underlying felony described in paragraph (1) is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school-related programs or when minors are using the facility, that fact shall be a circumstance in aggravation of the crime in imposing a term under paragraph (1).

(3) The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentencing enhancements on the record at the time of the sentencing.

(4) Any person who is convicted of a felony enumerated in this paragraph committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, be sentenced to an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of:

(A) The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 3046, if the felony is any of the offenses enumerated in subparagraph (B) or (C) of this paragraph.

(B) Imprisonment in the state prison for 15 years, if the felony is a home invasion robbery, in violation of subparagraph (A) of paragraph (1) of subdivision (a) of Section 213; carjacking, as defined in Section 215; a felony violation of Section 246; or a violation of Section 12022.55.

(C) Imprisonment in the state prison for seven years, if the felony is extortion, as defined in Section 519; or threats to victims and witnesses, as defined in Section 136.1.

(5) Except as provided in paragraph (4), any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life shall not be paroled until a minimum of 15 calendar years have been served.

(c) If the court grants probation or suspends the execution of sentence imposed upon the defendant for a violation of subdivision (a), or in cases involving a true finding of the enhancement enumerated in subdivision (b), the court shall require that the defendant serve a minimum of 180 days in a county jail as a condition thereof.

(d) Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of or in association with, any criminal street gang with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in a county jail.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the following offenses, provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as

defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Discharging or permitting the discharge of a firearm from a motor vehicle, as defined in subdivisions (a) and (b) of Section 12034.

(7) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(8) The intimidation of witnesses and victims, as defined in Section 136.1.

(9) Grand theft, as defined in subdivision (a) or (c) of Section 487.

(10) Grand theft of any firearm, vehicle, trailer, or vessel.

(11) Burglary, as defined in Section 459.

(12) Rape, as defined in Section 261.

(13) Looting, as defined in Section 463.

(14) Money laundering, as defined in Section 186.10.

(15) Kidnapping, as defined in Section 207.

(16) Mayhem, as defined in Section 203.

(17) Aggravated mayhem, as defined in Section 205.

(18) Torture, as defined in Section 206.

(19) Felony extortion, as defined in Sections 518 and 520.

(20) Felony vandalism, as defined in paragraph (1) of subdivision (b) of Section 594.

(21) Carjacking, as defined in Section 215.

(22) The sale, delivery, or transfer of a firearm, as defined in Section 12072.

(23) Possession of a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (1) of subdivision (a) of Section 12101.

(24) Threats to commit crimes resulting in death or great bodily injury, as defined in Section 422.

(25) Theft and unlawful taking or driving of a vehicle, as defined in Section 10851 of the Vehicle Code.

(26) Felony theft of an access card or account information, as defined in Section 484e.

(27) Counterfeiting, designing, using, attempting to use an access card, as defined in Section 484f.

(28) Felony fraudulent use of an access card or account information, as defined in Section 484g.

(29) Unlawful use of personal identifying information to obtain credit, goods, services, or medical information, as defined in Section 530.5.

(30) Wrongfully obtaining Department of Motor Vehicles documentation, as defined in Section 529.7.

(31) Prohibited possession of a firearm in violation of Section 12021.

(32) Carrying a concealed firearm in violation of Section 12025.

(33) Carrying a loaded firearm in violation of Section 12031.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e), having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(g) Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(h) Notwithstanding any other provision of law, for each person committed to the Division of Juvenile Facilities for a conviction pursuant to subdivision (a) or (b) of this section, the offense shall be deemed one for which the state shall pay the rate of 100 percent of the per capita institutional cost of the Division of Juvenile Facilities, pursuant to Section 912.5 of the Welfare and Institutions Code.

(i) In order to secure a conviction or sustain a juvenile petition, pursuant to subdivision (a) it is not necessary for the prosecution to prove that the person devotes all, or a substantial part, of his or her time or efforts to the criminal street gang, nor is it necessary to prove that the person is a member of the criminal street gang. Active participation in the criminal street gang is all that is required.

(j) A pattern of gang activity may be shown by the commission of one or more of the offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), and the commission of one or

more of the offenses enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive of subdivision (e). A pattern of gang activity cannot be established solely by proof of commission of offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), alone.

(k) This section shall become operative on January 1, 2011.

CAL. PENAL CODE § 186.30 (2009). Duty to register with police chief or sheriff.

(a) Any person described in subdivision (b) shall register with the chief of police of the city in which he or she resides, or the sheriff of the county if he or she resides in an unincorporated area, within 10 days of release from custody or within 10 days of his or her arrival in any city, county, or city and county to reside there, whichever occurs first.

(b) Subdivision (a) shall apply to any person convicted in a criminal court or who has had a petition sustained in a juvenile court in this state for any of the following offenses:

(1) Subdivision (a) of Section 186.22.

(2) Any crime where the enhancement specified in subdivision (b) of Section 186.22 is found to be true.

(3) Any crime that the court finds is gang related at the time of sentencing or disposition.

CAL. PENAL CODE § 208 (2009). Punishment for kidnapping.

(a) Kidnapping is punishable by imprisonment in the state prison for three, five, or eight years.

(b) If the person kidnapped is under 14 years of age at the time of the commission of the crime, the kidnapping is punishable by imprisonment in the state prison for 5, 8, or 11 years. This subdivision is not applicable to the taking, detaining, or concealing, of a minor child by a biological parent, a natural father, as specified in Section 7611 of the Family Code, an adoptive parent, or a person who has been granted access to the minor child by a court order.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

CAL. PENAL CODE § 261.5 (2010). Unlawful sexual intercourse with a minor; Misdemeanor or felony violation; Civil penalties.

(a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a

"minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age.

(b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.

(c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(d) Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for two, three, or four years.

(e)

(1) Notwithstanding any other provision of this section, an adult who engages in an act of sexual intercourse with a minor in violation of this section may be liable for civil penalties in the following amounts:

(A) An adult who engages in an act of unlawful sexual intercourse with a minor less than two years younger than the adult is liable for a civil penalty not to exceed two thousand dollars ($2,000).

(B) An adult who engages in an act of unlawful sexual intercourse with a minor at least two years younger than the adult is liable for a civil penalty not to exceed five thousand dollars ($5,000).

(C) An adult who engages in an act of unlawful sexual intercourse with a minor at least three years younger than the adult is liable for a civil penalty not to exceed ten thousand dollars ($10,000).

(D) An adult over the age of 21 years who engages in an act of unlawful sexual intercourse with a minor under 16 years of age is liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000).

(2) The district attorney may bring actions to recover civil penalties pursuant to this subdivision. From the amounts collected for each case, an amount equal to the costs of pursuing the action shall be deposited with the treasurer of the county in which the judgment was entered, and the remainder shall be deposited in the Underage Pregnancy Prevention Fund, which is hereby created in the State Treasury. Amounts deposited in the Underage Pregnancy Prevention Fund may be used only for the purpose of preventing underage pregnancy upon appropriation by the Legislature.

(3) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into

consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

CAL. PENAL CODE § 266J (2009). Procurement of child.

Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available to another person, a child under the age of 16 for the purpose of any lewd or lascivious act as defined in Section 288, or who causes, induces, or persuades a child under the age of 16 to engage in such an act with another person, is guilty of a felony and shall be imprisoned in the state prison for a term of three, six, or eight years, and by a fine not to exceed fifteen thousand dollars ($15,000).

CAL. PENAL CODE § 266K (2009). Additional fines; Use for child sexual abuse prevention and counseling and to serve minor victims of human trafficking.

(a) Upon the conviction of any person for a violation of Section 266h or 266i, the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed five thousand dollars ($5,000). In setting the amount of the fine, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, whether the defendant derived any economic gain as the result of the crime, and the extent to which the victim suffered losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs under Section 13837.

(b) Upon the conviction of any person for a violation of Section 266j or 267, the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed twenty thousand dollars ($20,000).

(c) Fifty percent of the fines collected pursuant to subdivision (b) and deposited in the Victim-Witness Assistance Fund pursuant to subdivision (a) shall be granted to community-based organizations that serve minor victims of human trafficking.

(d) If the court orders a fine to be imposed pursuant to this section, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

CAL. PENAL CODE § 269 (2009). Aggravated sexual assault of child.

(a) Any person who commits any of the following acts upon a child who is under 14 years of age and seven or more years younger than the person is guilty of aggravated sexual assault of a child:

(1) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(2) Rape or sexual penetration, in concert, in violation of Section 264.1.

(3) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(4) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.

(5) Sexual penetration, in violation of subdivision (a) of Section 289.

(b) Any person who violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 15 years to life.

(c) The court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions as defined in subdivision (d) of Section 667.6.

CAL. PENAL CODE § 270 (2010). Failure to provide for child.

If a parent of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical attendance, or other remedial care for his or her child, he or she is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. If a court of competent jurisdiction has made a final adjudication in either a civil or a criminal action that a person is the parent of a minor child and the person has notice of such adjudication and he or she then willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance or other remedial care for his or her child, this conduct is punishable by imprisonment in the county jail not exceeding one year or in a state prison for a determinate term of one year and one day, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. This statute shall not be construed so as to relieve such parent from the criminal liability defined herein for such omission merely because the other parent of such child is legally entitled to the custody of such child nor because the other parent of such child or any other person or organization voluntarily or involuntarily furnishes such necessary food, clothing, shelter or medical attendance or other remedial care for such child or undertakes to do so.

Proof of abandonment or desertion of a child by such parent, or the omission by such parent to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his or her child is prima facie evidence that such abandonment or desertion or omission to furnish necessary food, clothing, shelter or medical attendance or other remedial care is willful and without lawful excuse.

The court, in determining the ability of the parent to support his or her child, shall consider all income, including social insurance benefits and gifts.

The provisions of this section are applicable whether the parents of such child are or were ever married or divorced, and regardless of any decree made in any divorce action relative to alimony or to the support of the child. A child conceived but not yet born is to be deemed an existing person insofar as this section is concerned.

The husband of a woman who bears a child as a result of artificial insemination shall be considered the father of that child for the purpose of this section, if he consented in writing to the artificial insemination.

If a parent provides a minor with treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof, such treatment shall constitute "other remedial care", as used in this section.

CAL. PENAL CODE § 271 (2009). Willful desertion of child.

Every parent of any child under the age of 14 years, and every person to whom any such child has been confided for nurture, or education, who deserts such child in any place whatever with intent to abandon it, is punishable by imprisonment in the state prison or in the county jail not exceeding one year or by fine not exceeding one thousand dollars ($1,000) or by both.

CAL. PENAL CODE § 271A (2009). Willful abandonment or nonsupport of child under fourteen years; Misrepresentation of child as orphan.

Every person who knowingly and willfully abandons, or who, having ability so to do, fails or refuses to maintain his or her minor child under the age of 14 years, or who falsely, knowing the same to be false, represents to any manager, officer or agent of any orphan asylum or charitable institution for the care of orphans, that any child for whose admission into such asylum or institution application has been made is an orphan, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both.

CAL. PENAL CODE § 272 (2009). Contributing to delinquency of minor; Luring minor under 14 away from home.

(a)

(1) Every person who commits any act or omits the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of 18 years to come within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code or which act or omission contributes thereto, or any person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person under the age of 18 years or any ward or dependent child of the juvenile court to fail or refuse to conform to a lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to cause that person to become or to remain a person within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment in a county jail, or may be released on probation for a period not exceeding five years.

(2) For purposes of this subdivision, a parent or legal guardian to any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection, and control over their minor child.

(b)

(1) An adult stranger who is 21 years of age or older, who knowingly contacts or communicates with a minor who is under 14 years of age, who knew or reasonably should have known that the minor is under 14 years of age, for the purpose of persuading and luring, or transporting, or attempting to persuade and lure, or transport, that minor away from the minor's home or from any location known by the minor's parent, legal guardian, or custodian, to be a place where the minor is located, for any purpose, without the express consent of the minor's parent or legal guardian, and with the intent to avoid the consent of the minor's parent or legal guardian, is guilty of an infraction or a misdemeanor, subject to subdivision (d) of Section 17.

(2) This subdivision shall not apply in an emergency situation.

(3) As used in this subdivision, the following terms are defined to mean:

(A) "Emergency situation" means a situation where the minor is threatened with imminent bodily harm, emotional harm, or psychological harm.

(B) "Contact" or "communication" includes, but is not limited to, the use of a telephone or the Internet, as defined in Section 17538 of the Business and Professions Code.

(C) "Stranger" means a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization, as defined in subdivision (e) of Section 6600 of the Welfare and Institutions Code.

(D) "Express consent" means oral or written permission that is positive, direct, and unequivocal, requiring no inference or implication to supply its meaning.

(4) This section shall not be interpreted to criminalize acts of persons contacting minors within the scope and course of their employment, or status as a volunteer of a recognized civic or charitable organization.

(5) This section is intended to protect minors and to help parents and legal guardians exercise reasonable care, supervision, protection, and control over minor children.

CAL. PENAL CODE § 273A (2010). Endangering child or causing or permitting child to suffer physical pain, mental suffering, or injury; Conditions of probation.

(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon

unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3)

(A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

CAL. PENAL CODE § 273AB (2010). Assault resulting in death of child under eight years of age.

Any person who, having the care or custody of a child who is under eight years of age, assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, shall be punished by imprisonment in the state prison for 25 years to life. Nothing in this section shall be construed as affecting the applicability of subdivision (a) of Section 187 or Section 189.

CAL. PENAL CODE § 273D (2009). Infliction of corporal punishment or injury on child resulting in traumatic condition; Conditions of probation.

(a) Any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years, or in a county jail for not more than one year, by a fine of up to six thousand dollars ($6,000), or by both that imprisonment and fine.

(b) Any person who is found guilty of violating subdivision (a) shall receive a four-year enhancement for a prior conviction of that offense provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 36 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3)

(A) Successful completion of no less than one year of a child abuser's treatment counseling program. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

CAL. PENAL CODE § 273I (2009). Publishing information with intent that another commit crime against a child; Penalty; Preliminary injunction.

(a) Any person who publishes information describing or depicting a child, the physical appearance of a child, the location of a child, or locations where children may be found with the intent that another person imminently use the information to commit a crime against a child and the information is likely to aid in the imminent commission of a crime against a child, is guilty of a misdemeanor, punishable by imprisonment in a county jail for not more than one year, a fine of not more than one thousand dollars ($1,000), or by both a fine and imprisonment.

(b) For purposes of this section, "publishes" means making the information available to another person through any medium, including, but not limited to, the Internet, the World Wide Web, or e-mail.

(c) For purposes of this section, "child" means a person who is 14 years of age or younger.

(d) For purposes of this section, "information" includes, but is not limited to, an image, film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, or any other computer-generated image.

(e) Any parent or legal guardian of a child about whom information is published in violation of subdivision (a) may seek a preliminary injunction enjoining any further publication of that information.

CAL. PENAL CODE § 278 (2009). Punishment.

Every person, not having a right to custody, who maliciously takes, entices away, keeps, withholds, or conceals any child with the intent to detain or conceal that child from a lawful custodian shall be punished by imprisonment in a county jail not exceeding one year, a fine not exceeding one thousand dollars ($1,000), or both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years, a fine not exceeding ten thousand dollars ($10,000), or both that fine and imprisonment.

CAL. PENAL CODE § 286 (2010). Sodomy.

(a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b)

(1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c)

(1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) Any person who commits an act of sodomy when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(3) Any person who commits an act of sodomy where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by

imprisonment in the state prison, or in a county jail for not more than one year. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court, however, shall take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

CAL. PENAL CODE § 288 (2010). Lewd or lascivious acts involving children.

(a) Any person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1, upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b)

(1) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(c)

(1) Any person who commits an act described in subdivision (a) with the intent described in that subdivision, and the victim is a child of 14 or 15 years, and that person is at least 10 years older than the child, is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year. In determining whether the person is at least 10 years older than the child, the difference in age shall be measured from the birth date of the person to the birth date of the child.

(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person, with the intent described in subdivision (a), is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year.

(d) In any arrest or prosecution under this section or Section 288.5, the peace officer, district attorney, and the court shall consider the needs of the child victim or dependent person and shall do whatever is necessary, within existing budgetary resources, and constitutionally permissible to prevent psychological harm to the child victim or to prevent psychological harm to the dependent person victim resulting from participation in the court process.

(e) Upon the conviction of any person for a violation of subdivision (a) or (b), the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed ten thousand dollars ($10,000). In setting the amount of the fine, the court shall consider any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances of its commission, whether the defendant derived any economic gain as a result of the crime, and the extent to which the victim suffered economic losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs pursuant to Section 13837.

If the court orders a fine imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

(f) For purposes of paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c), the following definitions apply:

(1) "Caretaker" means an owner, operator, administrator, employee, independent contractor, agent, or volunteer of any of the following public or private facilities when the facilities provide care for elder or dependent persons:

(A) Twenty-four hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(B) Clinics.

(C) Home health agencies.

(D) Adult day health care centers.

(E) Secondary schools that serve dependent persons and postsecondary educational institutions that serve dependent persons or elders.

(F) Sheltered workshops.

(G) Camps.

(H) Community care facilities, as defined by Section 1402 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(I) Respite care facilities.

(J) Foster homes.

(K) Regional centers for persons with developmental disabilities.

(L) A home health agency licensed in accordance with Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

(M) An agency that supplies in-home supportive services.

(N) Board and care facilities.

(O) Any other protective or public assistance agency that provides health services or social services to elder or dependent persons, including, but not limited to, in-home supportive services, as defined in Section 14005.14 of the Welfare and Institutions Code.

(P) Private residences.

(2) "Board and care facilities" means licensed or unlicensed facilities that provide assistance with one or more of the following activities:

(A) Bathing.

(B) Dressing.

(C) Grooming.

(D) Medication storage.

(E) Medical dispensation.

(F) Money management.

(3) "Dependent person" means any person who has a physical or mental impairment that substantially restricts his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have significantly diminished because of age. "Dependent person" includes any person who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(g) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) apply to the owners, operators, administrators, employees, independent contractors, agents, or volunteers working at these public or private facilities and only to the extent that the individuals personally commit, conspire, aid, abet, or facilitate any act prohibited by paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c).

(h) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) do not apply to a caretaker who is a spouse of, or who is in an equivalent domestic relationship with, the dependent person under care.

CAL. PENAL CODE § 288.3 (2009). Contact or communication with minor with knowledge and intent to commit specified offenses punishable by imprisonment; Additional punishment for repeat violation.

(a) Every person who contacts or communicates with a minor, or attempts to contact or communicate with a minor, who knows or reasonably should know that the person is a minor, with intent to commit an offense specified in Section 207, 209, 261, 264.1, 273a, 286, 288, 288a, 288.2, 289, 311.1, 311.2, 311.4 or 311.11 involving the minor shall be punished by imprisonment in the state prison for the term prescribed for an attempt to commit the intended offense.

(b) As used in this section, "contacts or communicates with" shall include direct and indirect contact or communication that may be achieved personally or by use of an agent or agency, any print medium, any postal service, a common carrier or communication common carrier, any electronic communications system, or any telecommunications, wire, computer, or radio communications device or system.

(c) A person convicted of a violation of subdivision (a) who has previously been convicted of a violation of subdivision (a) shall be punished by an additional and consecutive term of imprisonment in the state prison for five years.

CAL. PENAL CODE § 288.4 (2009). Arrangement of meeting with minor for purpose of engaging in certain lewd and lascivious behavior; Punishment.

(a)

(1) Every person who, motivated by an unnatural or abnormal sexual interest in children, arranges a meeting with a minor or a person he or she believes to be a minor for the purpose of

exposing his or her genitals or pubic or rectal area, having the child expose his or her genitals or pubic or rectal area, or engaging in lewd or lascivious behavior, shall be punished by a fine not exceeding five thousand dollars ($5,000), by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

(2) Every person who violates this subdivision after a prior conviction for an offense listed in subdivision (c) of Section 290 shall be punished by imprisonment in the state prison.

(b) Every person described in paragraph (1) of subdivision (a) who goes to the arranged meeting place at or about the arranged time, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Nothing in this section shall preclude or prohibit prosecution under any other provision of law.

CAL. PENAL CODE § 288.5 (2010). Continuous sexual abuse of child.

[Note: California's determinate sentencing law held unconstitutional in Cunningham v. California, 2007 U.S. Lexis 1324]

(a) Any person who either resides in the same home with the minor child or has recurring access to the child, who over a period of time, not less than three months in duration, engages in three or more acts of substantial sexual conduct with a child under the age of 14 years at the time of the commission of the offense, as defined in subdivision (b) of Section 1203.066, or three or more acts of lewd or lascivious conduct, as defined in Section 288, with a child under the age of 14 years at the time of the commission of the offense is guilty of the offense of continuous sexual abuse of a child and shall be punished by imprisonment in the state prison for a term of 6, 12, or 16 years.

(b) To convict under this section the trier of fact, if a jury, need unanimously agree only that the requisite number of acts occurred not on which acts constitute the requisite number.

(c) No other act of substantial sexual conduct, as defined in subdivision (b) of Section 1203.066, with a child under 14 years of age at the time of the commission of the offenses, or lewd and lascivious acts, as defined in Section 288, involving the same victim may be charged in the same proceeding with a charge under this section unless the other charged offense occurred outside the time period charged under this section or the other offense is charged in the alternative. A defendant may be charged with only one count under this section unless more than one victim is involved in which case a separate count may be charged for each victim.

CAL. PENAL CODE § 288.7 (2009). Sexual acts with child 10 years old or younger; Punishment as felony.

(a) Any person 18 years of age or older who engages in sexual intercourse or sodomy with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 25 years to life.

(b) Any person 18 years of age or older who engages in oral copulation or sexual penetration, as defined in Section 289, with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for a term of 15 years to life.

CAL. PENAL CODE § 288A (2010). Oral copulation.

(a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b)

(1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.

(c)

(1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) Any person who commits an act of oral copulation when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(3) Any person who commits an act of oral copulation where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (1) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (2) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (3) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

CAL. PENAL CODE § 289 (2010). Penetration by foreign object.

(a)

(1) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) "Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant's or another person's genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.

(2) "Foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

(3) "Unknown object" shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(l) As used in subdivision (a), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, "victim" includes any person who the defendant causes to penetrate the genital or anal opening of the defendant or another person or whose genital or anal opening is caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

CAL. PENAL CODE § 290 (2010). Sex Offender Registration Act; Persons required to register.

(a) Sections 290 to 290.023, inclusive, shall be known and may be cited as the Sex Offender Registration Act. All references to "the Act" in those sections are to the Sex Offender Registration Act.

(b) Every person described in subdivision (c), for the rest of his or her life while residing in California, or while attending school or working in California, as described in Sections 290.002 and 290.01, shall be required to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides, and shall be required to register thereafter in accordance with the Act.

(c) The following persons shall be required to register:

Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289, Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the above-mentioned offenses.

CAL. PENAL CODE § 290.001 (2009). Registration of sexually violent predator.

[Note: There are numerous specified registry laws pertaining to each sexually violent predator.] Every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall register in accordance with the Act.

CAL. PENAL CODE § 290.3 (2009). Fines on first and subsequent convictions of sex offenses; Use of funds.

(a) Every person who is convicted of any offense specified in subdivision (c) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for commission of the underlying offense, be punished by a fine of three hundred dollars ($300) upon the first conviction or a fine of five hundred dollars ($500) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

An amount equal to all fines collected pursuant to this subdivision during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense specified in subdivision (c) of Section 290, shall be transferred once a month by the county treasurer to the Controller for deposit in the General Fund. Moneys deposited in the General Fund pursuant to this subdivision shall be transferred by the Controller as provided in subdivision (b).

(b) Except as provided in subdivision (d), out of the moneys deposited pursuant to subdivision (a) as a result of second and subsequent convictions of Section 290, one-third shall first be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1) of this subdivision. Out of the remainder of all moneys deposited pursuant to subdivision (a), 50 percent shall be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1), 25 percent shall be transferred to the DNA Identification Fund, as established by Section 76104.6 of the Government Code, and 25 percent shall be allocated

equally to counties that maintain a local DNA testing laboratory, as provided in paragraph (2).

(1) Those moneys so designated shall be transferred to the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(2) Those moneys so designated shall be allocated equally and distributed quarterly to counties that maintain a local DNA testing laboratory. Before making any allocations under this paragraph, the Controller shall deduct the estimated costs that will be incurred to set up and administer the payment of these funds to the counties. Any funds allocated to a county pursuant to this paragraph shall be used by that county for the exclusive purpose of testing DNA samples for law enforcement purposes.

(c) Notwithstanding any other provision of this section, the Department of Corrections and Rehabilitation may collect a fine imposed pursuant to this section from a person convicted of a violation of any offense listed in subdivision (c) of Section 290, that results in incarceration in a facility under the jurisdiction of the Department of Corrections and Rehabilitation. All moneys collected by the Department of Corrections and Rehabilitation under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (a), for transfer by the Controller, as provided in subdivision (b).

(d) An amount equal to one-third of every first conviction fine collected and one-fifth of every second conviction fine collected pursuant to subdivision (a) shall be transferred to the Department of Corrections and Rehabilitation to help defray the cost of the global positioning system used to monitor sex offender parolees.

CAL. PENAL CODE § 311.3 (2010). Sexual exploitation of child.

(a) A person is guilty of sexual exploitation of a child if he or she knowingly develops, duplicates, prints, or exchanges any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip that depicts a person under the age of 18 years engaged in an act of sexual conduct.

(b) As used in this section, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals or the pubic or rectal area of any person for the purpose of sexual stimulation of the viewer.

(6) Defecation or urination for the purpose of sexual stimulation of the viewer.

(c) Subdivision (a) does not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(d) Every person who violates subdivision (a) shall be punished by a fine of not more than two thousand dollars ($2,000) or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. If the person has been previously convicted of a violation of subdivision (a) or any section of this chapter, he or she shall be punished by imprisonment in the state prison.

(e) The provisions of this section do not apply to an employee of a commercial film developer who is acting within the scope of his or her employment and in accordance with the instructions of his or her employer, provided that the employee has no financial interest in the commercial developer by which he or she is employed.

(f) Subdivision (a) does not apply to matter that is unsolicited and is received without knowledge or consent through a facility, system, or network over which the person or entity has no control.

CAL. PENAL CODE § 311.11 (2010). Possession or control of child pornography; Persons previously convicted guilty of felony.

(a) Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under the age of 18 years, knowing that the matter depicts a person under the age of 18 years personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, is guilty of a felony and shall be punished by imprisonment in the state prison, or a county jail for up to one year, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both the fine and imprisonment.

(b) Every person who commits a violation of subdivision (a), and who has been previously convicted of a violation of this section, an offense requiring registration under the Sex Offender Registration Act, or an attempt to commit any of the above-mentioned offenses, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(c) It is not necessary to prove that the matter is obscene in order to establish a violation of this section.

(d) This section does not apply to drawings, figurines, statues, or any film rated by the Motion Picture Association of America, nor does it apply to live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

CAL. PENAL CODE § 647.6 (2010). Annoying or molesting children.

(a)

(1) Every person who annoys or molests any child under 18 years of age shall be punished by a fine not exceeding five thousand dollars ($5,000), by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

(2) Every person who, motivated by an unnatural or abnormal sexual interest in children, engages in conduct with an adult whom he or she believes to be a child under 18 years of age, which conduct, if directed toward a child under 18 years of age, would be a violation of this section, shall be punished by a fine not exceeding five thousand dollars ($5,000), by imprisonment in a county jail for up to one year, or by both that fine and imprisonment.

(b) Every person who violates this section after having entered, without consent, an inhabited dwelling house, or trailer coach as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year, and by a fine not exceeding five thousand dollars ($5,000).

(c)

(1) Every person who violates this section shall be punished upon the second and each subsequent conviction by imprisonment in the state prison.

(2) Every person who violates this section after a previous felony conviction under Section 261, 264.1, 269, 285, 286, 288a, 288.5, or 289, any of which involved a minor under 16 years of age, or a previous felony conviction under this section, a conviction under Section 288, or a felony conviction under Section 311.4 involving a minor under 14 years of age shall be punished by imprisonment in the state prison for two, four, or six years.

(d)

(1) In any case in which a person is convicted of violating this section and probation is granted, the court shall require counseling as a condition of probation, unless the court makes a written statement in the court record, that counseling would be inappropriate or ineffective.

(2) In any case in which a person is convicted of violating this section, and as a condition of probation, the court prohibits the defendant from having contact with the victim, the court order prohibiting contact shall not be modified except upon the request of the victim and a finding by the court that the modification is in the best interest of the victim. As used in this paragraph, "contact with the victim" includes all physical contact, being in the presence of the victim, communication by any means, any communication by a third party acting on behalf of the defendant, and any gifts.

(e) Nothing in this section prohibits prosecution under any other provision of law.

CAL. PENAL CODE § 667.5 (2010). Enhancement of prison terms for new offenses.

Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition to and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified in subdivision (c). However, no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) For the purpose of this section, "violent felony" shall mean any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(4) Sodomy as defined in subdivision (c) or (d) of Section 286.

(5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.

(6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.

(9) Any robbery.

(10) Arson, in violation of subdivision (a) or (b) of Section 451.

(11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.

(12) Attempted murder.

(13) A violation of Section 12308, 12309, or 12310.

(14) Kidnapping.

(15) Assault with the intent to commit a specified felony, in violation of Section 220.

(16) Continuous sexual abuse of a child, in violation of Section 288.5.

(17) Carjacking, as defined in subdivision (a) of Section 215.

(18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.

(20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418. The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

(d) For the purposes of this section, the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody or until release on parole, whichever first occurs, including any time during which the defendant remains subject to reimprisonment for escape from custody or is reimprisoned on revocation of parole. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which, if committed in California, is punishable by imprisonment in the state prison if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or

other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Mental Health as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Director of Corrections is incarcerated at a facility operated by the Department of the Youth Authority, that incarceration shall be deemed to be a term served in state prison.

(k) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

CAL. PENAL CODE § 667.51 (2009). Enhancement for prior conviction upon conviction of lewd act with child.

(a) Any person who is convicted of violating Section 288 or 288.5 shall receive a five-year enhancement for a prior conviction of an offense specified in subdivision (b).

(b) Section 261, 262, 264.1, 269, 285, 286, 288, 288a, 288.5, or 289, or any offense committed in another jurisdiction that includes all of the elements of any of the offenses specified in this subdivision.

(c) A violation of Section 288 or 288.5 by a person who has been previously convicted two or more times of an offense listed specified in subdivision (c) is punishable as a felony (b) shall be punished by imprisonment in the state prison for 15 years to life.

CAL. PENAL CODE § 667.6 (2010). Enhancement and fine for prior conviction or prior term for sex offense; Full, separate, and consecutive terms; Test for determining whether sex crimes against single victim were on separate occasions; Offenses to which section applies.

(a) Any person who is convicted of an offense specified in subdivision (e) and who has been convicted previously of any of those offenses shall receive a five-year enhancement for each of those prior convictions.

(b) Any person who is convicted of an offense specified in subdivision (e) and who has served two or more prior prison terms as defined in Section 667.5 for any of those offenses shall receive a 10-year enhancement for each of those prior terms.

(c) In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of an offense specified in subdivision (e) if the crimes involve the same victim on the same occasion. A term may be imposed consecutively pursuant to this subdivision if a person is convicted of at least one offense specified in subdivision (e). If the term is imposed consecutively pursuant to this subdivision, it shall be served consecutively to any other term of imprisonment, and shall commence from the time the person otherwise would have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person otherwise would have been released from prison.

(d) A full, separate, and consecutive term shall be served imposed for each violation of an offense specified in subdivision (e) if the crimes involve separate victims or involve the same victim on separate occasions.

In determining whether crimes against a single victim were committed on separate occasions under this subdivision, the court shall consider whether, between the commission of one sex crime and another, the defendant had a reasonable opportunity to reflect upon his or her actions and nevertheless resumed sexually assaultive behavior. Neither the duration of time between crimes, nor whether or not the defendant lost or abandoned his or her opportunity to attack, shall be, in and of itself, determinative on the issue of whether the crimes in question occurred on separate occasions.

The term shall be served consecutively to any other term of imprisonment and shall commence from the time the person otherwise would have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person otherwise would have been released from prison.

(e) This section shall apply to the following offenses:

(1) Rape, in violation of paragraph (2), (3), (6), or (7) of subdivision (a) of Section 261.

(2) Spousal rape, in violation of paragraph (1), (4), or (5) of subdivision (a) of Section 262.

(3) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(4) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d) or (k), of Section 286.

(5) Lewd or lascivious act, in violation of subdivision (b) of Section 288.

(6) Continuous sexual abuse of a child, in violation of Section 288.5.

(7) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d) or (k), of Section 288a.

(8) Sexual penetration, in violation of subdivision (a) or (g) of Section 289.

(9) As a present offense under subdivision (c) or (d), assault with intent to commit a specified sexual offense, in violation of Section 220.

(10) As a prior conviction under subdivision (a) or (b), an offense committed in another jurisdiction that includes all of the elements of an offense specified in this subdivision.

(f) In addition to any enhancement imposed pursuant to subdivision (a) or (b), the court may also impose a fine not to exceed twenty thousand dollars ($20,000) for anyone sentenced under those provisions. The fine imposed and collected pursuant to this subdivision shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs established pursuant to Section 13837. If the court orders a fine to be imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

CAL. PENAL CODE § 667.61 (2010). Specified sex offenses subject to punishment by incarceration for life.

(a) Any person who is convicted of an offense specified in subdivision (c) under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for 25 years to life.

(b) Except as provided in subdivision (a), any person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for 15 years to life.

(c) This section shall apply to any of the following offenses:

(1) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(2) Spousal rape, in violation of paragraph (1) or (4) of subdivision (a) of Section 262.

(3) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(4) Lewd or lascivious act, in violation of subdivision (b) of Section 288.

(5) Sexual penetration, in violation of subdivision (a) of Section 289.

(6) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(7) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.

(8) Lewd or lascivious act, in violation of subdivision (a) of Section 288.

(9) Continuous sexual abuse of a child, in violation of Section 288.5.

(d) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) The defendant has been previously convicted of an offense specified in subdivision (c), including an offense committed in another jurisdiction that includes all of the elements of an offense specified in subdivision (c).

(2) The defendant kidnapped the victim of the present offense and the movement of the victim substantially increased the risk of harm to the victim over and above that level of risk necessarily inherent in the underlying offense in subdivision (c).

(3) The defendant inflicted aggravated mayhem or torture on the victim or another person in the commission of the present offense in violation of Section 205 or 206.

(4) The defendant committed the present offense during the commission of a burglary of the first degree, as defined in subdivision (a) of Section 460, with intent to commit an offense specified in subdivision (c).

(5) The defendant committed the present offense in violation of Section 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 288a, and, in the commission of that offense, any person committed any act described in paragraph (2), (3), or (4) of this subdivision.

(e) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) Except as provided in paragraph (2) of subdivision (d), the defendant kidnapped the victim of the present offense in violation of Section 207, 209, or 209.5.

(2) Except as provided in paragraph (4) of subdivision (d), the defendant committed the present offense during the commission of a burglary in violation of Section 459.

(3) The defendant personally inflicted great bodily injury on the victim or another person in the commission of the present offense in violation of Section 12022.53, 12022.7, or 12022.8.

(4) The defendant personally used a dangerous or deadly weapon or a firearm in the commission of the present offense in violation of Section 12022, 12022.3, 12022.5, or 12022.53.

(5) The defendant has been convicted in the present case or cases of committing an offense specified in subdivision (c) against more than one victim.

(6) The defendant engaged in the tying or binding of the victim or another person in the commission of the present offense.

(7) The defendant administered a controlled substance to the victim in the commission of the present offense in violation of Section 12022.75.

(8) The defendant committed the present offense in violation of Section 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 288a, and, in the commission of that offense, any person committed any act described in paragraph (1), (2), (3), (4), (6), or (7) of this subdivision.

(f) If only the minimum number of circumstances specified in subdivision (d) or (e) that are required for the punishment provided in subdivision (a) or (b) to apply have been pled and proved, that circumstance or those circumstances shall be used as the basis for imposing the term provided in subdivision (a) or (b), whichever is greater, rather than being used to impose the punishment authorized under any other provision of law, unless another provision of law provides

for a greater penalty or the punishment under another provision of law can be imposed in addition to the punishment provided by this section. However, if any additional circumstance or circumstances specified in subdivision (d) or (e) have been pled and proved, the minimum number of circumstances shall be used as the basis for imposing the term provided in subdivision (a), and any other additional circumstance or circumstances shall be used to impose any punishment or enhancement authorized under any other provision of law.

(g) Notwithstanding Section 1385 or any other provision of law, the court shall not strike any allegation, admission, or finding of any of the circumstances specified in subdivision (d) or (e) for any person who is subject to punishment under this section.

(h) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section.

(i) For any offense specified in paragraphs (1) to (7), inclusive, of subdivision (c), the court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions as defined in subdivision (d) of Section 667.6.

(j) The penalties provided in this section shall applyonly if the existence of any circumstance specified in subdivision (d) or (e) is alleged in the accusatory pleading pursuant to this section, and is either admitted by the defendant in open court or found to be true by the trier of fact.

CAL. PENAL CODE § 667.71 (2009). Habitual sexual offender.

(a) For the purpose of this section, a habitual sexual offender is a person who has been previously convicted of one or more of the offenses specified in subdivision (c) and who is convicted in the present proceeding of one of those offenses.

(b) A habitual sexual offender shall be punished by imprisonment in the state prison for 25 years to life.

(c) This section shall apply to any of the following offenses:

(1) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(2) Spousal rape, in violation of paragraph (1) or (4) of subdivision (a) of Section 262.

(3) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(4) Lewd or lascivious act, in violation of subdivision (a) or (b) of Section 288.

(5) Sexual penetration, in violation of subdivision (a) or (j) of Section 289.

(6) Continuous sexual abuse of a child, in violation of Section 288.5.

(7) Sodomy, in violation of subdivision (c) or (d) of Section 286 .

(8) Oral copulation, in violation of subdivision (c) or (d) of Section 288a .

(9) Kidnapping, in violation of subdivision (b) of Section 207.

(10) Kidnapping, in violation of former subdivision (d) of Section 208 (kidnapping to commit specified sex offenses).

(11) Kidnapping, in violation of subdivision (b) of Section 209 with the intent to commit a specified sexual offense.

(12) Aggravated sexual assault of a child, in violation of Section 269.

(13) An offense committed in another jurisdiction that includes all of the elements of an offense specified in this subdivision.

(d) Notwithstanding Section 1385 or any other provision of law, the court shall not strike any allegation, admission, or finding of any prior conviction specified in subdivision (c) for any person who is subject to punishment under this section.

(e) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section.

(f) This section shall apply only if the defendant's status as a habitual sexual offender is alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the trier of fact.

CAL. PENAL CODE § 667.8 (2009). Enhancement upon conviction of kidnapping for purpose of committing sexual offense.

(a) Except as provided in subdivision (b), any person convicted of a felony violation of Section 261, 262, 264.1, 286, 288a, or 289 who, for the purpose of committing that sexual offense, kidnapped the victim in violation of Section 207 or 209, shall be punished by an additional term of nine years.

(b) Any person convicted of a felony violation of subdivision (c) of Section 286, Section 288, or subdivision (c) of Section 288a who, for the purpose of committing that sexual offense, kidnapped the victim, who was under the age of 14 years at the time of the offense, in violation of Section 207 or 209, shall be punished by an additional term of 15 years. This subdivision is not applicable to conduct proscribed by Section 277, 278, or 278.5.

(c) The following shall govern the imposition of an enhancement pursuant to this section:

(1) Only one enhancement shall be imposed for a victim per incident.

(2) If there are two or more victims, one enhancement can be imposed for each victim per incident.

(3) The enhancement may be in addition to the punishment for either, but not both, of the following:

(A) A violation of Section 207 or 209.

(B) A violation of the sexual offenses enumerated in this section.

CAL. PENAL CODE § 667.85 (2010). Sentence enhancement for kidaping child under 14 years of age.

Any person convicted of a violation of Section 207 or 209, who kidnapped or carried away any child under the age of 14 years with the intent to permanently deprive the parent or legal guardian custody of that child, shall be punished by imprisonment in the state prison for an additional five years.

CAL. PENAL CODE § 667.9 (2009). Sentence enhancement for specified offenses and repeat offenses against aged, disabled, or underage person.

(a) Any person who commits one or more of the crimes specified in subdivision (c) against a person who is 65 years of age or older, or against a person who is blind, deaf, developmentally disabled, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a one-year enhancement for each violation.

(b) Any person who commits a violation of subdivision (a) and who has a prior conviction for any of the offenses specified in subdivision (c), shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 667.

(c) Subdivisions (a) and (b) apply to the following crimes:

(1) Mayhem, in violation of Section 203 or 205.

(2) Kidnapping, in violation of Section 207, 209, or 209.5.

(3) Robbery, in violation of Section 211.

(4) Carjacking, in violation of Section 215.

(5) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(6) Spousal rape, in violation of paragraph (1) or (4) of subdivision (a) of Section 262.

(7) Rape, spousal rape, or sexual penetration in concert, in violation of Section 264.1.

(8) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(9) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.

(10) Sexual penetration, in violation of subdivision (a) of Section 289.

(11) Burglary of the first degree, as defined in Section 460, in violation of Section 459.

(d) As used in this section, "developmentally disabled" means a severe, chronic disability of a person, which is all of the following:

(1) Attributable to a mental or physical impairment or a combination of mental and physical impairments.

(2) Likely to continue indefinitely.

(3) Results in substantial functional limitation in three or more of the following areas of life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

CAL. PENAL CODE § 667.10 (2009). Sentence enhancement for penetration by foreign object by repeat offender against aged, disabled, or underage person.

(a) Any person who has a prior conviction of the offense set forth in Section 289 and who commits that crime against a person who is 65 years of age or older, or against a person who is blind, deaf, developmentally disabled, as defined in subdivision (d) of Section 667.9, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 289.

(b) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

CAL. PENAL CODE § 667.15 (2009). Exhibition of specified sexual matter to minor during commission or attempted commission of lewd or lascivious act with minor.

Any adult who, prior to or during the commission or attempted commission of a violation of Section 288 or 288.5, exhibits to the minor any matter, as defined in subdivision (d) of Section 311.11, the production of which involves the use of a person under the age of 14 years, knowing that the matter depicts a person under the age of 14 years personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or of the minor, or with the intent, or for the purpose, of seducing the minor, shall be punished for a violation of this section as follows:

(a) If convicted of the commission or attempted commission of a violation of Section 288, the adult shall receive an additional term of one year, which punishment shall be imposed in addition and consecutive to the punishment imposed for the commission or attempted commission of a violation of Section 288.

(b) If convicted of the commission or attempted commission of a violation of Section 288.5, the adult shall receive an additional term of two years, which punishment shall be imposed in addition and consecutive to the punishment imposed for the commission or attempted commission of a violation of Section 288.5.

CAL. PENAL CODE § 674 (2009). Sentence enhancement on felony conviction of day care facility primary care provider for certain sexual offenses.

(a) Any person who is a primary care provider in a day care facility and who is convicted of a felony violation of Section 261, 285, 286, 288, 288a, or 289, where the victim of the crime was a minor entrusted to his or her care by the minor' s parent or guardian, a court, any public agency charged with the provision of social services, or a probation department, may be punished by an additional term of two years.

(b) If the crime described in subdivision (a) was committed while voluntarily acting in concert with another, the person so convicted may be punished by an additional term of three years.

(c) The enhancements authorized by this section may be imposed in addition to any other required or authorized enhancement.

CAL. PENAL CODE § 1203.066 (2009). Ineligibility for probation of persons convicted of lewd act with child.

(a) Notwithstanding Section 1203 or any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person who is convicted of violating Section 288 or 288.5 when the act is committed by the use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288 or 288.5.

(3) A person who is convicted of a violation of Section 288 or 288.5 and who was a stranger to the child victim or befriended the child victim for the purpose of committing an act in violation of Section 288 or 288.5, unless the defendant honestly and reasonably believed the victim was 14 years of age or older.

(4) A person who used a weapon during the commission of a violation of Section 288 or 288.5.

(5) A person who is convicted of committing a violation of Section 288 or 288.5 and who has been previously convicted of a violation of Section 261, 262, 264.1, 266, 266c, 267, 285, 286, 288, 288.5, 288a, or 289, or of assaulting another person with intent to commit a crime specified in this paragraph in violation of Section 220, or who has been previously convicted in another state of an offense which, if committed or attempted in this state, would constitute an offense enumerated in this paragraph.

(6) A person who violated Section 288 or 288.5 while kidnapping the child victim in violation of Section 207, 209, or 209.5.

(7) A person who is convicted of committing a violation of Section 288 or 288.5 against more than one victim.

(8) A person who, in violating Section 288 or 288.5, has substantial sexual conduct with a victim who is under 14 years of age.

(9) A person who, in violating Section 288 or 288.5, used obscene matter, as defined in Section 311, or matter, as defined in Section 311, depicting sexual conduct, as defined in Section 311.3.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c)

(1) Except for a violation of subdivision (b) of Section 288, this section shall only apply if the existence of any fact required in subdivision (a) is alleged in the accusatory pleading and is either admitted by the defendant in open court, or found to be true by the trier of fact.

(2) For the existence of any fact under paragraph (7) of subdivision (a), the allegation must be made pursuant to this section.

(d)

(1) If a person is convicted of a violation of Section 288 or 288.5, and the factors listed in subdivision (a) are not pled or proven, probation may be granted only if the following terms and conditions are met:

(A) If the defendant is a member of the victim's household, the court finds that probation is in the best interest of the child victim.

(B) The court finds that rehabilitation of the defendant is feasible and that the defendant is amenable to undergoing treatment, and the defendant is placed in a recognized treatment program designed to deal with child molestation immediately after the grant of probation or the suspension of execution or imposition of sentence.

(C) If the defendant is a member of the victim's household, probation shall not be granted unless the defendant is removed from the household of the victim until the court determines that the best interests of the victim would be served by his or her return. While removed from the household, the court shall prohibit contact by the defendant with the victim, with the exception that the court may permit supervised contact, upon the request of the director of the court-ordered supervised treatment program, and with the agreement of the victim and the victim's parent or legal guardian, other than the defendant.

(D) The court finds that there is no threat of physical harm to the victim if probation is granted.

(2) The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

(3) The court shall order the psychiatrist or psychologist who is appointed pursuant to Section 288.1 to include a consideration of the factors specified in subparagraphs (A), (B), and (C) of paragraph (1) in making his or her report to the court.

(4) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon ability to pay.

(5) No victim shall be compelled to participate in a program or counseling, and no program may condition a defendant's enrollment on participation by the victim.

(e) As used in subdivision (d), the following definitions apply:

(1) "Contact with the victim" includes all physical contact, being in the presence of the victim, communicating by any means, including by a third party acting on behalf of the defendant, or sending any gifts.

(2) "Recognized treatment program" means a program that consists of the following components:

(A) Substantial expertise in the treatment of child sexual abuse.

(B) A treatment regimen designed to specifically address the offense.

(C) The ability to serve indigent clients.

(D) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program, or for the successful completion of the program as ordered. The program shall notify the court and the probation department, in writing, within the period of

time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

COLORADO

COLO. REV. STAT. § 16-22-103 (2009). Sex offender registration - required - applicability – exception.

(1) Effective July 1, 1998, the following persons shall be required to register pursuant to the provisions of section 16-22-108 and shall be subject to the requirements and other provisions specified in this article:

(a) Any person who was convicted on or after July 1, 1991, in the state of Colorado, of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., enticement of a child, as described in section 18-3-305, C.R.S., or internet luring of a child, as described in section 18-3-306, C.R.S.;

(b) Any person who was convicted on or after July 1, 1991, in another state or jurisdiction, including but not limited to a military or federal jurisdiction, of an offense that, if committed in Colorado, would constitute an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., enticement of a child, as described in section 18-3-305, C.R.S., or internet luring of a child, as described in section 18-3-306, C.R.S.; and

(c) Any person who was released on or after July 1, 1991, from the custody of the department of corrections of this state or any other state, having served a sentence for an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., enticement of a child, as described in section 18-3-305, C.R.S., or internet luring of a child, as described in section 18-3-306, C.R.S.

(2) (a) On and after July 1, 1994, any person who is convicted in the state of Colorado of unlawful sexual behavior or of another offense, the underlying factual basis of which involves unlawful sexual behavior, or any person who is released from the custody of the department of corrections having completed serving a sentence for unlawful sexual behavior or for another offense, the underlying factual basis of which involved unlawful sexual behavior, shall be required to register in the manner prescribed in section 16-22-104, section 16-22-106 or 16-22-107, whichever is applicable, and section 16-22-108.

(b) A person shall be deemed to have been convicted of unlawful sexual behavior if he or she is convicted of one or more of the offenses specified in section 16-22-102 (9), or of attempt, solicitation, or conspiracy to commit one or more of the offenses specified in said section.

(c) (I) For convictions entered on or after July 1, 2002, a person shall be deemed to be convicted of an offense, the underlying factual basis of which involves unlawful sexual behavior, if:

(A) The person is convicted of an offense that requires proof of unlawful sexual behavior as an element of the offense; or

(B) The person is convicted of an offense and is eligible for and receives an enhanced sentence

based on a circumstance that requires proof of unlawful sexual behavior; or

(C) The person was originally charged with unlawful sexual behavior or with an offense that meets the description in sub-subparagraph (A) or (B) of this subparagraph (I), the person pleads guilty to an offense that does not constitute unlawful sexual behavior, and, as part of the plea agreement, the person admits, after advisement as provided in subparagraph (III) of this paragraph (c), that the underlying factual basis of the offense to which he or she is pleading guilty involves unlawful sexual behavior; or

(D) The person was charged with and convicted of an offense that does not constitute unlawful sexual behavior and the person admits on the record, after advisement as provided in subparagraph (III) of this paragraph (c), that the underlying factual basis of the offense involved unlawful sexual behavior.

(II) If a person is originally charged with unlawful sexual behavior or with an offense that meets the description in sub-subparagraph (A) or (B) of subparagraph (I) of this paragraph (c), the court may accept a plea agreement to an offense that does not constitute unlawful sexual behavior only if:

(A) The district attorney stipulates that the underlying factual basis of the offense to which the person is pleading guilty does not involve unlawful sexual behavior; or

(B) The person admits, after advisement as provided in subparagraph (III) of this paragraph (c), that the underlying factual basis of the offense to which he or she is pleading guilty involves unlawful sexual behavior.

(III) The advisement provided for purposes of this paragraph (c), in addition to meeting the requirements of the Colorado rules of criminal procedure, shall advise the person that admitting that the underlying factual basis of the offense to which the person is pleading or of which the person is convicted involves unlawful sexual behavior will have the collateral result of making the person subject to the requirements of this article. Notwithstanding any provision of this paragraph (c) to the contrary, failure to advise a person pursuant to the provisions of this subparagraph (III) shall not constitute a defense to the offense of failure to register as a sex offender if there is evidence that the defendant had actual notice of the duty to register.

(IV) In any case in which a person is deemed to have been convicted of an offense, the underlying factual basis of which involves unlawful sexual behavior, as provided in this paragraph (c), the judgment of conviction shall specify that the person is convicted of such an offense and specify the particular crime of unlawful sexual behavior involved.

(V) The provisions of this paragraph (c) shall apply to juveniles for purposes of determining whether a juvenile is convicted of an offense, the underlying factual basis of which involves unlawful sexual behavior.

(d) (I) Notwithstanding any other provision of this section, any stipulation by a district attorney and any finding by the court with regard to whether the offense of which the person is convicted includes an underlying factual basis involving unlawful sexual behavior, as defined in section 16-22-102, shall be binding on the department of corrections for purposes of classification. On or after July 1, 2008, if the department of corrections receives a mittimus that does not indicate the necessary findings as required by section 16-22-103 (2) (c) (II), the department shall notify the court and request that the court enter the necessary findings pursuant to section 16-22-103 (2) (c)

(II).

(II) The department of corrections shall have the authority to make a determination that a person is a sex offender, as defined in section 16-11.7-102 (2) (a), for the purposes of classification and treatment if:

(A) The person has one or more prior convictions for a sex offense as defined in section 16-11.7-102 (3);

(B) The person has a prior offense for which a determination has been made by the court that the underlying factual basis involved a sex offense as defined in section 16-11.7-102 (3); or

(C) The person has been classified as a sex offender in accordance with procedures established by the department of corrections.

(III) The procedures established by the department of corrections to classify a person as a sex offender shall require that:

(A) The classification proceeding be conducted by a licensed attorney who shall serve as an administrative hearing officer;

(B) The offender's attorney be permitted to attend, represent, and assist the offender at the classification proceeding; and

(C) The offender be entitled to written notice of the reason for the proceeding, disclosure of the evidence to be presented against him or her, an opportunity to be heard in person and to present witnesses and documentary evidence, the right to confront and cross-examine adverse witnesses, unless the administrative hearing officer finds good cause for not allowing confrontation, and written findings and conclusions indicating the evidence and reasons relied upon for the classification as a sex offender.

(IV) Notwithstanding any statutory provisions to the contrary, the department of corrections shall ensure that all procedures and policies comply with the federal "Prison Rape Elimination Act of 2003", Pub.L. 108-79, as amended.

(3) In addition to the persons specified in subsections (1) and (2) of this section, any person convicted of an offense in any other state or jurisdiction, including but not limited to a military or federal jurisdiction, for which the person, as a result of the conviction, is, was, has been, or would be required to register if he or she resided in the state or jurisdiction of conviction, or for which such person would be required to register if convicted in Colorado, shall be required to register in the manner specified in section 16-22-108, so long as such person is a temporary or permanent resident of Colorado. Such person may petition the court for an order that discontinues the requirement for registration in this state at the times specified in section 16-22-113 for offense classifications that are comparable to the classification of the offense for which the person was convicted in the other state or jurisdiction.

(4) The provisions of this article shall apply to any person who receives a disposition or is adjudicated a juvenile delinquent based on the commission of any act that may constitute unlawful sexual behavior or who receives a deferred adjudication based on commission of any act that may constitute unlawful sexual behavior; except that, with respect to section 16-22-113 (1) (a) to (1) (e), a person may petition the court for an order to discontinue the duty to register as

provided in those paragraphs, but only if the person has not subsequently received a disposition for, been adjudicated a juvenile delinquent for, or been otherwise convicted of any offense involving unlawful sexual behavior. In addition, the duty to provide notice to a person of the duty to register, as set forth in sections 16-22-105 to 16-22-107, shall apply to juvenile parole and probation officers and appropriate personnel of the division of youth corrections in the department of human services.

(5) (a) Notwithstanding any provision of this article to the contrary, if, pursuant to a motion filed by a person described in this subsection (5) or on its own motion, a court determines that the registration requirement specified in this section would be unfairly punitive and that exempting the person from the registration requirement would not pose a significant risk to the community, the court, upon consideration of the totality of the circumstances, may exempt the person from the registration requirements imposed pursuant to this section if:

(I) The person was younger than eighteen years of age at the time of the commission of the offense; and

(II) The person has not been previously charged with unlawful sexual behavior; and

(III) The offense, as charged in the first petition filed with the court, is a first offense of either misdemeanor unlawful sexual contact, as described in section 18-3-404, C.R.S., or indecent exposure, as described in section 18-7-302, C.R.S.; and

(IV) The person has received a sex offender evaluation that conforms with the standards developed pursuant to section 16-11.7-103 (4) (f), from an evaluator who meets the standards established by the sex offender management board, and the evaluator recommends exempting the person from the registration requirements based upon the best interests of that person and the community; and

(V) The court makes written findings of fact specifying the grounds for granting such exemption.

(b) Any defendant who files a motion pursuant to this subsection (5) or the court, if considering its own motion, shall provide notice of the motion to the prosecuting district attorney. In addition, the court shall provide notice of the motion to the victim of the offense. Prior to deciding the motion, the court shall conduct a hearing on the motion at which both the district attorney and the victim shall have opportunity to be heard.

(6) Any person who is required to register pursuant to this section and fails to do so or otherwise fails to comply with the provisions of this article may be subject to prosecution for the offense of failure to register as a sex offender, as described in section 18-3-412.5, C.R.S.Failure of any governmental entity or any employee of any governmental entity to comply with any requirement of this article shall not constitute a defense to the offense of failure to register as a sex offender if there is evidence that the defendant had actual notice of the duty to register.

COLO. REV. STAT. § 18-1.3-401 (2009). Felonies classified – presumptive penalties.

(1) (a) (I) As to any person sentenced for a felony committed after July 1, 1979, and before July 1, 1984, felonies are divided into five classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class Presumptive Range

1 Life imprisonment or death

2 Eight to twelve years plus one year of parole

3 Four to eight years plus one year of parole

4 Two to four years plus one year of parole

5 One to two years plus one year of parole

(II) As to any person sentenced for a felony committed on or after July 1, 1984, and before July 1, 1985, felonies are divided into five classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class Presumptive Range

1 Life imprisonment or death

2 Eight to twelve years

3 Four to eight years

4 Two to four years

5 One to two years

(III) (A) As to any person sentenced for a felony committed on or after July 1, 1985, except as otherwise provided in sub-subparagraph (E) of this subparagraph (III), in addition to, or in lieu of, any sentence to imprisonment, probation, community corrections, or work release, a fine within the following presumptive ranges may be imposed for the specified classes of felonies:

Class Minimum Sentence MaximumSentence

1 No fine No fine

2 Five thousand dollars One million dollars

3 Three thousand dollars Seven hundred fifty thousand dollars

4 Two thousand dollars Five hundred thousand dollars

5 One thousand dollars One hundred thousand dollars

6 One thousand dollars One hundred thousand dollars

(A.5) Notwithstanding any provision of law to the contrary, any person who attempts to commit, conspires to commit, or commits against an elderly person any felony set forth in part 4 of article 4 of this title, part 1, 2, 3, or 5 of article 5 of this title, article 5.5 of this title, or section 11-51-603, C.R.S., shall be required to pay a mandatory and substantial fine within the limits permitted by law. However, all moneys collected from the offender shall be applied in the following order: Costs for crime victim compensation fund pursuant to section 24-4.1-119, C.R.S.; surcharges for victims and witnesses assistance and law enforcement fund pursuant to section 24-4.2-104, C.R.S.; restitution; time payment fee; late fees; and any other fines, fees, or surcharges. For purposes of this sub-subparagraph (A.5), an "elderly person" or "elderly victim" means a person sixty years of age or older.

(B) Failure to pay a fine imposed pursuant to this subparagraph (III) is grounds for revocation of probation or revocation of a sentence to community corrections, assuming the defendant's ability to pay. If such a revocation occurs, the court may impose the maximum sentence allowable in the given sentencing ranges.

(C) Each judicial district shall have at least one clerk who shall collect and administer the fines imposed under this subparagraph (III) and under section 18-1.3-501 in accordance with the provisions of sub-subparagraph (D) of this subparagraph (III).

(D) All fines collected pursuant to this subparagraph (III) shall be deposited in the fines collection cash fund, which fund is hereby created. The general assembly shall make annual appropriations out of such fund for administrative and personnel costs incurred in the collection and administration of said fines. All unexpended balances shall revert to the general fund at the end of each fiscal year.

(E) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (III), a person who has been twice convicted of a felony under the laws of this state, any other state, or the United States prior to the conviction for which he or she is being sentenced shall not be eligible to receive a fine in lieu of any sentence to imprisonment, community corrections, or work release but shall be sentenced to at least the minimum sentence specified in subparagraph (V) of this paragraph (a) and may receive a fine in addition to said sentence.

(IV) As to any person sentenced for a felony committed on or after July 1, 1985, but prior to July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class Minimum Sentence MaximumSentence

1 Life imprisonment Death

2 Eight years imprisonment Twenty-four years imprisonment

3 Four years imprisonment Sixteen years imprisonment

4 Two years imprisonment Eight years imprisonment

5 One year imprisonment Four years imprisonment

6 One year imprisonment Two years imprisonment

(V) (A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:
Class Minimum Maximum Mandatory Period

Sentence Sentence of Parole
1 Life imprisonment Death None
2 Eight years imprisonment Twenty-four yearsimprisonment Five years
3 Four years imprisonment Twelve yearsimprisonment Five years
4 Two years imprisonment Six yearsimprisonment Three years
5 One year imprisonment Three yearsimprisonment Two years
6 One year imprisonment Eighteen months imprisonment One year

(B) Any person who is paroled pursuant to section 17-22.5-403, C.R.S., or any person who is not paroled and is discharged pursuant to law, shall be subject to the mandatory period of parole established pursuant to sub-subparagraph (A) of this subparagraph (V). Such mandatory period of parole may not be waived by the offender or waived or suspended by the court and shall be subject to the provisions of section 17-22.5-403 (8), C.R.S., which permits the state board of parole to discharge the offender at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

(C) Notwithstanding sub-subparagraph (A) of this subparagraph (V), the mandatory period of parole for a person convicted of a felony offense committed prior to July 1, 1996, pursuant to part 4 of article 3 of this title, or part 3 of article 6 of this title, shall be five years. Notwithstanding sub-subparagraph (A) of this subparagraph (V), and except as otherwise provided in sub-subparagraph (C.5) of this subparagraph (V), the period of parole for a person convicted of a felony offense committed on or after July 1, 1996, but prior to July 1, 2002, pursuant to part 4 of article 3 of this title, or part 3 of article 6 of this title, shall be set by the state board of parole pursuant to section 17-2-201 (5) (a.5), C.R.S., but in no event shall the term of parole exceed the maximum sentence imposed upon the inmate by the court.

(C.3) (Deleted by amendment, L. 2002, p. 124, § 1, effective March 26, 2002.)

(C.5) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (V), any person sentenced for a sex offense, as defined in section 18-1.3-1003 (5), committed on or after November 1, 1998, shall be sentenced pursuant to the provisions of part 10 of this article.

(C.7) Any person sentenced for a felony committed on or after July 1, 2002, involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or for a felony, committed on or after July 1, 2002, the underlying factual basis of which involved unlawful sexual behavior, and who is not subject to the provisions of part 10 of this article, shall be subject to the mandatory period of parole specified in sub-subparagraph (A) of this subparagraph (V).

(D) The mandatory period of parole imposed pursuant to sub-subparagraph (A) of this subparagraph (V) shall commence immediately upon the discharge of an offender from imprisonment in the custody of the department of corrections. If the offender has been granted release to parole supervision by the state board of parole, the offender shall be deemed to have discharged the offender's sentence to imprisonment provided for in sub-subparagraph (A) of this subparagraph (V) in the same manner as if such sentence were discharged pursuant to law; except that the sentence to imprisonment for any person sentenced as a sex offender pursuant to part 10 of this article shall not be deemed discharged on release of said person on parole. When an offender is released by the state board of parole or released because the offender's sentence was discharged pursuant to law, the mandatory period of parole shall be served by such offender. An offender sentenced for nonviolent felony offenses, as defined in section 17-22.5-405 (5), C.R.S., may receive earned time pursuant to section 17-22.5-405, C.R.S., while serving a mandatory parole period in accordance with this section, but not while such offender is reincarcerated after a revocation of the mandatory period of parole. An offender who is sentenced for a felony committed on or after July 1, 1993, and paroled on or after January 1, 2009, shall be eligible to receive any earned time while on parole or after reparole following a parole revocation. The offender shall not be eligible for earned time while the offender is reincarcerated after revocation of the mandatory period of parole pursuant to this subparagraph (V).

(E) If an offender is sentenced consecutively for the commission of two or more felony offenses pursuant to sub-subparagraph (A) of this subparagraph (V), the mandatory period of parole for such offender shall be the mandatory period of parole established for the highest class felony of which such offender has been convicted.

(VI) Any person sentenced for a class 2, 3, 4, or 5 felony, or a class 6 felony that is the offender's second or subsequent felony offense, committed on or after July 1, 1998, regardless of the length of the person's sentence to incarceration and the mandatory period of parole, shall not be deemed to have fully discharged his or her sentence until said person has either completed or been discharged by the state board of parole from the mandatory period of parole imposed pursuant to subparagraph (V) of this paragraph (a).

(b) (I) Except as provided in subsection (6) and subsection (8) of this section and in section 18-1.3-804, a person who has been convicted of a class 2, class 3, class 4, class 5, or class 6 felony shall be punished by the imposition of a definite sentence which is within the presumptive ranges set forth in paragraph (a) of this subsection (1). In imposing the sentence within the presumptive range, the court shall consider the nature and elements of the offense, the character and record of the offender, and all aggravating or mitigating circumstances surrounding the offense and the offender. The prediction of the potential for future criminality by a particular defendant, unless based on prior criminal conduct, shall not be considered in determining the length of sentence to be imposed.

(II) As to any person sentenced for a felony committed on or after July 1, 1985, a person may be sentenced to imprisonment as described in subparagraph (I) of this paragraph (b) or to pay a fine that is within the presumptive ranges set forth in subparagraph (III) of paragraph (a) of this subsection (1) or to both such fine and imprisonment; except that any person who has been twice

convicted of a felony under the laws of this state, any other state, or the United States prior to the conviction for which he or she is being sentenced shall not be eligible to receive a fine in lieu of any sentence to imprisonment as described in subparagraph (I) of this paragraph (b) but shall be sentenced to at least the minimum sentence specified in subparagraph (V) of paragraph (a) of this subsection (1) and may receive a fine in addition to said sentence.

(II.5) Notwithstanding anything in this section to the contrary, any person sentenced for a sex offense, as defined in section 18-1.3-1003 (5), committed on or after November 1, 1998, may be sentenced to pay a fine in addition to, but not instead of, a sentence for imprisonment or probation pursuant to section 18-1.3-1004.

(III) Notwithstanding anything in this section to the contrary, as to any person sentenced for a crime of violence, as defined in section 18-1.3-406, committed on or after July 1, 1985, a person may be sentenced to pay a fine in addition to, but not instead of, a sentence for imprisonment.

(IV) If a person is convicted of assault in the first degree pursuant to section 18-3-202 or assault in the second degree pursuant to section 18-3-203 and the victim is a peace officer or firefighter engaged in the performance of his or her duties, as defined in section 18-1.3-501 (1.5) (b), notwithstanding the provisions of subparagraph (III) of paragraph (a) of this subsection (1) and subparagraph (II) of this paragraph (b), the court shall sentence the person to the department of corrections. In addition to a term of imprisonment, the court may impose a fine on such person pursuant to subparagraph (III) of paragraph (a) of this subsection (1).

(c) Except as otherwise provided by statute, felonies are punishable by imprisonment in any correctional facility under the supervision of the executive director of the department of corrections.Nothing in this section shall limit the authority granted in part 8 of this article to increase sentences for habitual criminals. Nothing in this section shall limit the authority granted in parts 9 and 10 of this article to sentence sex offenders to the department of corrections or to sentence sex offenders to probation for an indeterminate term. Nothing in this section shall limit the authority granted in section 18-1.3-804 for increased sentences for habitual burglary offenders.

(2) (a) A corporation which has been found guilty of a class 2 or class 3 felony shall be subject to imposition of a fine of not less than five thousand dollars nor more than fifty thousand dollars. A corporation which has been found guilty of a class 4, class 5, or class 6 felony shall be subject to imposition of a fine of not less than one thousand dollars nor more than thirty thousand dollars.

(b) A corporation which has been found guilty of a class 2, class 3, class 4, class 5, or class 6 felony, for an act committed on or after July 1, 1985, shall be subject to imposition of a fine which is within the presumptive ranges set forth in subparagraph (III) of paragraph (a) of subsection (1) of this section.

(3) Every person convicted of a felony, whether defined as such within or outside this code, shall be disqualified from holding any office of honor, trust, or profit under the laws of this state or from practicing as an attorney in any of the courts of this state during the actual time of confinement or commitment to imprisonment or release from actual confinement on conditions of probation. Upon his or her discharge after completion of service of his or her sentence or after service under probation, the right to hold any office of honor, trust, or profit shall be restored, except as provided in section 4 of article XII of the state constitution.

(4) (a) A person who has been convicted of a class 1 felony shall be punished by life imprisonment in the department of corrections unless a proceeding held to determine sentence according to the procedure set forth in section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102, results in a verdict that requires imposition of the death penalty, in which event such person shall be sentenced to death. As to any person sentenced for a class 1 felony, for an act committed on or after July 1, 1985, and before July 1, 1990, life imprisonment shall mean imprisonment without the possibility of parole for forty calendar years. As to any person sentenced for a class 1 felony, for an act committed on or after July 1, 1990, life imprisonment shall mean imprisonment without the possibility of parole.

(b) (I) Notwithstanding the provisions of sub-subparagraph (A) of subparagraph (V) of paragraph (a) of subsection (1) of this section and notwithstanding the provisions of paragraph (a) of this subsection (4), as to a person who is convicted as an adult of a class 1 felony following direct filing of an information or indictment in the district court pursuant to section 19-2-517, C.R.S., or transfer of proceedings to the district court pursuant to section 19-2-518, C.R.S., the district court judge shall sentence the person to a term of life imprisonment with the possibility of parole after serving a period of forty calendar years. Regardless of whether the state board of parole releases the person on parole, the person shall remain in the legal custody of the department of corrections for the remainder of the person's life and shall not be discharged.

(II) The provisions of this paragraph (b) shall apply to persons sentenced for offenses committed on or after July 1, 2006.

(5) In the event the death penalty as provided for in this section is held to be unconstitutional by the Colorado supreme court or the United States supreme court, a person convicted of a crime punishable by death under the laws of this state shall be punished by life imprisonment. In such circumstance, the court which previously sentenced a person to death shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment.

(6) In imposing a sentence to incarceration, the court shall impose a definite sentence which is within the presumptive ranges set forth in subsection (1) of this section unless it concludes that extraordinary mitigating or aggravating circumstances are present, are based on evidence in the record of the sentencing hearing and the presentence report, and support a different sentence which better serves the purposes of this code with respect to sentencing, as set forth in section 18-1-102.5. If the court finds such extraordinary mitigating or aggravating circumstances, it may impose a sentence which is lesser or greater than the presumptive range; except that in no case shall the term of sentence be greater than twice the maximum nor less than one-half the minimum term authorized in the presumptive range for the punishment of the offense.

(7) In all cases, except as provided in subsection (8) of this section, in which a sentence which is not within the presumptive range is imposed, the court shall make specific findings on the record of the case, detailing the specific extraordinary circumstances which constitute the reasons for varying from the presumptive sentence.

(8) (a) The presence of any one or more of the following extraordinary aggravating circumstances shall require the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of a felony:

(I) The defendant is convicted of a crime of violence under section 18-1.3-406;

(II) The defendant was on parole for another felony at the time of commission of the felony;

(III) The defendant was on probation or was on bond while awaiting sentencing following revocation of probation for another felony at the time of the commission of the felony;

(IV) The defendant was under confinement, in prison, or in any correctional institution as a convicted felon, or an escapee from any correctional institution for another felony at the time of the commission of a felony;

(V) At the time of the commission of the felony, the defendant was on appeal bond following his or her conviction for a previous felony;

(VI) At the time of the commission of a felony, the defendant was on probation for or on bond while awaiting sentencing following revocation of probation for a delinquent act that would have constituted a felony if committed by an adult.

(b) In any case in which one or more of the extraordinary aggravating circumstances provided for in paragraph (a) of this subsection (8) exist, the provisions of subsection (7) of this section shall not apply.

(c) Nothing in this subsection (8) shall preclude the court from considering aggravating circumstances other than those stated in paragraph (a) of this subsection (8) as the basis for sentencing the defendant to a term greater than the presumptive range for the felony.

(d) (I) If the defendant is convicted of the class 2 or the class 3 felony of child abuse under section 18-6-401 (7) (a) (I) or (7) (a) (III), the court shall be required to sentence the defendant to the department of corrections for a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of that class felony.

(II) In no case shall any defendant sentenced pursuant to subparagraph (I) of this paragraph (d) be eligible for suspension of sentence or for probation or deferred prosecution.

(e) (I) If the defendant is convicted of the class 2 felony of sexual assault in the first degree under section 18-3-402 (3), commission of which offense occurs prior to November 1, 1998, the court shall be required to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of that class of felony.

(II) In no case shall any defendant sentenced pursuant to subparagraph (I) of this paragraph (e) be eligible for suspension of sentence or probation.

(III) As a condition of parole under section 17-2-201 (5) (e), C.R.S., a defendant sentenced pursuant to this paragraph (e) shall be required to participate in a program of mental health counseling or receive appropriate treatment to the extent that the state board of parole deems appropriate to effectuate the successful reintegration of the defendant into the community while recognizing the need for public safety.

(e.5) If the defendant is convicted of the class 2 felony of sexual assault under section 18-3-402 (5) or the class 2 felony of sexual assault in the first degree under section 18-3-402 (3) as it existed prior to July 1, 2000, commission of which offense occurs on or after November 1, 1998,

the court shall be required to sentence the defendant to the department of corrections for an indeterminate sentence of at least the midpoint in the presumptive range for the punishment of that class of felony up to the defendant's natural life.

(f) The court may consider aggravating circumstances such as serious bodily injury caused to the victim or the use of a weapon in the commission of a crime, notwithstanding the fact that such factors constitute elements of the offense.

(g) If the defendant is convicted of class 4 or class 3 felony vehicular homicide under section 18-3-106 (1) (a) or (1) (b), and while committing vehicular homicide the defendant was in immediate flight from the commission of another felony, the court shall be required to sentence the defendant to the department of corrections for a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of the class of felony vehicular homicide of which the defendant is convicted.

(9) The presence of any one or more of the following sentence-enhancing circumstances shall require the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the minimum in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of a felony:

(a) At the time of the commission of the felony, the defendant was charged with or was on bond for a felony in a previous case and the defendant was convicted of any felony in the previous case;

(a.5) At the time of the commission of the felony, the defendant was charged with or was on bond for a delinquent act that would have constituted a felony if committed by an adult;

(b) At the time of the commission of the felony, the defendant was on bond for having pled guilty to a lesser offense when the original offense charged was a felony;

(c) The defendant was under a deferred judgment and sentence for another felony at the time of the commission of the felony;

(c.5) At the time of the commission of the felony, the defendant was on bond in a juvenile prosecution under title 19, C.R.S., for having pled guilty to a lesser delinquent act when the original delinquent act charged would have constituted a felony if committed by an adult;

(c.7) At the time of the commission of the felony, the defendant was under a deferred judgment and sentence for a delinquent act that would have constituted a felony if committed by an adult;

(d) At the time of the commission of the felony, the defendant was on parole for having been adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult.

(10) (a) The general assembly hereby finds that certain crimes which are listed in paragraph (b) of this subsection (10) present an extraordinary risk of harm to society and therefore, in the interest of public safety, for such crimes which constitute class 3 felonies, the maximum sentence in the presumptive range shall be increased by four years; for such crimes which constitute class 4 felonies, the maximum sentence in the presumptive range shall be increased by two years; for such crimes which constitute class 5 felonies, the maximum sentence in the presumptive range

shall be increased by one year; for such crimes which constitute class 6 felonies, the maximum sentence in the presumptive range shall be increased by six months.

(b) Crimes that present an extraordinary risk of harm to society shall include the following:

(I) to (VIII) Repealed.

(IX) Aggravated robbery, as defined in section 18-4-302;

(X) Child abuse, as defined in section 18-6-401;

(XI) Unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense, as defined in section 18-18-405;

(XII) Any crime of violence, as defined in section 18-1.3-406;

(XIII) Stalking, as described in section 18-9-111 (4) AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF HOUSE BILL 10-1233, ENACTED IN 2010, OR SECTION 18-3-602;

(XIV) Sale or distribution of materials to manufacture controlled substances, as described in section 18-18-412.7; and

(XV) FELONY INVASION OF PRIVACY FOR SEXUAL GRATIFICATION, AS DESCRIBED IN SECTION 18-3-405.6

(c) Repealed.

(11) When it shall appear to the satisfaction of the court that the ends of justice and the best interest of the public, as well as the defendant, will be best served thereby, the court shall have the power to suspend the imposition or execution of sentence for such period and upon such terms and conditions as it may deem best; except that in no instance shall the court have the power to suspend a sentence to a term of incarceration when the defendant is sentenced pursuant to a sentencing provision that requires incarceration or imprisonment in the department of corrections, community corrections, or jail.In no instance shall a sentence be suspended if the defendant is ineligible for probation pursuant to section 18-1.3-201, except upon an express waiver being made by the sentencing court regarding a particular defendant upon recommendation of the district attorney and approval of such recommendation by an order of the sentencing court pursuant to section 18-1.3-201 (4).

(12) Every sentence entered under this section shall include consideration of restitution as required by part 6 of this article and by article 18.5 of title 16, C.R.S.

(13) (a) The court, if it sentences a defendant who is convicted of any one or more of the offenses specified in paragraph (b) of this subsection (13) to incarceration, shall sentence the defendant to a term of at least the midpoint, but not more than twice the maximum, of the presumptive range authorized for the punishment of the offense of which the defendant is convicted if the court makes the following findings on the record:

(I) The victim of the offense was pregnant at the time of commission of the offense; and

(II) The defendant knew or reasonably should have known that the victim of the offense was pregnant.

(III) (Deleted by amendment, L. 2003, p. 2163, § 3, effective July 1, 2003.)

(b) The provisions of this subsection (13) shall apply to the following offenses:

(I) Murder in the second degree, as described in section 18-3-103;

(II) Manslaughter, as described in section 18-3-104;

(III) Criminally negligent homicide, as described in section 18-3-105;

(IV) Vehicular homicide, as described in section 18-3-106;

(V) Assault in the first degree, as described in section 18-3-202;

(VI) Assault in the second degree, as described in section 18-3-203;

(VII) Vehicular assault, as described in section 18-3-205.

(c) Notwithstanding any provision of this subsection (13) to the contrary, for any of the offenses specified in paragraph (b) of this subsection (13) that constitute crimes of violence, the court shall sentence the defendant in accordance with the provisions of section 18-1.3-406.

(14) The court may sentence a defendant to the youthful offender system created in section 18-1.3-407 if the defendant is an eligible young adult offender pursuant to section 18-1.3-407.5.

COLO. REV. STAT. § 18-1.3-402 (2009). Felonies offenses not classified.

(1) Any felony defined by state statute without specification of its class shall be punishable as provided in the statute defining it. For felony offenses committed on or after July 1, 1993, if the sentencing court sentences an offender to incarceration pursuant to the provisions of this section, the sentencing court shall also impose a mandatory period of parole of two years.

(2) Every sentence entered under this section shall include consideration of restitution as required by part 6 of this article and by article 18.5 of title 16, C.R.S.

COLO. REV. STAT. § 18-1.3-403 (2009). Penalty for felony not fixed by statute – punishment.

(1) In all cases where an offense is denominated by statute as being a felony and no penalty is fixed in the statute therefor, the punishment shall be imprisonment for not more than five years in a correctional facility, as defined in section 17-1-102, C.R.S., or a fine of not more than fifteen thousand dollars, or both such imprisonment and fine. For offenses committed on or after July 1, 1985, a fine of not more than one hundred thousand dollars may be levied.For offenses committed on or after July 1, 1993, if the sentencing court sentences an offender to incarceration pursuant to the provisions of this section, the sentencing court shall also impose a mandatory period of parole of two years.

(2) Every sentence entered under this section shall include consideration of restitution as required by part 6 of this article and by article 18.5 of title 16, C.R.S.

COLO. REV. STAT. § 18-1.3-406 (2009). Mandatory sentences for violent crimes.

(1) (a) Any person convicted of a crime of violence shall be sentenced pursuant to the provisions of section 18-1.3-401 (8) to the department of corrections for a term of incarceration of at least the midpoint in, but not more than twice the maximum of, the presumptive range provided for such offense in section 18-1.3-401 (1) (a), as modified for an extraordinary risk crime pursuant to section 18-1.3-401 (10), without suspension; except that, within ninety days after he or she has been placed in the custody of the department of corrections, the department shall transmit to the sentencing court a report on the evaluation and diagnosis of the violent offender, and the court, in a case which it considers to be exceptional and to involve unusual and extenuating circumstances, may thereupon modify the sentence, effective not earlier than one hundred twenty days after his or her placement in the custody of the department. Such modification may include probation if the person is otherwise eligible therefor. Whenever a court finds that modification of a sentence is justified, the judge shall notify the state court administrator of his or her decision and shall advise said administrator of the unusual and extenuating circumstances that justified such modification. The state court administrator shall maintain a record, which shall be open to the public, summarizing all modifications of sentences and the grounds therefor for each judge of each district court in the state. A person convicted of two or more separate crimes of violence arising out of the same incident shall be sentenced for such crimes so that sentences are served consecutively rather than concurrently.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), any person convicted of a sex offense, as defined in section 18-1.3-1003 (5), committed on or after November 1, 1998, that constitutes a crime of violence shall be sentenced to the department of corrections for an indeterminate term of incarceration of at least the midpoint in the presumptive range specified in section 18-1.3-401 (1) (a) (V) (A) up to a maximum of the person's natural life, as provided in section 18-1.3-1004 (1).

(2) (a) (I) "Crime of violence" means any of the crimes specified in subparagraph (II) of this paragraph (a) committed, conspired to be committed, or attempted to be committed by a person during which, or in the immediate flight therefrom, the person:

(A) Used, or possessed and threatened the use of, a deadly weapon; or

(B) Caused serious bodily injury or death to any other person except another participant.

(II) Subparagraph (I) of this paragraph (a) applies to the following crimes:

(A) Any crime against an at-risk adult or at-risk juvenile;

(B) Murder;

(C) First or second degree assault;

(D) Kidnapping;

(E) A sexual offense pursuant to part 4 of article 3 of this title;

(F) Aggravated robbery;

(G) First degree arson;

(H) First degree burglary;

(I) Escape; or

(J) Criminal extortion.

(b) (I) "Crime of violence" also means any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim. For purposes of this subparagraph (I), "unlawful sexual offense" shall have the same meaning as set forth in section 18-3-411 (1), and "bodily injury" shall have the same meaning as set forth in section 18-1-901 (3) (c).

(II) The provisions of subparagraph (I) of this paragraph (b) shall apply only to felony unlawful sexual offenses.

(c) As used in this section, "at-risk adult" has the same meaning as set forth in section 18-6.5-102 (1), and "at-risk juvenile" has the same meaning as set forth in section 18-6.5-102 (1.5).

(3) In any case in which the accused is charged with a crime of violence as defined in subsection (2) (a) (I) of this section, the indictment or information shall so allege in a separate count, even though the use or threatened use of such deadly weapon or infliction of such serious bodily injury or death is not an essential element of the crime charged.

(4) The jury, or the court if no jury trial is had, in any case as provided in subsection (3) of this section shall make a specific finding as to whether the accused did or did not use, or possessed and threatened to use, a deadly weapon during the commission of such crime or whether such serious bodily injury or death was caused by the accused. If the jury or court finds that the accused used, or possessed and threatened the use of, such deadly weapon or that such injury or death was caused by the accused, the penalty provisions of this section shall be applicable.

(5) In any case in which the accused is charged with a crime of violence as defined in subsection (2) (a) (II) of this section, the indictment or information shall so allege in a separate count, even though the use of threat, intimidation, or force or the infliction of bodily injury is not an essential element of the crime charged.

(6) The jury, or the court if no jury trial is had, in any case as provided in subsection (5) of this section shall make a specific finding as to whether the accused did or did not use threat, intimidation, or force during the commission of such crime or whether such bodily injury was caused by the accused. If the jury or court finds that the accused used threat, intimidation, or force or that such bodily injury was caused by the accused, the penalty provisions of this section shall be applicable.

(7) (a) In any case in which the accused is charged with a crime of violence as defined in this section and the indictment or information specifies the use of a dangerous weapon as defined in sections 18-12-101 and 18-12-102, or the use of a semiautomatic assault weapon as defined in

paragraph (b) of this subsection (7), upon conviction for said crime of violence, the judge shall impose an additional sentence to the department of corrections of five years for the use of such weapon. The sentence of five years shall be in addition to the mandatory sentence imposed for the substantive offense and shall be served consecutively to any other sentence and shall not be subject to suspension or probation.

(b) For the purposes of this subsection (7), "semiautomatic assault weapon" means any semiautomatic center fire firearm that is equipped with a detachable magazine with a capacity of twenty or more rounds of ammunition.

COLO. REV. STAT. § 18-1.3-501 (2009). Misdemeanors classified – penalties.

(1) (a) Misdemeanors are divided into three classes which are distinguished from one another by the following penalties which are authorized upon conviction except as provided in subsection (1.5) of this section:

Class Minimum Sentence MaximumSentence
1 Six months imprisonment, or five Eighteen monthsimprisonment,

hundred dollars fine, or both or five thousand dollars fine, or both
2 Three months imprisonment, or two Twelve months imprisonment,

hundred fifty dollars fine, or both or one thousand dollars fine, orboth
3 Fifty dollars fine Six months imprisonment, or seven

hundred fifty dollars fine, or both

(b) A term of imprisonment for conviction of a misdemeanor shall not be served in a state correctional facility unless served concurrently with a term for conviction of a felony.

(c) A term of imprisonment in a county jail for a conviction of a misdemeanor, petty, or traffic misdemeanor offense shall not be ordered to be served consecutively to a sentence to be served in a state correctional facility; except that if, at the time of sentencing, the court determines, after consideration of all the relevant facts and circumstances, that a concurrent sentence is not warranted, the court may order that the misdemeanor sentence be served prior to the sentence to be served in the state correctional facility and prior to the time the defendant is transported to the state correctional facility to serve all or the remainder of the defendant's state correctional facility sentence.

(1.5) (a) If a defendant is convicted of assault in the third degree pursuant to section 18-3-204 and the victim is a peace officer, emergency medical technician, or firefighter engaged in the performance of his or her duties, notwithstanding the provisions of subsection (1) of this section, the court shall sentence the defendant to a term of imprisonment greater than the maximum sentence but no more than twice the maximum sentence authorized for the same crime when the victim is not a peace officer, emergency medical technician, or firefighter engaged in the

performance of his or her duties. In addition to such term of imprisonment, the court may impose a fine on the defendant pursuant to subsection (1) of this section.

(b) As used in this section, "peace officer, emergency medical technician, or firefighter engaged in the performance of his or her duties" means a peace officer as described in section 16-2.5-101, C.R.S., emergency medical technician as defined in part 1 of article 3.5 of title 25, C.R.S., or a firefighter as defined in section 18-3-201 (1), who is engaged or acting in, or who is present for the purpose of engaging or acting in, the performance of any duty, service, or function imposed, authorized, required, or permitted by law to be performed by a peace officer, emergency medical technician, or firefighter, whether or not the peace officer, emergency medical technician, or firefighter is within the territorial limits of his or her jurisdiction, if the peace officer, emergency medical technician, or firefighter is in uniform or the person committing an assault upon or offense against or otherwise acting toward such peace officer, emergency medical technician, or firefighter knows or reasonably should know that the victim is a peace officer, emergency medical technician, or firefighter or if the peace officer, EMERGENCY MEDICAL TECHNICIAN, or firefighter is intentionally assaulted in retaliation for the performance of his or her official duties.

(1.7) (a) If a defendant is convicted of assault in the third degree pursuant to section 18-3-204 or reckless endangerment pursuant to section 18-3-208 and the victim is a mental health professional employed by or under contract with the department of human services engaged in the performance of his or her duties, notwithstanding the provisions of subsection (1) of this section, the court may sentence the defendant to a term of imprisonment greater than the maximum sentence but not more than twice the maximum sentence authorized for the crime when the victim is not a mental health professional employed by or under contract with the department of human services engaged in the performance of his or her duties. In addition to a term of imprisonment, the court may impose a fine on the defendant pursuant to subsection (1) of this section.

(b) "Mental health professional" means a mental health professional licensed to practice medicine pursuant to part 1 of article 36 of title 12, C.R.S., or a person licensed as a mental health professional pursuant to article 43 of title 12, C.R.S., a person licensed as a nurse pursuant to part 1 of article 38 of title 12, C.R.S., a nurse aide certified pursuant to part 1 of article 38.1 of title 12, C.R.S., and a psychiatric technician licensed pursuant to part 1 of article 42 of title 12, C.R.S.

(2) The defendant may be sentenced to perform a certain number of hours of community or useful public service in addition to any other sentence provided by subsection (1) of this section, subject to the conditions and restrictions of section 18-1.3-507. An inmate in county jail acting as a trustee shall not be given concurrent credit for community or useful public service when such service is performed in his or her capacity as trustee. For the purposes of this subsection (2), "community or useful public service" means any work which is beneficial to the public, any public entity, or any bona fide nonprofit private or public organization, which work involves a minimum of direct supervision or other public cost and which work would not, with the exercise of reasonable care, endanger the health or safety of the person required to work.

(3) (a) The general assembly hereby finds that certain misdemeanors which are listed in paragraph (b) of this subsection (3) present an extraordinary risk of harm to society and therefore, in the interest of public safety, the maximum sentence for such misdemeanors shall be increased by six months.

(b) Misdemeanors that present an extraordinary risk of harm to society shall include the following:

(I) Assault in the third degree, as defined in section 18-3-204;

(I.5) (A) Sexual assault, as defined in section 18-3-402; or

(B) Sexual assault in the second degree, as defined in section 18-3-403, as it existed prior to July 1, 2000;

(II) (A) Unlawful sexual contact, as defined in section 18-3-404; or

(B) Sexual assault in the third degree, as defined in section 18-3-404, as it existed prior to July 1, 2000;

(III) Child abuse, as defined in section 18-6-401 (7) (a) (V);

(IV) Second and all subsequent violations of a protection order as defined in section 18-6-803.5 (1.5) (a.5);

(V) Misdemeanor failure to register as a sex offender, as described in section 18-3-412.5; and

(VI) MISDEMEANOR INVASION OF PRIVACY FOR SEXUAL GRATIFICATION, AS DESCRIBED IN SECTION 18-3-405.6.

(4) Notwithstanding any provision of law to the contrary, any person who attempts to commit, conspires to commit, or commits against an elderly person any misdemeanor set forth in part 4 of article 4 of this title, part 1, 2, 3, or 5 of article 5 of this title, or article 5.5 of this title shall be required to pay a mandatory and substantial fine within the limits permitted by law. However, all moneys collected from the offender shall be applied in the following order: Costs for crime victim compensation fund pursuant to section 24-4.1-119, C.R.S.; surcharges for victims and witnesses assistance and law enforcement fund pursuant to section 24-4.2-104, C.R.S.; restitution; time payment fee; late fees; and any other fines, fees, or surcharges. For purposes of this subsection (4), an "elderly person" or "elderly victim" means a person sixty years of age or older.

(5) Every sentence entered under this section shall include consideration of restitution as required by part 6 of this article and by article 18.5 of title 16, C.R.S.

(6) For a defendant who is convicted of assault in the third degree, as described in section 18-3-204, the court, in addition to any fine the court may impose, shall sentence the defendant to a term of imprisonment of at least six months, but not longer than the maximum sentence authorized for the offense, as specified in this section, which sentence shall not be suspended in whole or in part, if the court makes the following findings on the record:

(a) The victim of the offense was pregnant at the time of commission of the offense; and

(b) The defendant knew or should have known that the victim of the offense was pregnant.

(c) (Deleted by amendment, L. 2003, p. 2163, § 4, effective July 1, 2003.)

COLO. REV. STAT. § 18-1.3-505 (2009). Penalty for misdemeanor not fixed by statute – punishment.

(1) In all cases where an offense is denominated a misdemeanor and no penalty is fixed in the statute therefor, the punishment shall be imprisonment for not more than one year in the county jail, or a fine of not more than one thousand dollars, or both such imprisonment and fine.

(2) Every sentence entered under this section shall include consideration of restitution as required by part 6 of this article and by article 18.5 of title 16, C.R.S.

COLO. REV. STAT. § 18-1.3-506 (2009). Payment and collection of fines for class 1, 2, or 3 misdemeanors and class 1 or 2 petty offenses – release from incarceration.

(1) Whenever the court imposes a fine for a nonviolent class 1, 2, or 3 misdemeanor or for a class 1 or 2 petty offense, if the person who committed the offense is unable to pay the fine at the time of the court hearing or if he or she fails to pay any fine imposed for the commission of such offense, in order to guarantee the payment of such fine, the court may:

(a) Require the person to post sufficient bond or collateral; or

(b) Enter a judgment in favor of the state or political subdivision to whom the fine is owed and enter an order based on such judgment for the garnishment of the person's earnings in accordance with the provisions of either article 54 or 54.5 of title 13, C.R.S., for the purpose of collecting said fine and the costs incurred in collecting said fine; or

(c) Enter a judgment in favor of the state or political subdivision to whom the fine is owed and execute a lien based on such judgment on any chattels, lands, tenements, moneys, and real estate of the person in accordance with article 52 of title 13, C.R.S., for the purpose of collecting said fine and the costs incurred in collecting said fine.

(2) The state or a political subdivision may appear before a court of record in this state and request that the court order the release from a county jail or a correctional facility of a person who has been incarcerated as a result of the failure to pay a fine or the failure to appear in court in connection with the commission of a nonviolent class 1, 2, or 3 misdemeanor or a class 1 or 2 petty offense upon the condition that the fine and any costs of collection are collected from the person incarcerated by the use of one of the methods set forth in subsection (1) of this section.

(3) For the purposes of this section, "nonviolent class 1, 2, or 3 misdemeanor" means a class 1, 2, or 3 misdemeanor that does not involve cruelty to an animal, as described in section 18-9-202 (1) (a), or the use or threat of physical force on or to a person in the commission of the misdemeanor.

COLO. REV. STAT. § 18-1.3-507 (2009). Community or useful public service – misdemeanors.

(1) Any sentence imposed pursuant to section 18-1.3-501 (2) shall be subject to the conditions and restrictions of this section.

(2) (a) A probation department, sentencing court, county sheriff, board of county commissioners, or any other governmental entity, or a private nonprofit or for-profit entity that has a contract with a governmental entity, may establish a community or useful public service program. It is the purpose of the community or useful public service program: To identify and seek the cooperation of governmental entities and political subdivisions thereof, as well as corporations, associations, or charitable trusts, for the purpose of providing community or useful public service jobs; to interview persons who have been ordered by the court to perform community or useful public service and to assign such persons to suitable community or useful public service jobs; and to monitor compliance or noncompliance of such persons in performing community or useful public service assignments within the time established by the court.

(b) Nothing in this subsection (2) shall limit the authority of an entity which is the recipient of community or useful public service to accept or reject such service, in its sole discretion.

(2.5) A charitable trust that is exempt from taxation under section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, shall be eligible to provide community or useful public service jobs established under this article or any other provision of law, so long as the charitable trust meets any other requirement related to the provision of such jobs.

(3) Any general public liability insurance policy obtained pursuant to this section shall provide coverage for injuries caused by a person performing services under this section and shall be in a sum of not less than the current limit on government liability under the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(4) For the purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., public employee, as defined in section 24-10-103, C.R.S., does not include any person who is sentenced to participate in any type of community or useful public service.

(5) No governmental entity or private nonprofit or for-profit entity which has a contract with a governmental entity shall be liable under the "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., or under the "Colorado Employment Security Act", articles 70 to 82 of title 8, C.R.S., for any benefits on account of any person who is sentenced to participate in any type of community or useful public service, but nothing in this subsection (5) shall prohibit a governmental entity or private nonprofit or for-profit entity from electing to accept the provisions of the "Workers' Compensation Act of Colorado" by purchasing and keeping in force a policy of workers' compensation insurance covering such person.

(6) The court shall assess an amount, not to exceed one hundred twenty dollars, upon every person required to perform community or useful public service pursuant to section 18-1.3-501 (2). The court may waive this fee if the court determines the defendant to be indigent. Such amount shall be used by the operating agency responsible for overseeing such person's community or useful public service program to pay the cost of administration of the program and the cost of personal services. Such amount is to be commensurate with program costs in providing services and shall be adjusted from time to time by the general assembly to insure that the operating agencies shall be financially self-supporting. The proceeds from such amounts shall be used by the operating agency only for defraying the cost of personal services and other operating expenses related to the administration of the program, a general liability policy covering such person, and, if such person will be covered by workers' compensation insurance pursuant to subsection (5) of this section or an insurance policy providing such or similar coverage, the cost of purchasing and keeping in force such insurance coverage and shall not be used by the operating agency for any other purpose.

COLO. REV. STAT. § 18-1.3-904 (2009). Indeterminate commitment.

The district court having jurisdiction may, subject to the requirements of this part 9, in lieu of the sentence otherwise provided by law, commit a sex offender to the custody of the department for an indeterminate term having a minimum of one day and a maximum of his or her natural life.

COLO. REV. STAT. § 18-1.4-102 (2009). Imposition of sentence in class 1 felonies for crimes committed on or after July 1, 1995, and prior to July 12, 2002 – appellate review.

(1) (a) Upon conviction of guilt of a defendant of a class 1 felony, the trial court shall conduct a separate sentencing hearing to determine whether the defendant should be sentenced to death or life imprisonment, unless the defendant was under the age of eighteen years at the time of the commission of the offense, or unless the defendant has been determined to be a mentally retarded defendant pursuant to part 4 of article 9 of title 16, C.R.S., as it existed prior to October 1, 2002, in either of which cases, the defendant shall be sentenced to life imprisonment. The hearing shall be conducted by the trial judge before the trial jury as soon as practicable.Alternate jurors shall not be excused from the case prior to submission of the issue of guilt to the trial jury and shall remain separately sequestered until a verdict is entered by the trial jury. If the verdict of the trial jury is that the defendant is guilty of a class 1 felony, the alternate jurors shall sit as alternate jurors on the issue of punishment. If, for any reason satisfactory to the court, any member or members of the trial jury are excused from participation in the sentencing hearing, the trial judge shall replace such juror or jurors with an alternate juror or jurors. If a trial jury was waived or if the defendant pled guilty, the hearing shall be conducted before the trial judge. The court shall instruct the defendant when waiving his or her right to a jury trial or when pleading guilty, that he or she is also waiving his or her right to a jury determination of the sentence at the sentencing hearing.

(b) All admissible evidence presented by either the prosecuting attorney or the defendant that the court deems relevant to the nature of the crime, and the character, background, and history of the defendant, including any evidence presented in the guilt phase of the trial, any matters relating to any of the aggravating or mitigating factors enumerated in subsections (4) and (5) of this section, and any matters relating to the personal characteristics of the victim and the impact of the crimes on the victim's family may be presented. Any such evidence, including but not limited to the testimony of members of the victim's immediate family, as defined in section 24-4.1-302 (6), C.R.S., which the court deems to have probative value may be received, as long as each party is given an opportunity to rebut such evidence. The prosecuting attorney and the defendant or the defendant's counsel shall be permitted to present arguments for or against a sentence of death.The jury shall be instructed that life imprisonment means imprisonment for life without the possibility of parole.

(c) (Deleted by amendment, L. 2002, 3rd Ex. Sess., p. 24, § 14, effective July 12, 2002.)

(d) The burden of proof as to the aggravating factors enumerated in subsection (5) of this section shall be beyond a reasonable doubt. There shall be no burden of proof as to proving or disproving mitigating factors.

(e) If, as of July 12, 2002, the prosecution has announced it will be seeking the death sentence as the punishment for a conviction of a class 1 felony and a defendant has been convicted at trial of

a class 1 felony or has pled guilty to a class 1 felony, but a sentencing hearing to determine whether that defendant shall be sentenced to death or life imprisonment has not yet been held, a jury shall be impaneled to determine the sentence at the sentencing hearing pursuant to the procedures set forth in this section or, if the defendant pled guilty or waived the right to jury sentencing, the sentence shall be determined by the trial judge.

(2) (a) After hearing all the evidence and arguments of the prosecuting attorney and the defendant, the jury shall deliberate and render a verdict based upon the following considerations:

(I) Whether at least one aggravating factor has been proved as enumerated in subsection (5) of this section;

(II) Whether sufficient mitigating factors exist which outweigh any aggravating factor or factors found to exist; and

(III) Based on the considerations in subparagraphs (I) and (II) of this paragraph (a), whether the defendant should be sentenced to death or life imprisonment.

(b) (I) In the event that no aggravating factors are found to exist as enumerated in subsection (5) of this section, the jury shall render a verdict of life imprisonment, and the court shall sentence the defendant to life imprisonment.

(II) The jury shall not render a verdict of death unless it finds and specifies in writing that:

(A) At least one aggravating factor has been proved; and

(B) There are insufficient mitigating factors to outweigh the aggravating factor or factors that were proved.

(c) In the event that the jury's verdict is to sentence to death, such verdict shall be unanimous and shall be binding upon the court unless the court determines, and sets forth in writing the basis and reasons for such determination, that the verdict of the jury is clearly erroneous as contrary to the weight of the evidence, in which case the court shall sentence the defendant to life imprisonment.

(d) If the jury's verdict is not unanimous, the jury shall be discharged, and the court shall sentence the defendant to life imprisonment.

(3) In all cases where the sentencing hearing is held before the court alone, the court shall determine whether the defendant should be sentenced to death or life imprisonment in the same manner in which a jury determines its verdict under paragraphs (a) and (b) of subsection (2) of this section. The sentence of the court shall be supported by specific written findings of fact based upon the circumstances as set forth in subsections (4) and (5) of this section and upon the records of the trial and the sentencing hearing.

(3.5) (a) The provisions of this subsection (3.5) shall apply only in a class 1 felony case in which the prosecuting attorney has filed a statement of intent to seek the death penalty pursuant to rule 32.1 (b) of the Colorado rules of criminal procedure.

(b) The prosecuting attorney shall provide the defendant with the following information and materials not later than twenty days after the prosecution files its written intention to seek the death penalty or within such other time frame as the supreme court may establish by rule; except

that any reports, recorded statements, and notes, including results of physical or mental examinations and scientific tests, experiments, or comparisons, of any expert whom the prosecuting attorney intends to call as a witness at the sentencing hearing shall be provided to the defense as soon as practicable but not later than forty-five days before trial:

(I) A list of all aggravating factors that are known to the prosecuting attorney at that time and that the prosecuting attorney intends to prove at the sentencing hearing;

(II) A list of all witnesses whom the prosecuting attorney may call at the sentencing hearing, specifying for each the witness' name, address, and date of birth and the subject matter of the witness' testimony;

(III) The written and recorded statements, including any notes of those statements, for each witness whom the prosecuting attorney may call at the sentencing hearing;

(IV) A list of books, papers, documents, photographs, or tangible objects that the prosecuting attorney may introduce at the sentencing hearing; and

(V) All material or information that tends to mitigate or negate the finding of any of the aggravating factors the prosecuting attorney intends to prove at the sentencing hearing.

(c) Upon receipt of the information required to be disclosed by the defendant pursuant to paragraph (d) of this subsection (3.5), the prosecuting attorney shall notify the defendant as soon as practicable of any additional witnesses whom the prosecuting attorney intends to call in response to the defendant's disclosures.

(d) The defendant shall provide the prosecuting attorney with the following information and materials no later than thirty days before the first trial date set for the beginning of the defendant's trial or within such other time frame as the supreme court may establish by rule; however, any reports, recorded statements, and notes, including results of physical or mental examinations and scientific tests, experiments, or comparisons, of any expert whom the defense intends to call as a witness at the sentencing hearing shall be provided to the prosecuting attorney as soon as practicable but not later than thirty days before trial:

(I) A list of all witnesses whom the defendant may call at the sentencing hearing, specifying for each the witness' name, address, and date of birth and the subject matter of the witness' testimony;

(II) The written and recorded statements, including any notes of those statements, of each witness whom the defendant may call at the sentencing hearing; and

(III) A list of books, papers, documents, photographs, or tangible objects that the defendant may introduce at the sentencing hearing.

(e) (I) Any material subject to this subsection (3.5) that the defendant believes contains information that is privileged to the extent that the prosecution cannot be aware of it in connection with its preparation for, or conduct of, the trial to determine guilt on the substantive charges against the defendant shall be submitted by the defendant to the trial judge under seal no later than forty-five days before trial.

(II) The trial judge shall review any such material submitted under seal pursuant to subparagraph (I) of this paragraph (e) to determine whether it is in fact privileged. Any material the trial judge

finds not to be privileged shall be provided forthwith to the prosecuting attorney. Any material submitted under seal that the trial judge finds to be privileged shall be provided forthwith to the prosecution if the defendant is convicted of a class 1 felony.

(f) (I) Except as otherwise provided in subparagraph (II) of this paragraph (f), if the witnesses disclosed by the defendant pursuant to paragraph (d) of this subsection (3.5) include witnesses who may provide evidence concerning the defendant's mental condition at the sentencing hearing conducted pursuant to this section, the trial court, at the request of the prosecuting attorney, shall order that the defendant be examined and a report of said examination be prepared pursuant to section 16-8-106, C.R.S.

(II) The court shall not order an examination pursuant to subparagraph (I) of this paragraph (f) if:

(A) Such an examination was previously performed and a report was prepared in the same case; and

(B) The report included an opinion concerning how any mental disease or defect of the defendant or condition of mind caused by mental disease or defect of the defendant affects the mitigating factors that the defendant may raise at the sentencing hearing held pursuant to this section.

(g) If the witnesses disclosed by the defendant pursuant to paragraph (d) of this subsection (3.5) include witnesses who may provide evidence concerning the defendant's mental condition at a sentencing hearing conducted pursuant to this section, the provisions of section 16-8-109, C.R.S., concerning testimony of lay witnesses shall apply to said sentencing hearing.

(h) There is a continuing duty on the part of the prosecuting attorney and the defendant to disclose the information and materials specified in this subsection (3.5). If, after complying with the duty to disclose the information and materials described in this subsection (3.5), either party discovers or obtains any additional information and materials that are subject to disclosure under this subsection (3.5), the party shall promptly notify the other party and provide the other party with complete access to the information and materials.

(i) The trial court, upon a showing of extraordinary circumstances that could not have been foreseen and prevented, may grant an extension of time to comply with the requirements of this subsection (3.5).

(j) If it is brought to the attention of the court that either the prosecuting attorney or the defendant has failed to comply with the provisions of this subsection (3.5) or with an order issued pursuant to this subsection (3.5), the court may enter any order against such party that the court deems just under the circumstances, including but not limited to an order to permit the discovery or inspection of information and materials not previously disclosed, to grant a continuance, to prohibit the offending party from introducing the information and materials not disclosed, or to impose sanctions against the offending party.

(4) For purposes of this section, mitigating factors shall be the following factors:

(a) The age of the defendant at the time of the crime; or

(b) The defendant's capacity to appreciate wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution; or

(c) The defendant was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution; or

(d) The defendant was a principal in the offense which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

(e) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of the offense for which the defendant was convicted would cause, or would create a grave risk of causing, death to another person; or

(f) The emotional state of the defendant at the time the crime was committed; or

(g) The absence of any significant prior conviction; or

(h) The extent of the defendant's cooperation with law enforcement officers or agencies and with the office of the prosecuting district attorney; or

(i) The influence of drugs or alcohol; or

(j) The good faith, although mistaken, belief by the defendant that circumstances existed which constituted a moral justification for the defendant's conduct; or

(k) The defendant is not a continuing threat to society; or

(l) Any other evidence which in the court's opinion bears on the question of mitigation.

(5) For purposes of this section, aggravating factors shall be the following factors:

(a) The class 1 felony was committed by a person under sentence of imprisonment for a class 1, 2, or 3 felony as defined by Colorado law or United States law, or for a crime committed against another state or the United States which would constitute a class 1, 2, or 3 felony as defined by Colorado law; or

(b) The defendant was previously convicted in this state of a class 1 or 2 felony involving violence as specified in section 16-11-309, C.R.S., as it existed prior to October 1, 2002, or section 18-1.3-406, or was previously convicted by another state or the United States of an offense which would constitute a class 1 or 2 felony involving violence as defined by Colorado law in section 16-11-309, C.R.S., as it existed prior to October 1, 2002, or section 18-1.3-406; or

(c) The defendant intentionally killed any of the following persons while such person was engaged in the course of the performance of such person's official duties, and the defendant knew or reasonably should have known that such victim was such a person engaged in the performance of such person's official duties, or the victim was intentionally killed in retaliation for the performance of the victim's official duties:

(I) A peace officer or former peace officer as described in section 16-2.5-101, C.R.S.; or

(II) A firefighter as defined in section 24-33.5-1202 (4), C.R.S.; or

(III) A judge, referee, or former judge or referee of any court of record in the state or federal system or in any other state court system or a judge or former judge in any municipal court in this state or in any other state. For purposes of this subparagraph (III), the term "referee" shall include a hearing officer or any other officer who exercises judicial functions.

(IV) An elected state, county, or municipal official; or

(V) A federal law enforcement officer or agent or former federal law enforcement officer or agent; or

(d) The defendant intentionally killed a person kidnapped or being held as a hostage by the defendant or by anyone associated with the defendant; or

(e) The defendant has been a party to an agreement to kill another person in furtherance of which a person has been intentionally killed; or

(f) The defendant committed the offense while lying in wait, from ambush, or by use of an explosive or incendiary device. As used in this paragraph (f), "explosive or incendiary device" means:

(I) Dynamite and all other forms of high explosives; or

(II) Any explosive bomb, grenade, missile, or similar device; or

(III) Any incendiary bomb or grenade, fire bomb, or similar device, including any device which consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound, and can be carried or thrown by one individual acting alone.

(g) The defendant committed a class 1, 2, or 3 felony and, in the course of or in furtherance of such or immediate flight therefrom, the defendant intentionally caused the death of a person other than one of the participants; or

(h) The class 1 felony was committed for pecuniary gain; or

(i) In the commission of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense; or

(j) The defendant committed the offense in an especially heinous, cruel, or depraved manner; or

(k) The class 1 felony was committed for the purpose of avoiding or preventing a lawful arrest or prosecution or effecting an escape from custody. This factor shall include the intentional killing of a witness to a criminal offense.

(l) The defendant unlawfully and intentionally, knowingly, or with universal malice manifesting extreme indifference to the value of human life generally, killed two or more persons during the commission of the same criminal episode; or

(m) The defendant intentionally killed a child who has not yet attained twelve years of age; or

(n) (I) The defendant committed the class 1 felony against the victim because of the victim's race, color, ancestry, religion, or national origin.

(II) The provisions of this paragraph (n) shall apply to offenses committed on or after July 1, 1998.

(o) (I) The defendant's possession of the weapon used to commit the class 1 felony constituted a felony offense under the laws of this state or the United States.

(II) The provisions of this paragraph (o) shall apply to offenses committed on or after August 2, 2000.

(6) (a) Whenever a sentence of death is imposed upon a person pursuant to the provisions of this section, the supreme court shall review the propriety of that sentence, having regard to the nature of the offense, the character and record of the offender, the public interest, and the manner in which the sentence was imposed, including the sufficiency and accuracy of the information on which it was based. The procedures to be employed in the review shall be as provided by supreme court rule. The supreme court shall combine its review pursuant to this subsection (6) with consideration of any appeal that may be filed pursuant to part 2 of article 12 of title 16, C.R.S.

(b) A sentence of death shall not be imposed pursuant to this section if the supreme court determines that the sentence was imposed under the influence of passion or prejudice or any other arbitrary factor or that the evidence presented does not support the finding of statutory aggravating circumstances.

(7) (a) It is the expressed intent of the general assembly that there be in place a valid and operative procedure for the imposition of a sentence of death concerning class 1 felonies committed on or after July 1, 1995, and prior to July 12, 2002. Towards that end, if any provisions of this section are determined by the United States supreme court or by the Colorado supreme court to render this section unconstitutional or invalid such that this section does not constitute a valid and operative death penalty statute concerning such class 1 felonies, but severance of such provisions would, through operation of the remaining provisions of this section, maintain this section as a valid and operative death penalty statute concerning such class 1 felonies, it is the intent of the general assembly that those remaining provisions are severable and are to have full force and effect. If, instead, any provisions of this section are determined by the United States supreme court or by the Colorado supreme court to render this section unconstitutional or invalid such that this section does not constitute a valid and operative death penalty statute concerning such class 1 felonies, and severance of such provisions would not, through operation of the remaining provisions of this section, render this section a valid and operative death penalty statute concerning such offenses, it is the intent of the general assembly that this entire article be void and inoperative.

(b) If any death sentence is imposed upon a defendant pursuant to the provisions of this section and, on appellate review including consideration pursuant to subsection (9) of this section, the imposition of such death sentence upon such defendant is held invalid for reasons other than unconstitutionality of the death penalty or insufficiency of the evidence to support the sentence, the case shall be remanded to the trial court to set a new sentencing hearing before a newly impaneled jury or, if the defendant pled guilty or waived the right to jury sentencing, before the trial judge; except that, if the prosecutor informs the trial court that, in the opinion of the prosecutor, capital punishment would no longer be in the interest of justice, said defendant shall be returned to the trial court and shall then be sentenced to life imprisonment. If a death sentence

imposed pursuant to this section is held invalid based on unconstitutionality of the death penalty or insufficiency of the evidence to support the sentence, said defendant shall be returned to the trial court and shall then be sentenced to life imprisonment.

(8) When reviewing a sentence of death imposed by a three-judge panel, if the Colorado supreme court concludes that any one or more of the determinations made by the three-judge panel were constitutionally required to have been made by a jury, the supreme court may:

(a) Examine the record and the jury's verdicts or the defendant's guilty pleas at the guilt phase of the trial and determine whether any of the aggravating factors found to exist by the three-judge panel were also fairly determined to exist beyond a reasonable doubt by the jury's verdicts or the defendant's guilty pleas; and

(b) (I) If the supreme court determines that one or more aggravating factors were fairly determined to exist beyond a reasonable doubt by the jury's verdicts or the defendant's guilty pleas, the supreme court shall determine whether the sentence of death should be affirmed on appeal by proceeding in accordance with the provisions of paragraphs (a) to (d) of subsection (9) of this section; or

(II) If the supreme court determines there were no aggravating factors fairly determined to exist beyond a reasonable doubt by the jury's verdicts or the defendant's guilty pleas, the supreme court shall remand the case to the trial court for a sentencing hearing before a newly impaneled jury.

(9) If, on appeal, the supreme court finds one or more of the aggravating factors that were found to support a sentence to death to be invalid for any reason, the supreme court may determine whether the sentence of death should be affirmed on appeal by:

(a) Reweighing the remaining aggravating factor or factors and all mitigating factors and then determining whether death is the appropriate punishment in the case; or

(b) Applying harmless error analysis by considering whether, if the sentencing body had not considered the invalid aggravating factor, it would have nonetheless sentenced the defendant to death; or

(c) If the supreme court finds the sentencing body's consideration of an aggravating factor was improper because the aggravating factor was not given a constitutionally narrow construction, determining whether, beyond a reasonable doubt, the sentencing body would have returned a verdict of death had the aggravating factor been properly narrowed; or

(d) Employing any other constitutionally permissible method of review.

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CONN. GEN. STAT. § 53A-35 (2010). Imprisonment for any felony committed prior to July 1, 1981: Indeterminate sentences; maximum and minimum terms.

(a) For any felony committed prior to July 1, 1981, the sentence of imprisonment shall be an indeterminate sentence, except as provided in subsection (d). When such a sentence is imposed the court shall impose a maximum term in accordance with the provisions of subsection (b) and the minimum term shall be as provided in subsection (c) or (d).

(b) The maximum term of an indeterminate sentence shall be fixed by the court and specified in the sentence as follows: (1) For a class A felony, life imprisonment; (2) for a class B felony, a term not to exceed twenty years; (3) for a class C felony, a term not to exceed ten years; (4) for a class D felony, a term not to exceed five years; (5) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime; and (6) for a capital felony, life imprisonment unless a sentence of death is imposed in accordance with section 53a-46a.

(c) Except as provided in subsection (d) the minimum term of an indeterminate sentence shall be fixed by the court and specified in the sentence as follows: (1) For a class A felony, the minimum term shall not be less than ten nor more than twenty-five years; (2) for a class B, C or D felony the court may fix a minimum term of not less than one year nor more than one-half of the maximum term imposed, except that (A) where the maximum is less than three years the minimum term may be more than one-half the maximum term imposed or (B) when a person is found guilty under section 53a-59(a)(1), section 53a-59a, 53a-101(a)(1) or 53a-134(a)(2), the minimum term shall be not less than five years and such sentence shall not be suspended or reduced, or when a person is found guilty under section 53a-60c, the minimum term shall be not less than three years and such sentence shall not be suspended or reduced, or when a person is found guilty under section 53a-60b,the minimum term shall be not less than two years and such sentence shall not be suspended or reduced; (3) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.

(d) Notwithstanding the provisions of subsections (a) and (c), except as provided in subdivision (2) of said subsection (c), when a person is sentenced for a class C or D felony or for an unclassified felony, the maximum sentence for which does not exceed ten years, the court may impose a definite sentence of imprisonment and fix a term of one year or less; except when a person is found guilty under sections 53a-55a, 53a-56a, 53a-60a, 53a-70a, 53a-72b, 53a-92a, 53a-94a, 53a-102a and 53a-103a, the court shall not fix a term of less than one year.

CONN. GEN. STAT. § 53A-35A (2010). Imprisonment for any felony committed on or after July 1, 1981: Definite sentences; terms authorized.

For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and the term shall be fixed by the court as follows: (1) For a capital felony, a term of life imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a; (2) for the class A felony of murder, a term not less than twenty-five years nor more than life; (3) for the class A felony of aggravated sexual assault of a minor under section 53a-70c, a term not less than twenty-five years or more than fifty years; (4) for a class A felony other than an offense specified in subdivision (2) or (3) of this section, a term not less than ten years nor more than twenty-five years; (5) for the class B felony of manslaughter in the first degree with a firearm under section 53a-55a, a term not less than five years nor more than forty years; (6) for a class B felony other than manslaughter in the first degree with a firearm under section 53a-55a, a term not less than one year nor more than twenty years, except that for a conviction under section 53a-59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-

134(a)(2), the term shall be not less than five years nor more than twenty years; (7) for a class C felony, a term not less than one year nor more than ten years, except that for a conviction under section 53a-56a, the term shall be not less than three years nor more than ten years; (8) for a class D felony, a term not less than one year nor more than five years, except that for a conviction under section 53a-60b or 53a-217, the term shall be not less than two years nor more than five years, for a conviction under section 53a-60c, the term shall be not less than three years nor more than five years, and for a conviction under section 53a-216, the term shall be five years; (9) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.

Effective July 1, 2010:
For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and [A> , UNLESS THE SECTION OF THE GENERAL STATUTES THAT DEFINES THE CRIME SPECIFICALLY PROVIDES OTHERWISE, <A] the term shall be fixed by the court as follows: (1) For a capital felony, a term of life imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a; (2) for the class A felony of murder, a term not less than twenty-five years nor more than life; (3) for the class A felony of aggravated sexual assault of a minor under section 53a-70c, a term not less than twenty-five years or more than fifty years; (4) for a class A felony other than an offense specified in subdivision (2) or (3) of this section, a term not less than ten years nor more than twenty-five years; (5) for the class B felony of manslaughter in the first degree with a firearm under section 53a-55a, a term not less than five years nor more than forty years; (6) for a class B felony other than manslaughter in the first degree with a firearm under section 53a-55a, a term not less than one year nor more than twenty years [A> ; <A] [D> , except that for a conviction under section 53a-59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-134(a)(2), the term shall be not less than five years nor more than twenty years; <D] (7) for a class C felony, a term not less than one year nor more than ten years [A> ; <A] [D> , except that for a conviction under section 53a-56a, the term shall be not less than three years nor more than ten years; <D] (8) for a class D felony, a term not less than one year nor more than five years [A> ; <A] [D> , except that for a conviction under section 53a-60b or 53a-217, the term shall be not less than two years nor more than five years, for a conviction under section 53a-60c, the term shall be not less than three years nor more than five years, and for a conviction under section 53a-216, the term shall be five years; <D] [A> AND <A] (9) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.

CONN. GEN. STAT. § 53A-36 (2010). Imprisonment for misdemeanor: Maximum and minimum sentences.

A sentence of imprisonment for a misdemeanor shall be a definite sentence and the term shall be fixed by the court as follows: (1) For a class A misdemeanor, a term not to exceed one year except that when a person is found guilty under section 53a-61(a)(3) or 53a-61a, the term shall be one year and such sentence shall not be suspended or reduced; (2) for a class B misdemeanor, a term not to exceed six months; (3) for a class C misdemeanor, a term not to exceed three months; (4) for an unclassified misdemeanor, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.

Effective July 1, 2010:
A sentence of imprisonment for a misdemeanor shall be a definite sentence and [A> , UNLESS THE SECTION OF THE GENERAL STATUTES THAT DEFINES THE CRIME

SPECIFICALLY PROVIDES OTHERWISE, <A] the term shall be fixed by the court as follows: (1) For a class A misdemeanor, a term not to exceed one year [A> ; <A] [D> except that when a person is found guilty under section 53a-61(a)(3) or 53a-61a, the term shall be one year and such sentence shall not be suspended or reduced; <D] (2) for a class B misdemeanor, a term not to exceed six months; (3) for a class C misdemeanor, a term not to exceed three months; [A> AND <A] (4) for an unclassified misdemeanor, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.

CONN. GEN. STAT. § 53A-37 (2010). Multiple sentences: Concurrent or consecutive, minimum term.

When multiple sentences of imprisonment are imposed on a person at the same time, or when a person who is subject to any undischarged term of imprisonment imposed at a previous time by a court of this state is sentenced to an additional term of imprisonment, the sentence or sentences imposed by the court shall run either concurrently or consecutively with respect to each other and to the undischarged term or terms in such manner as the court directs at the time of sentence. The court shall state whether the respective maxima and minima shall run concurrently or consecutively with respect to each other, and shall state in conclusion the effective sentence imposed. When a person is sentenced for two or more counts each constituting a separate offense, the court may order that the term of imprisonment for the second and subsequent counts be for a fixed number of years each. The court in such cases shall not set any minimum term of imprisonment except under the first count, and the fixed number of years imposed for the second and subsequent counts shall be added to the maximum term imposed by the court on the first count.

CONN. GEN. STAT. § 53A-40 (2010). Persistent offenders: Definitions; defense; authorized sentences; procedure.

(a) A persistent dangerous felony offender is a person who:

(1) (A) Stands convicted of manslaughter, arson, kidnapping, robbery in the first or second degree, assault in the first degree, home invasion, burglary in the first degree or burglary in the second degree with a firearm, and (B) has been, prior to the commission of the present crime, convicted of and imprisoned under a sentence to a term of imprisonment of more than one year or of death, in this state or in any other state or in a federal correctional institution, for any of the following crimes: (i) The crimes enumerated in subparagraph (A) of this subdivision or an attempt to commit any of said crimes; or (ii) murder, sexual assault in the first or third degree, aggravated sexual assault in the first degree or sexual assault in the third degree with a firearm, or an attempt to commit any of said crimes; or (iii) prior to October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or prior to October 1, 1971, in this state, assault with intent to kill under section 54-117, or any of the crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83, 53-86, 53-238 and 53-239 of the general statutes, revision of 1958, revised to 1968, or any predecessor statutes in this state, or an attempt to commit any of said crimes; or (iv) in any other state, any crimes the essential elements of which are substantially the same as any of the crimes enumerated in subparagraph (A) of this subdivision or this subparagraph; or

(2) (A) Stands convicted of sexual assault in the first or third degree, aggravated sexual assault in the first degree or sexual assault in the third degree with a firearm, and (B) has been, prior to the commission of the present crime, convicted of and imprisoned under a sentence to a term of imprisonment of more than one year or of death, in this state or in any other state or in a federal correctional institution, for any of the following crimes: (i) Murder, manslaughter, arson, kidnapping, robbery in the first or second degree, assault in the first degree, home invasion, burglary in the first degree or burglary in the second degree with a firearm, or an attempt to commit any of said crimes; or (ii) prior to October 1, 1971, in this state, assault with intent to kill under section 54-117, or any of the crimes enumerated in sections 53-9, 53-10, 53-11, 53-12 to 53-16, inclusive, 53-19, 53-21, 53-69, 53-78 to 53-80, inclusive, 53-82, 53-83 and 53-86 of the general statutes, revision of 1958, revised to 1968, or any predecessor statutes in this state, or an attempt to commit any of said crimes; or (iii) in any other state, any crimes the essential elements of which are substantially the same as any of the crimes enumerated in subparagraph (A) of this subdivision or this subparagraph.

(b) A persistent dangerous sexual offender is a person who (1) stands convicted of sexual assault in the first or third degree, aggravated sexual assault in the first degree or sexual assault in the third degree with a firearm, and (2) has been, prior to the commission of the present crime, convicted of and imprisoned under a sentence to a term of imprisonment of more than one year, in this state or in any other state or in a federal correctional institution, for (A) any of the crimes enumerated in subdivision (1) of this subsection, or (B) prior to October 1, 1975, any of the crimes enumerated in section 53a-72, 53a-75 or 53a-78 of the general statutes, revision of 1958, revised to 1975, or prior to October 1, 1971, in this state, any of the crimes enumerated in section 53-238 or 53-239 of the general statutes, revision of 1958, revised to 1968, or any predecessor statutes in this state, or an attempt to commit any of said crimes, or (C) in any other state, any crimes the essential elements of which are substantially the same as any of the crimes enumerated in subdivision (1) of this subsection or this subdivision.

(c) A persistent serious felony offender is a person who (1) stands convicted of a felony, and (2) has been, prior to the commission of the present felony, convicted of and imprisoned under an imposed term of more than one year or of death, in this state or in any other state or in a federal correctional institution, for a crime. This subsection shall not apply where the present conviction is for a crime enumerated in subdivision (1) of subsection (a) of this section and the prior conviction was for a crime other than those enumerated in subsection (a) of this section.

(d) A persistent serious sexual offender is a person, other than a person who qualifies as a persistent dangerous sexual offender under subsection (b) of this section, who qualifies as a persistent serious felony offender under subsection (c) of this section and the felony of which such person presently stands convicted is a violation of subdivision (2) of subsection (a) of section 53-21, or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b and the prior conviction is for a violation of section 53-21 of the general statutes, revised to January 1, 1995, involving sexual contact, committed prior to October 1, 1995, a violation of subdivision (2) of section 53-21 of the general statutes, committed on or after October 1, 1995, and prior to October 1, 2000, a violation of subdivision (2) of subsection (a) of section 53-21 or a violation of section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b.

(e) A persistent larceny offender is a person who (1) stands convicted of larceny in the third degree in violation of the provisions of section 53a-124 in effect prior to October 1, 1982, or larceny in the fourth, fifth or sixth degree, and (2) has been, at separate times prior to the commission of the present larceny, twice convicted of the crime of larceny.

(f) A persistent felony offender is a person who (1) stands convicted of a felony other than a class D felony, and (2) has been, at separate times prior to the commission of the present felony, twice convicted of a felony other than a class D felony.

(g) It shall be an affirmative defense to the charge of being a persistent offender under this section that (1) as to any prior conviction on which the state is relying the defendant was pardoned on the ground of innocence, and (2) without such conviction, the defendant was not two or more times convicted and imprisoned as required by this section.

(h) When any person has been found to be a persistent dangerous felony offender, the court, in lieu of imposing the sentence of imprisonment authorized by the general statutes for the crime of which such person presently stands convicted, shall (1) sentence such person to a term of imprisonment that is not (A) less than twice the minimum term of imprisonment authorized for such crime or (B) more than twice the maximum term of imprisonment authorized for such crime or forty years, whichever is greater, provided, if a mandatory minimum term of imprisonment is authorized for such crime, such sentence shall include a mandatory minimum term of imprisonment that is twice such authorized mandatory minimum term of imprisonment, and (2) if such person has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the crimes enumerated in subsection (a) of this section, sentence such person to a term of imprisonment that is not less than three times the minimum term of imprisonment authorized for such crime or more than life, provided, if a mandatory minimum term of imprisonment is authorized for such crime, such sentence shall include a mandatory minimum term of imprisonment that is three times such authorized mandatory minimum term of imprisonment.

(i) When any person has been found to be a persistent dangerous sexual offender, the court, in lieu of imposing the sentence of imprisonment authorized by section 53a-35a for the crime of which such person presently stands convicted, shall sentence such person to a term of imprisonment and a period of special parole pursuant to subsection (b) of section 53a-28 which together constitute a sentence of imprisonment for life, as defined in section 53a-35b.

(j) When any person has been found to be a persistent serious felony offender, the court in lieu of imposing the sentence of imprisonment authorized by section 53a-35 for the crime of which such person presently stands convicted, or authorized by section 53a-35a if the crime of which such person presently stands convicted was committed on or after July 1, 1981, may impose the sentence of imprisonment authorized by said section for the next more serious degree of felony.

(k) When any person has been found to be a persistent serious sexual offender, the court, in lieu of imposing the sentence of imprisonment authorized by section 53a-35a for the crime of which such person presently stands convicted, may impose a sentence of imprisonment and a period of special parole pursuant to subsection (b) of section 53a-28 which together constitute the maximum sentence specified by section 53a-35a for the next more serious degree of felony.

(l) When any person has been found to be a persistent larceny offender, the court, in lieu of imposing the sentence authorized by section 53a-36 for the crime of which such person presently stands convicted, may impose the sentence of imprisonment for a class D felony authorized by section 53a-35, if the crime of which such person presently stands convicted was committed prior to July 1, 1981, or authorized by section 53a-35a, if the crime of which such person presently stands convicted was committed on or after July 1, 1981.

(m) When any person has been found to be a persistent felony offender, the court, in lieu of imposing the sentence authorized by section 53a-35a for the crime of which such person presently stands convicted, may impose the sentence of imprisonment authorized by said section for the next more serious degree of felony; provided the sentence imposed may not be less than three years, and provided further three years of the sentence so imposed may not be suspended or reduced by the court.

(n) (1) Whenever a person is arrested for any of the crimes enumerated in subsection (a) of this section, the prosecuting authority shall investigate and ascertain whether such person has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the crimes enumerated in said subsection (a) and would be eligible to be sentenced under subsection (h) of this section if convicted of such crime.

(2) If the prosecuting authority ascertains that such person has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the crimes enumerated in subsection (a) of this section and such person has been presented to a geographical area courthouse, the prosecuting authority shall cause such person to be transferred to a judicial district courthouse.

(3) No court shall accept a plea of guilty, not guilty or nolo contendere from a person arrested for any of the crimes enumerated in subsection (a) of this section unless it finds that the prosecuting authority has complied with the requirements of subdivision (1) of this subsection.

(4) If the prosecuting authority ascertains that such person has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the crimes enumerated in subsection (a) of this section but decides not to initiate proceedings to seek the sentence enhancement provided by subsection (h) of this section, the prosecuting authority shall state for the record the specific reason or reasons for not initiating such proceedings.

(5) If the prosecuting authority ascertains that such person has, at separate times prior to the commission of the present crime, been twice convicted of and imprisoned for any of the crimes enumerated in subsection (a) of this section and initiates proceedings to seek the sentence enhancement provided by subsection (h) of this section, but subsequently decides to terminate such proceedings, the prosecuting authority shall state for the record the specific reason or reasons for terminating such proceedings.

CONN. GEN. STAT. § 53A-40B (2010). Additional term of imprisonment authorized for offense committed while on release.

A person convicted of an offense committed while released pursuant to sections 54-63a to 54-63g, inclusive, or sections 54-64a to 54-64c, inclusive, other than a violation of section 53a-222, may be sentenced, in addition to the sentence prescribed for the offense to (1) a term of imprisonment of not more than ten years if the offense is a felony, or (2) a term of imprisonment of not more than one year if the offense is a misdemeanor.
Effective July 1, 2010:
A person convicted of an offense committed while released pursuant to sections 54-63a to 54-63g, inclusive, or sections 54-64a to 54-64c, inclusive, other than a violation of section 53a-222 [A> OR 53A-222A <A] , may be sentenced, in addition to the sentence prescribed for the offense to (1) a term of imprisonment of not more than ten years if the offense is a felony, or (2) a term of imprisonment of not more than one year if the offense is a misdemeanor.

CONN. GEN. STAT. § 53A-40D (2010). Persistent offenders of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order or criminal violation of a restraining order. Authorized sentences.

(a) A persistent offender of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order or criminal violation of a restraining order is a person who (1) stands convicted of assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b or criminal trespass under section 53a-107 or 53a-108, and (2) has, within the five years preceding the commission of the present crime, been convicted of a capital felony, a class A felony, a class B felony, except a conviction under section 53a-86 or 53a-122, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b, or criminal trespass under section 53a-107 or 53a-108 or has been released from incarceration with respect to such conviction, whichever is later.

(b) When any person has been found to be a persistent offender of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order or criminal violation of a restraining order, the court shall, in lieu of imposing the sentence authorized for the crime under section 53a-36 or section 53a-35a, as applicable, impose the sentence of imprisonment authorized by said section 53a-36 or section 53a-35a for the next more serious degree of misdemeanor or felony, except that if the crime is a class A misdemeanor the court shall impose the sentence of imprisonment for a class D felony, as authorized by section 53a-35a.

Effective October 1, 2010:
(a) A persistent offender of crimes involving assault, stalking, trespass, threatening, harassment, criminal violation of a protective order or criminal violation of a restraining order is a person who (1) stands convicted of assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b or criminal trespass under section 53a-107 or 53a-108, and (2) has, [D> within the five years preceding the commission of the present crime, <D] [A> (A) <A] been convicted of a capital felony, a class A felony, a class B felony, except a conviction under section 53a-86 or 53a-122, a class C felony, except a conviction under section 53a-87, 53a-152 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c, inclusive, 53a-72a, 53a-72b, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, assault under section 53a-61, stalking under section 53a-181d, threatening under section 53a-62, harassment under section 53a-183, criminal violation of a protective order under section 53a-223, criminal violation of a restraining order under section 53a-223b, or criminal trespass under section 53a-107 or 53a-108 [A> , (B) BEEN CONVICTED IN ANY OTHER STATE OF ANY CRIME THE ESSENTIAL ELEMENTS OF WHICH ARE SUBSTANTIALLY THE SAME AS ANY OF THE CRIMES ENUMERATED IN SUBPARAGRAPH (A) OF THIS SUBDIVISION, <A] or [D> has <D] [A> (C) <A] been released from incarceration with respect to such conviction [A> . <A] [D> , whichever is later. <D]

CONN. GEN. STAT. § 53A-41 (2010). Fines for felonies.

A fine for the conviction of a felony shall be fixed by the court as follows: (1) For a class A felony, an amount not to exceed twenty thousand dollars; (2) for a class B felony, an amount not to exceed fifteen thousand dollars; (3) for a class C felony, an amount not to exceed ten thousand dollars; (4) for a class D felony, an amount not to exceed five thousand dollars; (5) for an unclassified felony, an amount in accordance with the fine specified in the section of the general statutes that defines the crime.

CONN. GEN. STAT. § 53A-42 (2010). Fines for misdemeanors.

A fine for the conviction of a misdemeanor shall be fixed by the court as follows: (1) For a class A misdemeanor, an amount not to exceed two thousand dollars; (2) for a class B misdemeanor, an amount not to exceed one thousand dollars; (3) for a class C misdemeanor, an amount not to exceed five hundred dollars; (4) for an unclassified misdemeanor, an amount in accordance with the fine specified in the section of the general statutes that defines the crime.

CONN. GEN. STAT. § 53A-43 (2010). Fines for violations.

A fine for a violation shall be fixed by the court in an amount not to exceed five hundred dollars. In the case of a violation defined in any other section of the general statutes, if the amount of the fine is expressly specified in the section that defines the offense, the amount of the fine shall be fixed in accordance with such section.

CONN. GEN. STAT. § 54-251 (2010). Registration of person who has committed a criminal offense against a victim who is a minor or a nonviolent sexual offense.

(a) Any person who has been convicted or found not guilty by reason of mental disease or defect of a criminal offense against a victim who is a minor or a nonviolent sexual offense, and is released into the community on or after October 1, 1998, shall, within three days following such release or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct, and whether or not such person's place of residence is in this state, register such person's name, identifying factors, criminal history record, residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Public Safety, on such forms and in such locations as the commissioner shall direct, and shall maintain such registration for ten years except that any person who has one or more prior convictions of any such offense or who is convicted of a violation of subdivision (2) of subsection (a) of section 53a-70 shall maintain such registration for life. Prior to accepting a plea of guilty or nolo contendere from a person with respect to a criminal offense against a victim who is a minor or a nonviolent sexual offense, the court shall (1) inform the person that the entry of a finding of guilty after acceptance of the plea will subject the person to the registration requirements of this section, and (2) determine that the person fully understands the consequences of the plea. If any person who is subject to registration under this section changes such person's name, such person shall, without undue delay, notify the

Commissioner of Public Safety in writing of the new name. If any person who is subject to registration under this section changes such person's address, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of the new address and, if the new address is in another state, such person shall also register with an appropriate agency in that state, provided that state has a registration requirement for such offenders. If any person who is subject to registration under this section establishes or changes an electronic mail address, instant message address or other similar Internet communication identifier, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of such identifier. If any person who is subject to registration under this section is employed at, carries on a vocation at or is a student at a trade or professional institution or institution of higher learning in this state, such person shall, without undue delay, notify the Commissioner of Public Safety of such status and of any change in such status. If any person who is subject to registration under this section is employed in another state, carries on a vocation in another state or is a student in another state, such person shall, without undue delay, notify the Commissioner of Public Safety and shall also register with an appropriate agency in that state provided that state has a registration requirement for such offenders. During such period of registration, each registrant shall complete and return forms mailed to such registrant to verify such registrant's residence address and shall submit to the retaking of a photographic image upon request of the Commissioner of Public Safety.

(b) Notwithstanding the provisions of subsection (a) of this section, the court may exempt any person who has been convicted or found not guilty by reason of mental disease or defect of a violation of subdivision (1) of subsection (a) of section 53a-71 from the registration requirements of this section if the court finds that such person was under nineteen years of age at the time of the offense and that registration is not required for public safety.

(c) Notwithstanding the provisions of subsection (a) of this section, the court may exempt any person who has been convicted or found not guilty by reason of mental disease or defect of a violation of subdivision (2) of subsection (a) of section 53a-73a or subdivision (2) of subsection (a) of section 53a-189a, from the registration requirements of this section if the court finds that registration is not required for public safety.

(d) Any person who files an application with the court to be exempted from the registration requirements of this section pursuant to subsection (b) or (c) of this section shall, pursuant to subsection (b) of section 54-227, notify the Office of Victim Services and the Victim Services Unit within the Department of Correction of the filing of such application. The Office of Victim Services or the Victim Services Unit within the Department of Correction, or both, shall, pursuant to section 54-230 or 54-230a, notify any victim who has requested notification of the filing of such application. Prior to granting or denying such application, the court shall consider any information or statement provided by the victim.

(e) Any person who violates the provisions of subsection (a) of this section shall be guilty of a class D felony, except that, if such person violates the provisions of this section by failing to notify the Commissioner of Public Safety without undue delay of a change of name, address or status or another reportable event, such person shall be subject to such penalty if such failure continues for five business days.

CONN. GEN. STAT. § 54-252 (2010). Registration of person who has committed a sexually violent offense.

(a) Any person who has been convicted or found not guilty by reason of mental disease or defect of a sexually violent offense, and (1) is released into the community on or after October 1, 1988, and prior to October 1, 1998, and resides in this state, shall, on October 1, 1998, or within three days of residing in this state, whichever is later, or (2) is released into the community on or after October 1, 1998, shall, within three days following such release or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct, register such person's name, identifying factors and criminal history record, documentation of any treatment received by such person for mental abnormality or personality disorder, and such person's residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Public Safety on such forms and in such locations as said commissioner shall direct, and shall maintain such registration for life. Prior to accepting a plea of guilty or nolo contendere from a person with respect to a sexually violent offense, the court shall (A) inform the person that the entry of a finding of guilty after acceptance of the plea will subject the person to the registration requirements of this section, and (B) determine that the person fully understands the consequences of the plea. If any person who is subject to registration under this section changes such person's name, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of the new name. If any person who is subject to registration under this section changes such person's address, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of the new address and, if the new address is in another state, such person shall also register with an appropriate agency in that state, provided that state has a registration requirement for such offenders. If any person who is subject to registration under this section establishes or changes an electronic mail address, instant message address or other similar Internet communication identifier, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of such identifier. If any person who is subject to registration under this section is employed at, carries on a vocation at or is a student at a trade or professional institution or institution of higher learning in this state, such person shall, without undue delay, notify the Commissioner of Public Safety of such status and of any change in such status. If any person who is subject to registration under this section is employed in another state, carries on a vocation in another state or is a student in another state, such person shall, without undue delay, notify the Commissioner of Public Safety and shall also register with an appropriate agency in that state, provided that state has a registration requirement for such offenders. During such period of registration, each registrant shall complete and return forms mailed to such registrant to verify such registrant's residence address and shall submit to the retaking of a photographic image upon request of the Commissioner of Public Safety.

(b) Any person who has been subject to the registration requirements of section 54-102r of the general statutes, revised to January 1, 1997, as amended by section 1 of public act 97-183, shall, not later than three working days after October 1, 1998, register under this section and thereafter comply with the provisions of sections 54-102g and 54-250 to 54-258a, inclusive, except that any person who was convicted or found not guilty by reason of mental disease or defect of an offense that is classified as a criminal offense against a victim who is a minor under subdivision (2) of section 54-250 and that is subject to a ten-year period of registration under section 54-251 shall maintain such registration for ten years.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, during the initial registration period following October 1, 1998, the Commissioner of Public Safety may phase in completion of the registration procedure for persons released into the community prior to said date over the first three months following said date, and no such person shall be prosecuted for failure to register under this section during those three months provided such person complies with the directives of said commissioner regarding registration procedures.

(d) Any person who violates the provisions of this section shall be guilty of a class D felony, except that, if such person violates the provisions of this section by failing to notify the Commissioner of Public Safety without undue delay of a change of name, address or status or another reportable event, such person shall be subject to such penalty if such failure continues for five business days.

CONN. GEN. STAT. § 54-254 (2010). Registration of person who has committed a felony for a sexual purpose.

(a) Any person who has been convicted or found not guilty by reason of mental disease or defect in this state on or after October 1, 1998, of any felony that the court finds was committed for a sexual purpose, may be required by the court upon release into the community or, if such person is in the custody of the Commissioner of Correction, at such time prior to release as the commissioner shall direct to register such person's name, identifying factors, criminal history record, residence address and electronic mail address, instant message address or other similar Internet communication identifier, if any, with the Commissioner of Public Safety, on such forms and in such locations as the commissioner shall direct, and to maintain such registration for ten years. If the court finds that a person has committed a felony for a sexual purpose and intends to require such person to register under this section, prior to accepting a plea of guilty or nolo contendere from such person with respect to such felony, the court shall (1) inform the person that the entry of a finding of guilty after acceptance of the plea will subject the person to the registration requirements of this section, and (2) determine that the person fully understands the consequences of the plea. If any person who is subject to registration under this section changes such person's name, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of the new name. If any person who is subject to registration under this section changes such person's address, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of the new address and, if the new address is in another state, such person shall also register with an appropriate agency in that state, provided that state has a registration requirement for such offenders. If any person who is subject to registration under this section establishes or changes an electronic mail address, instant message address or other similar Internet communication identifier, such person shall, without undue delay, notify the Commissioner of Public Safety in writing of such identifier. If any person who is subject to registration under this section is employed at, carries on a vocation at or is a student at a trade or professional institution or institution of higher learning in this state, such person shall, without undue delay, notify the Commissioner of Public Safety of such status and of any change in such status. If any person who is subject to registration under this section is employed in another state, carries on a vocation in another state or is a student in another state, such person shall, without undue delay, notify the Commissioner of Public Safety and shall also register with an appropriate agency in that state, provided that state has a registration requirement for such offenders. During such period of registration, each registrant shall complete and return forms mailed to such registrant to verify such registrant's residence address and shall submit to the retaking of a photographic image upon request of the Commissioner of Public Safety.

(b) Any person who violates the provisions of this section shall be guilty of a class D felony, except that, if such person violates the provisions of this section by failing to notify the Commissioner of Public Safety without undue delay of a change of name, address or status or another reportable event, such person shall be subject to such penalty if such failure continues for five business days.

DELAWARE

DEL. CODE ANN. TIT. 11 § 4120 (2010). Registration of sex offenders.

(a) Unless otherwise indicated, the definitions set forth in § 4121(a) of this title shall apply to this section. In addition, when used in this section, the phrase "custodial institution" includes any Level IV or V facility operated by or for the Department of Correction, the Division of Youth Rehabilitative Services or the Delaware Psychiatric Center, or any like institution, and the phrase "temporary resident" shall include any person who is for more than 7 days or for more than an aggregate of 30 days in any 12-month period, employed or works in Delaware, or who is a full or part-time student in Delaware. A student is any person who attends or enrolls in any public or private educational facility, including, but not limited to, colleges or universities.

(b) (1) Any sex offender who is released, discharged or paroled from any Level IV or Level V facility or other custodial institution after that sex offender has completed a sentence imposed following a conviction for any offense specified in § 4121(a)(4) of this title shall be required to register as a sex offender. The registration shall be completed during the Level IV or V sentence, but not more than 90 days, nor less than 45 days, prior to the offender's release, discharge or parole. The registration information shall be collected from the sex offender by the agency having custody over the sex offender at the time specified herein for registration. This subsection shall apply to any sex offender who is sentenced to serve any portion of the sex offender's sentence at Level IV or V, unless such sentence is suspended in its entirety, in which case subsection (c) of this section shall apply. The registration required by this subsection shall be required whenever the sex offender is released from any Level V facility to any Level IV facility, and again when the offender is released from the Level IV facility.

(2) If an offender is released to a treatment program by the Division of Youth Rehabilitative Services and the date of release could not have been determined 45 days prior to release, registration shall be completed within 48 hours of determining the release date, or upon release, whichever is earlier.

(3) If an offender is attending school, the offender shall inform the principal of the school upon enrollment of the offender's registration.

(c) Any sex offender who is sentenced to Level IV home confinement, or to a period of probation at Level III or below, or who is required to pay a fine of any amount following a conviction for any offense specified in § 4121(a)(4) of this title shall be required to register as a sex offender. The registration information shall be collected from the sex offender by the sentencing court following the conviction, but no later than the time of sentencing.

(d) (1) Registration information shall be collected by the agency or court specified in subsections (b) and (c) of this section on registration forms provided by the Superintendent of the Delaware State Police. The original copy of the completed and executed registration form shall be forwarded by the registering agency or court to the Superintendent of the Delaware State Police within 3 business days following the completion of the form. The completed registration form shall be signed by the sex offender and by a witness to the signature representing the registering agency or court. The Superintendent of the Delaware State Police shall notify the chief law-

enforcement officer having jurisdiction over the sex offender's residence, place of employment, and/or study. The notice shall include, but is not limited to, all available registration information pertaining to the sex offender as set forth herein. The registration information shall be immediately entered into DELJIS by the registering agency or court, unless such agency or court does not have access to DELJIS in which case the completed registration form shall be immediately forwarded to the Superintendent of the Delaware State Police who shall immediately enter the registration information into DELJIS. Registration information entered into DELJIS pursuant to this subsection shall be entered into a database of registered sex offenders which shall be developed and maintained by DELJIS. Nothing herein shall prevent the use of the registered sex offender database for any lawful purpose. The Superintendent of the Delaware State Police shall have the authority to audit the registration forms and information, and shall have the authority to require the sex offender to provide revised or additional information, photographs, fingerprints or exemplars if those submitted are deemed to be insufficient, and the sex offender may be required to appear at a Delaware State Police facility for such purposes.

(2) The registration forms shall include, but are not limited to, the following information: the sex offender's legal name, any previously used names, aliases or nicknames, Social Security number, e-mail address or addresses, Internet identifiers, and the age, gender, race and physical description of the sex offender. The registration form shall also include all other known identifying factors, the offense history and the sex offender's current residences or anticipated place of future residences, places of study and/or places of employment, and the registration plate numbers and descriptions of any vehicles owned or operated by the offender, including any watercraft or aircraft with the locations where such vehicles are docked, parked or otherwise stored, copies of that offender's passport, any licenses to engage in an occupation or to carry out a trade or business, and the offender's home telephone number and any cellular telephone numbers. The forms shall also include a statement of any relevant conditions of release, discharge, parole or probation applicable to the sex offender. Additionally, the form shall identify the age of the victim or victims of the offense or offenses and describe the victim's relationship to the offender. The form shall also indicate on its face that false statements therein are punishable by law. A photograph of the offender taken at the time of registration shall be appended to the registration form. Notwithstanding any provision to the contrary, a DNA sample will also be taken from the offender. The resulting DNA profile will be submitted for entry into the Combined DNA Index System (CODIS). All information collected pursuant to this paragraph shall be kept in digitized form in an electronic database maintained by the designated Delaware Police facility responsible for registration.

(e) (1) Any person convicted of any offense specified in the laws of another state, commonwealth, territory, or other jurisdiction of the United States or any foreign government, which is the same as, or equivalent to, any of the offenses set forth in § 4121(a)(4) of this title; or any person convicted of any federal or military offense enumerated in 42 U.S.C. § 16911(5)(A)(iii) and (iv), who is a permanent or temporary resident of the State on the date of that person's conviction shall register as a sex offender within 3 business days of conviction, unless the person is confined in a penal institution located outside the State at the time of conviction, in which case the person shall register as a sex offender within 3 business days of that person's first return to the State of Delaware after release from custody. Any such person shall register at a designated Delaware State Police facility, and the Delaware State Police shall be deemed to be the registering agency.

(2) Any person convicted of any offense specified in the laws of another state, the United States or any territory of the United States, or any foreign government, which is the same as, or equivalent to, any of the offenses set forth in § 4121(a)(4) of this title; or any person convicted of

any federal or military offense enumerated in 42 U.S.C. § 16911(5)(A)(iii) and (iv), who is not a permanent or temporary resident of the State on the date of that person's conviction, and who thereafter becomes a permanent or temporary resident of the State shall register as a sex offender within 3 business days of establishing permanent or temporary residency within the State. Any such person shall register at a designated Delaware State Police facility, and the Delaware State Police shall be deemed to be the registering agency.

(3) Any person convicted as described in paragraph (1) or paragraph (2) of this subsection, who is thereafter released on probation, parole or any form of early release which is supervised or monitored by the Department of Correction or the Division of Youth Rehabilitative Services shall be registered pursuant to this subsection. The Department of Correction or the Division of Rehabilitative Services shall ensure and verify such registration.

(f) (1) Any sex offender who is required to register pursuant to this section who thereafter changes the sex offender's own name, residence address or place of employment and/oor study shall reregister with the Delaware State Police by appearing in person within 3 business days of the change. The sex offender shall be required to provide adequate verification of residence at the stated address. The Superintendent of the Delaware State Police shall be deemed to be the registering agency and shall comply with the requirements of subsection (d) of this section.

(2) Within 3 business days of receiving a re-registration as provided in paragraph (1) of this subsection, the Superintendent of the Delaware State Police shall notify the chief law enforcement officer having jurisdiction over the sex offender's prior residence, place of employment or study and the chief law enforcement officer having jurisdiction over the offender's new residence, or place of employment or study. The notice shall include, but is not limited to, all available registration information pertaining to the sex offender as set forth in subsection (d) of this section.

(3) Whenever a sex offender re-registers pursuant to this subsection, notification shall be provided pursuant to the requirements of § 4121 of this title.

(4) Any agency or court which collects registration information from a sex offender pursuant to this section shall, at the time of registration, provide written notice to the sex offender of the offender's duty to re-register pursuant to this section. The written notice shall also inform the offender that if the offender changes residence to another State, such new address must be registered with the Delaware State Police, with the law enforcement agency having jurisdiction over the offender's new residence, and that the offender must comply with any sex offender registration requirement in the new state of residence. The written notice shall also inform the offender that the offender must also comply with any sex offender registration requirement in any state where the offender is employed, carries on a vocation, or is a student. The written notice shall be provided on forms provided by the Superintendent of the Delaware State Police. Receipt of this written notice shall be acknowledged by the sex offender, who shall sign the original copy of the written notice. The original copy of the written notice shall be forwarded to the Superintendent of the Delaware State Police along with the registration form. Failure of the registering agency to provide such written notice shall not constitute a defense to any prosecution based upon a violation of this section.

(5) The requirements of this subsection shall apply regardless of whether the sex offender's new residence is located within or without the State.

(6) Any sex offender who is required to re-register pursuant to this subsection, who is serving a

sentence at Level II, III or IV at the time of such re-registration, may re-register with the agency supervising that sex offender's sentence within 3 business days of the change of address.

(g) Any person required to register as a sex offender pursuant to this section shall be required periodically to verify that the person continues to reside at the address provided at the time of registration. The frequency of periodic address verification shall be:

(1) Every 90 days for life following the date of completion of the initial registration form if the person is designated to Risk Assessment Tier III pursuant to § 4121 of this title. A Tier III offender shall appear in person at locations designated by the Superintendent of the Delaware State Police to verify all registry information every 90 days for life; or

(2) Every 6 months after the completion of the initial registration form, if the person is designated to Risk Assessment Tier II pursuant to § 4121 of this title. A Tier II offender shall appear in person at locations designated by the Superintendent of the Delaware State Police to verify all registry information every 6 months unless relieved of registration obligations.

(3) Every year after the completion of the initial registration form, if the person is designated to Risk Assessment Tier I pursuant to § 4121 of this title. A Tier I offender shall appear in person at locations designated by the Superintendent of the Delaware State Police to verify all registry information every 12 months unless relieved of registration obligations.

There shall be assessed an annual administrative fee in the amount of $ 30 collected from the offender by January 31 of each year payable at the time of verification.

(h) Any sex offender required to register pursuant to this section who seeks relief or redesignation must petition the Superior Court for release from the registration requirements as set forth in § 4121(e)(2) of this title.

(i) Any agency responsible for complying with this section may promulgate reasonable regulations, policies and procedures for the purpose of implementing this section. Such rules, regulations, policies and procedures shall be effective and enforceable upon their adoption by the agency, and shall not be subject to Chapter 11 or Chapter 101 of Title 29.

(j) All elected and appointed public officials, public employees or public agencies including but not limited to the members of the Sex Offender Management Board, are immune from civil liability for any discretionary decision to release relevant information, unless it is shown that the official, employee or agency acted with gross negligence or in bad faith. The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public. There shall be no civil legal remedies available as a cause of action against any public official, public employee or public agency for failing to release information as authorized in this section.

(k) A warrant shall issue for any sex offender who knowingly or recklessly fails to register or re-register or provide verification on the date on which it is required pursuant to this section or § 4121 of this title or to otherwise comply with any of the provisions of this section or § 4121 of this title, and any sex offender doing so shall be guilty of a class G felony.

(l) Any registration or re-registration information collected by the Superintendent of the Delaware State Police pursuant to this section shall be promptly forwarded to the Federal Bureau of Investigation for use pursuant to 42 U.S.C. § 14072.

(m) Notwithstanding any law, rule or regulation to the contrary, any law enforcement agency may release relevant information collected pursuant to this section where it is necessary to protect the public concerning a sex offender required to register pursuant to this section, except that the identity of a victim of the offense, any arrests not resulting in conviction, the offender's social security number and travel and/or immigration document numbers shall not be released.

DEL. CODE ANN. TIT. 11, § 4205 (2010). Sentence for felonies.

(a) A sentence of incarceration for a felony shall be a definite sentence.

(b) The term of incarceration which the court may impose for a felony is fixed as follows:

(1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.

(2) For a class B felony not less than 2 years up to 25 years to be served at Level V.

(3) For a class C felony up to 15 years to be served at Level V.

(4) For a class D felony up to 8 years to be served at Level V.

(5) For a class E felony up to 5 years to be served at Level V.

(6) For a class F felony up to 3 years to be served at Level V.

(7) For a class G felony up to 2 years to be served at Level V.

(c) In the case of the conviction of any felony, the court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) of this section for each class of felony.

(d) Where a minimum, mandatory, mandatory minimum or minimum mandatory sentence is required by subsection (b) of this section, such sentence shall not be subject to suspension by the court.

(e) Where no minimum sentence is required by subsection (b) of this section, or with regard to any sentence in excess of the minimum required sentence, the court may suspend that part of the sentence for probation or any other punishment set forth in § 4204 of this title.

(f) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned "good time" as set forth in § 4381 of this title.

(g) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.

(h) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of

their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.

(i) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(j) No sentence to Level V incarceration imposed pursuant to this section is subject to parole.

(k) In addition to the penalties set forth above, the court may impose such fines and penalties as it deems appropriate.

(l) In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

DEL. CODE ANN. TIT. 11, § 4205A (2010). Additional penalty for serious sex offenders or pedophile offenders.

(a) Notwithstanding any provision of this chapter or any other laws to the contrary, a defendant convicted of any crime set forth in § 771(a)(2), § 772, § 773, § 778 or § 779 of this title shall be sentenced to not less than 25 years up to life imprisonment to be served at Level V if:

(1) The defendant has previously been convicted or adjudicated delinquent of any sex offense set forth in this title and classified as a class A or B felony, or any similar offense under the laws of another state, the United States or any territory thereof; or

(2) The victim of the instant offense is a child less than 14 years of age.

(b) A fiscal report on the financial impact of this legislation shall be submitted by the Criminal Justice Coordinator or designee to the Controller General and Chairpersons of the Joint Finance Committee no later than March 15, 2008, after consultation with the Chief Judge of Superior Court, the Commissioner of Corrections, the Attorney General and Chief Public Defender or their designee.

DEL. CODE ANN. TIT. 11, § 4206 (2010). Sentence for misdemeanors.

(a) The sentence for a class A misdemeanor may include up to 1 year incarceration at Level V and such fine up to $ 2,300, restitution or other conditions as the court deems appropriate.

(b) The sentence for a class B misdemeanor may include up to 6 months incarceration at Level V and such fine up to $ 1,150, restitution or other conditions as the court deems appropriate.

(c) The sentence for an unclassified misdemeanor shall be a definite sentence fixed by the court in accordance with the sentence specified in the law defining the offense. If no sentence is specified in such law, the sentence may include up to 30 days incarceration at Level V and such fine up to $ 575, restitution or other conditions as the court deems appropriate. Notwithstanding the foregoing, in any municipality with a population greater than 50,000 people, any offense under the building, housing, health or sanitation code which is classified therein as a misdemeanor, the sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court deems appropriate:

(1) For the 1st conviction: no less than $ 250, nor more than $ 1,000;

(2) For the 2nd conviction for the same offense; no less than $ 500, nor more than $ 2,500; and

(3) For all subsequent convictions for the same offense: no less than $ 1,000 nor more than $ 5,000.

In any municipality with a population greater than 50,000 people, a conviction for a misdemeanor offense, which is defined as a "continuing" or "ongoing" violation, shall be considered a single conviction for the purposes of paragraphs (1)-(3) of this subsection. For all convictions subsequent to the 2nd, the minimum fines required herein shall not be suspended, but such amounts imposed over the minimum may be suspended or subject to such other conditions as the court deems appropriate. The provisions of this subsection relating to municipalities with a population greater than 50,000 people shall not apply to offenses or convictions involving single family residences that are occupied by an owner of the property.

(d) The court may suspend any sentence imposed under this section for probation or any of the other sanctions set forth in § 4204 of this title.

(e) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned "good time" as set forth in § 4381 of this title.

(f) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.

(g) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.

(h) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(i) Any sentence for issuing a worthless check pursuant to § 900 of this title shall require restitution to the person to whom the check was given. For the purposes of this subsection, restitution shall mean the amount for which the check was written plus a service fee of $ 30 for processing a worthless check, or a fee of $ 50 if more than 1 check by same person was processed.

(j) In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

DEL. CODE ANN. TIT. 11, § 4207 (2010). Sentences for violations.

(a) The Court may impose a fine of up to $ 345 for the first offense of any violation, up to $ 690 for the second offense of that same violation and up to $ 1,150 for the third offense of the same violation; provided, that only violations which occurred within 5 years of the violation for which sentence is imposed shall be considered in determining sentence.

(b) The Court may impose a period of Level I probation up to 1 year for any violation.

DEL. CODE ANN. TIT. 11, § 4215 (2010). Sentence of greater punishment because of previous conviction.

(a) If at the time of sentence, it appears to the court that the conviction of a defendant constitutes a second or other conviction making the defendant liable to a punishment greater than the maximum which may be imposed upon a person not so previously convicted, the court shall fully inform the defendant as to such previous conviction or convictions and shall call upon the defendant to admit or deny such previous conviction or convictions. If the defendant shall admit the previous conviction or convictions, the court may impose the greater punishment. If the defendant shall stand silent or if the defendant shall deny the prior conviction or convictions, the defendant shall be tried upon the issue of previous conviction; provided, however, that the foregoing procedure shall not apply in cases of fourth offenders liable to sentence of life imprisonment under § 4214 of this title.

(b) If, at any time after conviction and before sentence, it shall appear to the Attorney General or to the Superior Court that, by reason of such conviction and prior convictions, a defendant should be subjected to § 4214 of this title, the Attorney General shall file a motion to have the defendant declared an habitual criminal under § 4214 of this title. If it shall appear to the satisfaction of the Court at a hearing on the motion that the defendant falls within § 4214 of this title, the Court shall enter an order declaring the defendant an habitual criminal and shall impose sentence accordingly.

DEL. CODE ANN. TIT. 11, § 4215A (2010). Sentence of greater punishment because of previous conviction under prior law or the laws of other jurisdictions.

(a) Notwithstanding any provision of law to the contrary, if a previous conviction for a specified offense would make the defendant liable to a punishment greater than that which may be imposed upon a person not so convicted, that previous conviction shall make the defendant liable to the greater punishment if that previous conviction was:

(1) For an offense specified in the laws of this State or for an offense which is the same as, or equivalent to, such offense as the same existed and was defined under the laws of this State existing at the time of such conviction; or

(2) For an offense specified in the laws of any other state, local jurisdiction, the United States, any territory of the United States, any federal or military reservation, or the District of Columbia which is the same as, or equivalent to, an offense specified in the laws of this State.

(b) This section shall apply to any offense or sentencing provision defined in this Code unless the statute defining such offense or sentencing provision or a statute directly related thereto expressly provides that this section is not applicable to such offense or sentencing provision.

DEL. CODE ANN. TIT. 11, § 4218 (2010). Probation before judgment.

(a) Subject to the limitations set forth in this section, for a violation or misdemeanor offense under Title 4, 7, or 11, or for any violation or misdemeanor offense under Title 21 which is designated as a motor vehicle offense subject to voluntary assessment by § 709 of Title 21, or a violation of § 2702 of Title 14, or for violations of § 4166(d) of Title 21, a court exercising criminal jurisdiction after accepting a guilty plea or nolo contendere plea may, with the consent of the defendant and the State, stay the entry of judgment, defer further proceedings, and place the defendant on "probation before judgment" subject to such reasonable terms and conditions as may be appropriate. The terms and conditions of any Probation Before Judgment shall include the following requirements: (i) the defendant shall provide the court with that defendant's current address; (ii) the defendant shall promptly provide the court with written notice of any change of address; and (iii) the defendant shall appear if summoned at any hearing convened for the purpose of determining whether the defendant has violated or fulfilled the terms and conditions of Probation Before Judgment. The terms and conditions may include any or all of the following:

(1) Ordering the defendant to pay a pecuniary penalty;

(2) Ordering the defendant to pay court costs to the State;

(3) Ordering the defendant to pay restitution;

(4) Ordering the defendant to perform community service;

(5) Ordering the defendant to refrain from contact with certain persons; and

(6) Ordering the defendant to conduct themselves in a specified manner.

The length of the period of Probation Before Judgment shall be fixed by the court, but in no event shall the total period of Probation Before Judgment exceed the maximum term of commitment provided by law for the offense or 1 year, whichever is greater.

(b) This section may not be substituted for:

(1) Section 1024 of Title 10. First offenders domestic violence diversion program;

(2) Section 900A of Title 11. Conditional discharge for issuing a bad check as first offense;

(3) Section 4764 of Title 16. First Offenders Controlled Substances Diversion Program; or

(4) Section 4177B of Title 21. First offenders; election in lieu of trial.

(c) (1) Notwithstanding any provision of this section to the contrary, no person shall be admitted to Probation Before Judgment if:

a. The person is currently serving a sentence of incarceration, probation, parole or early release of any type imposed for another offense;

b. The person is charged with any offense set forth in this title, and has previously been convicted of any violent felony;

c. The person is charged with any offense set forth in this title, and has previously been convicted of any nonviolent felony within 10 years of the date of the commission of the alleged offense;

d. The person is charged with any offense set forth in this title, and has previously been convicted of any misdemeanor offense within 5 years of the date of the commission of the alleged offense;

e. The person is charged with any offense set forth in Title 4 or 7, and has been previously convicted of any offense set forth in Titles 4 or 7 within 5 years of the date of the commission of the alleged offense; or

f. The person is currently charged with any offense set forth in § 709 of Title 21, and has been previously convicted of any offense set forth in Title 21 within 5 years of the date of the commission of the alleged offense.

g. The person is currently charged with a violation of § 2702 of Title 14 and has been previously convicted of a violation of § 2702 within 5 years of the date of the alleged offense.

h. The person is charged with an offense involving a motor vehicle and holds a commercial driver license (CDL).

(2) For the purposes of this subsection, the following shall also constitute a previous conviction:

a. A conviction under the laws of another state, the United States, or any territory of the United States of any offense which is the same as, or equivalent to, any offense specified in paragraph (1) of this subsection;

b. An adjudication of delinquency; or

c. Any adjudication, resolution, disposition or program set forth in § 4177B(e)(1) of Title 21.

(d) This section shall not be available to any person who has previously been admitted to probation before judgment for any offense within 5 years of the current offense.

(e) Upon a violation of a term or condition of the Court's order of probation before judgment, the Court may enter judgment and proceed with disposition of the person as if the person had not been placed on probation before judgment.

(f) Upon fulfillment of the terms and conditions of probation before judgment, the Court shall enter an order discharging the person from probation. The burden shall be upon the defendant to demonstrate that the terms and conditions of probation have been fulfilled. The discharge is the final disposition of the matter. Discharge of a person under this section shall be without judgment of conviction and is not a conviction for purposes of any disqualification or disability imposed by law because of conviction of a crime.

(g) Notwithstanding any provision of this section to the contrary, the court shall not admit a defendant to Probation Before Judgment nor otherwise apply any provision of this section unless the defendant first gives written consent to the court permitting any hearing or proceeding pursuant to this section to occur in the defendant's absence if:

(1) Timely notice of the hearing or proceeding is sent or delivered to the address provided by the defendant pursuant to subsection (a) of this section; and

(2) The defendant fails to appear at said proceeding.

In the event that a defendant fails to appear at any hearing or proceeding pursuant to this section, the court may proceed in the defendant's absence if it first finds that timely notice of the hearing or proceeding was sent or delivered to the address provided by the defendant pursuant to subsection (a) of this section. Nothing in this subsection shall limit the power of the Court to hold a hearing to determine whether a defendant is in violation of the terms of that defendant's probation.

(h) Notwithstanding the provisions of subsection (a) of this section to the contrary, in any case in which the Delaware Department of Justice does not intend to enter its appearance, the consent of the State shall not be required prior to placing a defendant on "probation before judgment." Notwithstanding the foregoing, except for the offenses under Title 21 to which this section applies, the Attorney General or other prosecuting authority may advise the court of aggravating circumstances in opposition to placing a defendant on "probation before judgment."

DISTRICT OF COLUMBIA

D.C. CODE § 7-2508.01 (2010). Definitions

For the purposes of this subchapter, the term:

(1) "Correctional facility" means any building or group of buildings and concomitant services operated as a single management unit by the Department of Corrections, or a similar federal, state, county, or local government agency, or a contractor to such an agency, for the purpose of housing and providing services to persons ordered confined pending trial or sentencing, or incarcerated following sentencing for a violation of law.

(2) "Gun offender" means a person:

(A) Convicted of a gun offense in the District;

(B) Convicted of a gun offense who resides in the District within the registration period established pursuant to § 7-2508.02; or

(C) Who has as a mandatory condition of release a registration requirement in the District pursuant to § 7-2508.04(f).

(3) "Gun offense" means:

(A) A conviction for the sale, purchase, transfer, receipt, acquisition, possession, use, manufacture, carrying, transportation, registration, or licensing of a firearm under § 22-4501 et seq.;

(B) A conviction for violating § 7-2502.01, § 7-2504.01, § 7-2505.01, or § 7-2506.01; or

(C) Violations in other jurisdictions of any offense with an element that involves the

violations listed in subparagraph (A) or (B) of this paragraph.

(4) "Resides" means to stay overnight in the District of Columbia for an aggregate period of time exceeding 30 days in any calendar year.

D.C. CODE § 7-2508.03 (2010). Registration period

A gun offender shall comply with the registration and verification provisions required by § 7-2508.02 for a period beginning when he or she is sentenced for a gun offense and continuing until 2 years after the expiration of any time being served on probation, parole, supervised release, or conditional release, or 2 years after the gun offender is unconditionally released from a correctional facility, prison, hospital, or other place of confinement, whichever is latest. The registration period is tolled for any time the gun offender fails to register or otherwise fails to comply with the requirements of this subchapter.

D.C. CODE § 22-811 (2010). Contributing to the delinquency of a minor.

(a) It is unlawful for an adult, being 4 or more years older than a minor, to invite, solicit, recruit, assist, support, cause, encourage, enable, induce, advise, incite, facilitate, permit, or allow the minor to:

(1) Be truant from school;

(2) Possess or consume alcohol or, without a valid prescription, a controlled substance as that term is defined in § 48-901.02(4);

(3) Run away for the purpose of criminal activity from the place of abode of his or her parent, guardian, or other custodian;

(4) Violate a court order;

(5) Violate any criminal law of the District of Columbia for which the penalty constitutes a misdemeanor, except for acts of civil disobedience;

(6) Join a criminal street gang as that term is defined in § 22-951(e)(1); or

(7) Violate any criminal law of the District of Columbia for which the penalty constitutes a felony, or any criminal law of the United States, or the criminal law of any other jurisdiction that involves conduct that would constitute a felony if committed in the District of Columbia, except for acts of civil disobedience.

(b) (1) Except as provided in paragraphs (2), (4) and (5) of this subsection, a person convicted of violating subsection (a)(1)-(6) of this section shall be fined not more than $ 1,000, or imprisoned for not more than 6 months, or both.

(2) A person convicted of violating subsection (a)(2)-(6) of this section, having previously been convicted of an offense under subsection (a)(2)-(6) of this section or a substantially similar offense in this or any other jurisdiction, shall be fined not more than $ 3,000 or imprisoned for not more than 3 years, or both.

(3) Except as provided in paragraphs (4) and (5) of this subsection, a person convicted of violating subsection (a)(7) of this section shall be fined not more than $ 5,000 or imprisoned for not more than 5 years, or both.

(4) A person convicted of violating subsection (a) of this section that results in serious bodily injury to the minor or any other person shall be fined not more than $ 5,000 or imprisoned for not more than 5 years, or both.

(5) A person convicted of violating subsection (a) of this section that results in the death of the minor or any other person shall be fined not more than $ 10,000 or imprisoned for not more than 10 years, or both.

(c) The penalties under this section are in addition to any other penalties permitted by law.

(d) It is not a defense to a prosecution under this section that the minor does not engage in, is not charged with, is not adjudicated delinquent for, or is not convicted as an adult, for any conduct set forth in subsection (a)(1)-(7) of this section.

(e) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute a violation of subsection (a) of this section for which the penalty is set forth in subsection (c)(1) of this section.

(f) For the purposes of this section, the term:

(1) "Adult" means a person 18 years of age or older at the time of the offense.

(2) "Minor" means a person under 18 years of age at the time of the offense.

D.C. CODE § 22-1101 (2010). Definition and penalty [Formerly § 22-901].

(a) A person commits the crime of cruelty to children in the first degree if that person intentionally, knowingly, or recklessly tortures, beats, or otherwise willfully maltreats a child under 18 years of age or engages in conduct which creates a grave risk of bodily injury to a child, and thereby causes bodily injury.

(b) A person commits the crime of cruelty to children in the second degree if that person intentionally, knowingly, or recklessly:

(1) Maltreats a child or engages in conduct which causes a grave risk of bodily injury to a child; or

(2) Exposes a child, or aids and abets in exposing a child in any highway, street, field house, outhouse or other place, with intent to abandon the child.

(c) (1) Any person convicted of cruelty to children in the first degree shall be fined not more than $ 10,000 or be imprisoned not more than 15 years, or both.

(2) Any person convicted of cruelty to children in the second degree shall be fined not more than $ 10,000 or be imprisoned not more than 10 years, or both.

D.C. CODE § 22-1102 (2010). Refusal or neglect of guardian to provide for child under 14 years of age [Formerly § 22-902].

Any person within the District of Columbia, of sufficient financial ability, who shall refuse or neglect to provide for any child under the age of 14 years, of which he or she shall be the parent or guardian, such food, clothing, and shelter as will prevent the suffering and secure the safety of such child, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to punishment by a fine of not more than $ 100, or by imprisonment in the Workhouse of the District of Columbia for not more than 3 months, or both such fine and imprisonment.

D.C. CODE § 22-2001 (2010). Definition and penalty; conspiracy [Formerly § 22-2101].

Whoever shall be guilty of, or of aiding or abetting in, seizing, confining, inveigling, enticing, decoying, kidnapping, abducting, concealing, or carrying away any individual by any means whatsoever, and holding or detaining, or with the intent to hold or detain, such individual for ransom or reward or otherwise, except, in the case of a minor, by a parent thereof, shall, upon conviction thereof, be punished by imprisonment for not more than 30 years. For purposes of imprisonment following revocation of release authorized by § 24-403.01, the offense defined by this section is a Class A felony. This section shall be held to have been violated if either the seizing, confining, inveigling, enticing, decoying, kidnapping, abducting, concealing, carrying away, holding, or detaining occurs in the District of Columbia. If 2 or more individuals enter into any agreement or conspiracy to do any act or acts which would constitute a violation of the provisions of this section, and 1 or more of such individuals do any act to effect the object of such agreement or conspiracy, each such individual shall be deemed to have violated the provisions of this section.

D.C. CODE § 22-3008 (2010). First degree child sexual abuse [Formerly § 22-4108].

Whoever, being at least 4 years older than a child, engages in a sexual act with that child or causes that child to engage in a sexual act shall be imprisoned for any term of years or for life and, in addition, may be fined an amount not to exceed $ 250,000. However, the court may impose a prison sentence in excess of 30 years only in accordance with § 22-3020 or § 24-403.01(b-2). For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), the offense defined by this section is a Class A felony.

D.C. CODE § 22-3009 (2010). Second degree child sexual abuse [Formerly § 22-4109].

Whoever, being at least 4 years older than a child, engages in sexual contact with that child or causes that child to engage in sexual contact shall be imprisoned for not more than 10 years and, in addition, may be fined in an amount not to exceed $ 100,000.

D.C. CODE § 22-3009.01 (2010). First degree sexual abuse of a minor.

Whoever, being 18 years of age or older, is in a significant relationship with a minor, and engages in a sexual act with that minor or causes that minor to engage in a sexual act shall be imprisoned for not more than 15 years and may be fined in an amount not to exceed $ 150,000, or both.

D.C. CODE § 22-3009.02 (2010). Second degree sexual abuse of a minor.

Whoever, being 18 years of age or older, is in a significant relationship with a minor and engages in a sexual contact with that minor or causes that minor to engage in a sexual contact shall be imprisoned for not more than 7 1/2 years and may be fined in an amount not to exceed $ 75,000, or both.

D.C. CODE § 22-3010 (2010). Enticing a child or minor [Formerly § 22-4110].

(a) Whoever, being at least 4 years older than a child or being in a significant relationship with a minor, (1) takes that child or minor to any place for the purpose of committing any offense set forth in §§ 22-3002 to 22-3006 and 22-3008 to 22-3009.02, or (2) seduces, entices, allures, convinces, or persuades or attempts to seduce, entice, allure, convince, or persuade a child or minor to engage in a sexual act or contact shall be imprisoned for not more than 5 years or may be fined in an amount not to exceed $ 50,000, or both.

(b) Whoever, being at least 4 years older than the purported age of a person who represents himself or herself to be a child, attempts (1) to seduce, entice, allure, convince, or persuade any person who represents himself or herself to be a child to engage in a sexual act or contact, or (2) to entice, allure, convince, or persuade any person who represents himself or herself to be a child to go to any place for the purpose of engaging in a sexual act or contact shall be imprisoned for not more than 5 years or may be fined in an amount not to exceed $ 50,000, or both.

(c) No person shall be consecutively sentenced for enticing a child or minor to engage in a sexual act or sexual contact under subsection (a)(2) of this section and engaging in that sexual act or sexual contact with that child or minor; provided, that the enticement occurred closely associated in time with the sexual act or sexual contact.

D.C. CODE § 22-3010.01 (2010). Misdemeanor sexual abuse of a child or minor.

(a) Whoever, being 18 years of age or older and more than 4 years older than a child, or being 18 years of age or older and being in a significant relationship with a minor, engages in sexually

suggestive conduct with that child or minor shall be imprisoned for not more than 180 days, or fined in an amount not to exceed $ 1,000, or both.

(b) For the purposes of this section, the term "sexually suggestive conduct" means engaging in any of the following acts in a way which is intended to cause or reasonably causes the sexual arousal or sexual gratification of any person:

(1) Touching a child or minor inside his or her clothing;

(2) Touching a child or minor inside or outside his or her clothing close to the genitalia, anus, breast, or buttocks;

(3) Placing one's tongue in the mouth of the child or minor; or

(4) Touching one's own genitalia or that of a third person.

D.C. CODE § 22-3018 (2010). Attempts to commit sexual offenses [Formerly § 22-4118].

Any person who attempts to commit an offense under this subchapter shall be imprisoned for a term of years not to exceed 15 years where the maximum prison term authorized for the offense is life or for not more than 1/2 of the maximum prison sentence authorized for the offense and, in addition, may be fined an amount not to exceed 1/2 of the maximum fine authorized for the offense.

D.C. CODE § 22-3020 (2010). Aggravating circumstances [Formerly § 22-4120].

(a) Any person who is found guilty of an offense under this subchapter may receive a penalty up to 1 1/2 times the maximum penalty prescribed for the particular offense, and may receive a sentence of more than 30 years up to, and including life imprisonment without possibility of release for first degree sexual abuse or first degree child sexual abuse, if any of the following aggravating circumstances exists:

(1) The victim was under the age of 12 years at the time of the offense;

(2) The victim was under the age of 18 years at the time of the offense and the actor had a significant relationship to the victim;

(3) The victim sustained serious bodily injury as a result of the offense;

(4) The defendant was aided or abetted by 1 or more accomplices;

(5) The defendant is or has been found guilty of committing sex offenses against 2 or more victims, whether in the same or other proceedings by a court of the District of Columbia, any state, or the United States or its territories; or

(6) The defendant was armed with, or had readily available, a pistol or other firearm (or imitation thereof) or other dangerous or deadly weapon.

(b) It is not necessary that the accomplices have been convicted for an increased punishment (or enhanced penalty) to apply under subsection (a)(4) of this section.

(c) No person who stands convicted of an offense under this subchapter shall be sentenced to increased punishment (or enhanced penalty) by reason of the aggravating factors set forth in subsection (a) of this section, unless prior to trial or before entry of a plea of guilty, the United States Attorney or the Attorney General for the District of Columbia, as the case may be, files an information with the clerk of the court, and serves a copy of such information on the person or counsel for the person, stating in writing the aggravating factors to be relied upon.

D.C. CODE § 22-3103 (2010). Penalties [Formerly § 2013].

Violation of this chapter [Sexual Performances Using Minors] shall be a felony and shall be punished by:

(1) A fine of not more than $ 5,000 or imprisonment for not more than 10 years, or both for the first offense; or

(2) A fine of not more than $ 15,000 or imprisonment for not more than 20 years, or both for the 2nd and each subsequent offense.

D.C. CODE § 22-4001 (2010). Definitions [Formerly § 24-1121]

For the purposes of this chapter, the term:

(1) "Agency" means the Court Services and Offender Supervision Agency for the District of Columbia, established pursuant to § 24-133 or, until that agency assumes its duties, the Trustee appointed under § 24-132(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 §§ 22-3803 through 22-3811.

(B) A person is not deemed to have committed a registration offense for purposes of this chapter, 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 §§ 22-3803 through 22-3811; or

(B) In any comparable status under the jurisdiction of the District of Columbia pursuant to subchapter II of Chapter 4 of Title 24, Chapter 10 of Title 24, 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 § 22-3002 or § 22-3003; forcible rape as this offense was proscribed until May 23, 1995 by § 22-4801 [repealed]; or sodomy as this offense was proscribed until May 23, 1995 by § 22-3802(a) where the offense was forcible;

(B) First degree child sexual abuse as proscribed by § 22-3008 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 § 22-4801 [repealed] committed against a person under the age of 12 years, or sodomy as this offense was proscribed until May 23, 1995 by § 22-3802(a) committed against a person under the age of 12 years;

(C) Murder or manslaughter as proscribed by § 22-2101 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 § 22-4801 [repealed];

(D) An attempt or conspiracy to commit an offense as proscribed by § 22-1803 or § 22-1805a or § 22-3018 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 § 22-401, 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 Chapter 30 of this title;

(B) Forcible rape, carnal knowledge or statutory rape as these offenses were proscribed until May 23, 1995 by § 22-4801 [repealed]; indecent acts with children as this offense was proscribed until May 23, 1995 by § 22-3801(a); enticing a child as this offense was proscribed until May 23, 1995 by § 22-3801(b); or sodomy as this offense was proscribed until May 23, 1995 by § 22-

3802(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 § 22-1312 (lewd, indecent, or obscene acts), acts proscribed by § 22-2201 (obscenity), acts proscribed by § 22-3102 (sexual performances using minors), acts proscribed by § 22-1901 (incest), acts proscribed by § 22-2001 (kidnapping), and acts proscribed by §§ 22-2701, 22-2701.01, 22- 2703, 22-2704, 22-2705 to 22-2712, 22-2713 to 22-2720, 22- 2722 and 22-2723 (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 § 22-1803 or § 22-1805a 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 § 22-401;

(F) Assault with intent to commit any other crime, as proscribed by § 22-403, or kidnapping or burglary, as proscribed by § 22-801 or § 22-2001 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 July 11, 2000;

(B) Committed a registration offense at any time and is in custody or under supervision on or after July 11, 2000;

(C) Was required to register under the law of the District of Columbia on the day before July 11, 2000; 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 § 22-3001(8).

(11) "Sexual contact" has the meaning stated in § 22-3001(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.

D.C. CODE § 23-3611 (2010). Enhanced penalty for committing crime of violence against minors.

(a) Any adult, being at least 2 years older than a minor, who commits a crime of violence against that minor may be punished by a fine of up to 1 1/2 times the maximum fine otherwise authorized for the offense and may be imprisoned for a term of up to 1 1/2 times the maximum term of imprisonment otherwise authorized for the offense, or both.

(b) It is an affirmative defense that the accused reasonably believed that the victim was not a minor at the time of the offense. This defense shall be established by a preponderance of the evidence.

(c) For the purposes of this section, the term:

(1) "Adult" means a person 18 years of age or older at the time of the offense.

(2) "Crime of violence" shall have the same meaning as provided in § 23-1331(4).

(3) "Minor" means a person under 18 years of age at the time of the offense.

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FLA. STAT. ANN. § 775.082 (2010). Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reofffenders previously released from prison.

(1) A person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the court that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1). No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.

(3) A person who has been convicted of any other designated felony may be punished as follows:

(a) 1. For a life felony committed prior to October 1, 1983, by a term of imprisonment for life or for a term of years not less than 30.

2. For a life felony committed on or after October 1, 1983, by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years.

3. Except as provided in subparagraph 4., for a life felony committed on or after July 1, 1995, by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

4. a. Except as provided in sub-subparagraph b., for a life felony committed on or after September 1, 2005, which is a violation of s. 800.04(5)(b), by:

(I) A term of imprisonment for life; or

(II) A split sentence that is a term of not less than 25 years' imprisonment and not exceeding life imprisonment, followed by probation or community control for the remainder of the person's natural life, as provided in s. 948.012(4).

b. For a life felony committed on or after July 1, 2008, which is a person's second or subsequent violation of s. 800.04(5)(b), by a term of imprisonment for life.

(b) For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.

(c) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.

(d) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

(5) Any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

(7) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.

(8) (a) The sentencing guidelines that were effective October 1, 1983, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1983, and before January 1, 1994, and to all felonies, except capital felonies and life felonies, committed before October 1, 1983, when the defendant affirmatively selects to be sentenced pursuant to such provisions.

(b) The 1994 sentencing guidelines, that were effective January 1, 1994, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after January 1, 1994, and before October 1, 1995.

(c) The 1995 sentencing guidelines that were effective October 1, 1995, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1995, and before October 1, 1998.

(d) The Criminal Punishment Code applies to all felonies, except capital felonies, committed on or after October 1, 1998. Any revision to the Criminal Punishment Code applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision.

(e) Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the sentencing guidelines or the Criminal Punishment Code in effect on the beginning date of the criminal activity.

(9) (a) 1. "Prison releasee reoffender" means any defendant who commits, or attempts to commit:

a. Treason;

b. Murder;

c. Manslaughter;

d. Sexual battery;

e. Carjacking;

f. Home-invasion robbery;

g. Robbery;

h. Arson;

i. Kidnapping;

j. Aggravated assault with a deadly weapon;

k. Aggravated battery;

l. Aggravated stalking;

m. Aircraft piracy;

n. Unlawful throwing, placing, or discharging of a destructive device or bomb;

o. Any felony that involves the use or threat of physical force or violence against an individual;

p. Armed burglary;

q. Burglary of a dwelling or burglary of an occupied structure; or

r. Any felony violation of s. 790.07, s. 800.04, s. 827.03, s. 827.071, or s. 847.0135(5);

within 3 years after being released from a state correctional facility operated by the Department of Corrections or a private vendor or within 3 years after being released from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

2. "Prison releasee reoffender" also means any defendant who commits or attempts to commit any offense listed in sub-subparagraphs (a)1.a.-r. while the defendant was serving a prison sentence or on escape status from a state correctional facility operated by the Department of Corrections or a private vendor or while the defendant was on escape status from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

3. If the state attorney determines that a defendant is a prison releasee reoffender as defined in subparagraph 1., the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

a. For a felony punishable by life, by a term of imprisonment for life;

b. For a felony of the first degree, by a term of imprisonment of 30 years;

c. For a felony of the second degree, by a term of imprisonment of 15 years; and

d. For a felony of the third degree, by a term of imprisonment of 5 years.

(b) A person sentenced under paragraph (a) shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Any person sentenced under paragraph (a) must serve 100 percent of the court-imposed sentence.

(c) Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law, pursuant to s. 775.084 or any other provision of law.

(d) 1. It is the intent of the Legislature that offenders previously released from prison who meet the criteria in paragraph (a) be punished to the fullest extent of the law and as provided in this

subsection, unless the state attorney determines that extenuating circumstances exist which preclude the just prosecution of the offender, including whether the victim recommends that the offender not be sentenced as provided in this subsection.

2. For every case in which the offender meets the criteria in paragraph (a) and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney. On an annual basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after the effective date of this subsection, to the president of the Florida Prosecuting Attorneys Association, Inc. The association must maintain such information, and make such information available to the public upon request, for at least a 10-year period.

(10) If a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third degree felony but not a forcible felony as defined in s. 776.08, and excluding any third degree felony violation under chapter 810, and if the total sentence points pursuant to s. 921.0024 are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility pursuant to this section.

(11) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

FLA. STAT. ANN. § 775.083 (2010). Fines.

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

(a) $ 15,000, when the conviction is of a life felony.

(b) $ 10,000, when the conviction is of a felony of the first or second degree.

(c) $ 5,000, when the conviction is of a felony of the third degree.

(d) $ 1,000, when the conviction is of a misdemeanor of the first degree.

(e) $ 500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.

(f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.

(g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. 142.01, except that the clerk shall remit fines imposed when adjudication is withheld to the Department of Revenue for deposit in the General Revenue

Fund. If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain. As used in this subsection, the term "convicted" or "conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be $ 50 for a felony and $ 20 for any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county, including safe neighborhood programs under ss. 163.501-163.523.

(3) The purpose of this section is to provide uniform penalty authorization for criminal offenses and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

FLA. STAT. ANN. § 775.0837 (2010). Habitual misdemeanor offenders.

(1) As used in this section, the term:

(a) "Convicted" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(b) "Habitual misdemeanor offender" means a defendant who is before the court for sentencing for a specified misdemeanor offense and who has previously been convicted, as an adult, of four or more specified misdemeanor offenses which meet the following criteria:

1. The offenses, in relation to each other and the misdemeanor before the court for sentencing, are separate offenses that are not part of the same criminal transaction or episode.

2. The offenses were committed within 1 year of the date that the misdemeanor before the court for sentencing was committed.

(c) "Specified misdemeanor offense" means those misdemeanor offenses described in chapter 741, chapter 784, chapter 790, chapter 796, chapter 800, chapter 806, chapter 810, chapter 812, chapter 817, chapter 831, chapter 832, chapter 843, chapter 856, chapter 893, or chapter 901.

(d) "Imprisonment" means incarceration in a county jail operated by the county or a private vendor.

(2) If the court finds that a defendant before the court for sentencing for a misdemeanor is a habitual misdemeanor offender, the court shall, unless the court makes a finding that an alternative disposition is in the best interests of the community and defendant, sentence the defendant as a habitual misdemeanor offender and impose one of the following sentences:

(a) A term of imprisonment of not less than 6 months, but not to exceed 1 year;

(b) Commitment to a residential treatment program for not less than 6 months, but not to exceed 364 days, provided that the treatment program is operated by the county or a private vendor with which the county has contracted to operate such program, or by a private vendor under contract with the state or licensed by the state to operate such program, and provided that any referral to a residential treatment facility is in accordance with the assessment criteria for residential treatment established by the Department of Children and Family Services, and that residential treatment beds are available or other community-based treatment program or a combination of residential and community-based program; or

(c) Detention for not less than 6 months, but not to exceed 364 days, to a designated residence, if the detention is supervised or monitored by the county or by a private vendor with which the county has contracted to supervise or monitor the detention.

The court may not sentence a defendant under this subsection if the misdemeanor offense before the court for sentencing has been reclassified as a felony as a result of any prior qualifying misdemeanor.

FLA. STAT. ANN. § 775.084 (2010). Violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms.

(1) As used in this act:

(a) "Habitual felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph (4)(a), if it finds that:

1. The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses.

2. The felony for which the defendant is to be sentenced was committed:

a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for a felony or other qualified offense; or

b. Within 5 years of the date of the conviction of the defendant's last prior felony or other qualified offense, or within 5 years of the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.

3. The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13 relating to the purchase or the possession of a controlled substance.

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) "Habitual violent felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph (4)(b), if it finds that:

1. The defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:

a. Arson;

b. Sexual battery;

c. Robbery;

d. Kidnapping;

e. Aggravated child abuse;

f. Aggravated abuse of an elderly person or disabled adult;

g. Aggravated assault with a deadly weapon;

h. Murder;

i. Manslaughter;

j. Aggravated manslaughter of an elderly person or disabled adult;

k. Aggravated manslaughter of a child;

l. Unlawful throwing, placing, or discharging of a destructive device or bomb;

m. Armed burglary;

n. Aggravated battery; or

o. Aggravated stalking.

2. The felony for which the defendant is to be sentenced was committed:

a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for an enumerated felony; or

b. Within 5 years of the date of the conviction of the last prior enumerated felony, or within 5 years of the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.

3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph.

4. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(c) "Three-time violent felony offender" means a defendant for whom the court must impose a mandatory minimum term of imprisonment, as provided in paragraph (4)(c), if it finds that:

1. The defendant has previously been convicted as an adult two or more times of a felony, or an attempt to commit a felony, and two or more of such convictions were for committing, or attempting to commit, any of the following offenses or combination thereof:

a. Arson;

b. Sexual battery;

c. Robbery;

d. Kidnapping;

e. Aggravated child abuse;

f. Aggravated abuse of an elderly person or disabled adult;

g. Aggravated assault with a deadly weapon;

h. Murder;

i. Manslaughter;

j. Aggravated manslaughter of an elderly person or disabled adult;

k. Aggravated manslaughter of a child;

l. Unlawful throwing, placing, or discharging of a destructive device or bomb;

m. Armed burglary;

n. Aggravated battery;

o. Aggravated stalking;

p. Home invasion/robbery;

q. Carjacking; or

r. An offense which is in violation of a law of any other jurisdiction if the elements of the offense are substantially similar to the elements of any felony offense enumerated in sub-subparagraphs a.-q., or an attempt to commit any such felony offense.

2. The felony for which the defendant is to be sentenced is one of the felonies enumerated in sub-subparagraphs 1.a.-q. and was committed:

a. While the defendant was serving a prison sentence or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a.-r.; or

b. Within 5 years after the date of the conviction of the last prior offense enumerated in sub-subparagraphs 1.a.-r., or within 5 years after the defendant's release from a prison sentence, probation, community control, or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a.-r., whichever is later.

3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph.

4. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(d) "Violent career criminal" means a defendant for whom the court must impose imprisonment pursuant to paragraph (4)(d), if it finds that:

1. The defendant has previously been convicted as an adult three or more times for an offense in this state or other qualified offense that is:

a. Any forcible felony, as described in s. 776.08;

b. Aggravated stalking, as described in s. 784.048(3) and (4);

c. Aggravated child abuse, as described in s. 827.03(2);

d. Aggravated abuse of an elderly person or disabled adult, as described in s. 825.102(2);

e. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, as described in s. 800.04 or s. 847.0135(5);

f. Escape, as described in s. 944.40; or

g. A felony violation of chapter 790 involving the use or possession of a firearm.

2. The defendant has been incarcerated in a state prison or a federal prison.

3. The primary felony offense for which the defendant is to be sentenced is a felony enumerated in subparagraph 1. and was committed on or after October 1, 1995, and:

a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for an enumerated felony; or

b. Within 5 years after the conviction of the last prior enumerated felony, or within 5 years after the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other

sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(e) "Qualified offense" means any offense, substantially similar in elements and penalties to an offense in this state, which is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction, that was punishable under the law of such jurisdiction at the time of its commission by the defendant by death or imprisonment exceeding 1 year.

(2) For the purposes of this section, the placing of a person on probation or community control without an adjudication of guilt shall be treated as a prior conviction.

(3) (a) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after October 1, 1995, if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a habitual felony offender or a habitual violent felony offender, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a habitual felony offender or a habitual violent felony offender, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a habitual felony offender or a habitual violent felony offender as provided in this subparagraph.

(b) In a separate proceeding, the court shall determine if the defendant is a three-time violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a three-time violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a three-time violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after the effective date of this act, if the state attorney pursues a three-time violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a three-time violent felony offender, subject to imprisonment pursuant to this section as provided in paragraph (4)(c).

(c) In a separate proceeding, the court shall determine whether the defendant is a violent career criminal with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph (d).

4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. 921.241.

5. For an offense committed on or after October 1, 1995, if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a violent career criminal, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the

public to sentence the defendant as a violent career criminal, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a violent career criminal as provided in this subparagraph.

(d) 1. A person sentenced under paragraph (4)(d) as a violent career criminal has the right of direct appeal, and either the state or the defendant may petition the trial court to vacate an illegal sentence at any time. However, the determination of the trial court to impose or not to impose a violent career criminal sentence is presumed appropriate and no petition or motion for collateral or other postconviction relief may be considered based on an allegation either by the state or the defendant that such sentence is inappropriate, inadequate, or excessive.

2. It is the intent of the Legislature that, with respect to both direct appeal and collateral review of violent career criminal sentences, all claims of error or illegality be raised at the first opportunity and that no claim should be filed more than 2 years after the judgment and sentence became final, unless it is established that the basis for the claim could not have been ascertained at the time by the exercise of due diligence. Technical violations and mistakes at trials and sentencing proceedings involving violent career criminals that do not affect due process or fundamental fairness are not appealable by either the state or the defendant.

3. It is the intent of the Legislature that no funds, resources, or employees of the state or its political subdivisions be used, directly or indirectly, in appellate or collateral proceedings based on violent career criminal sentencing, except when such use is constitutionally or statutorily mandated.

(4) (a) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 30.

3. In the case of a felony of the third degree, for a term of years not exceeding 10.

(b) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual violent felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life, and such offender shall not be eligible for release for 15 years.

2. In the case of a felony of the second degree, for a term of years not exceeding 30, and such offender shall not be eligible for release for 10 years.

3. In the case of a felony of the third degree, for a term of years not exceeding 10, and such offender shall not be eligible for release for 5 years.

(c) 1. The court, in conformity with the procedure established in paragraph (3)(b), must sentence the three-time violent felony offender to a mandatory minimum term of imprisonment, as follows:

a. In the case of a felony punishable by life, to a term of imprisonment for life;

b. In the case of a felony of the first degree, to a term of imprisonment of 30 years;

c. In the case of a felony of the second degree, to a term of imprisonment of 15 years; or

d. In the case of a felony of the third degree, to a term of imprisonment of 5 years.

2. Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

(d) The court, in conformity with the procedure established in paragraph (3)(c), shall sentence the violent career criminal as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 40, with a mandatory minimum term of 30 years' imprisonment.

3. In the case of a felony of the third degree, for a term of years not exceeding 15, with a mandatory minimum term of 10 years' imprisonment.

(e) If the court finds, pursuant to paragraph (3)(a) or paragraph (3)(c), that it is not necessary for the protection of the public to sentence a defendant who meets the criteria for sentencing as a habitual felony offender, a habitual violent felony offender, or a violent career criminal, with respect to an offense committed on or after October 1, 1995, sentence shall be imposed without regard to this section.

(f) At any time when it appears to the court that the defendant is eligible for sentencing under this section, the court shall make that determination as provided in paragraph (3)(a), paragraph (3)(b), or paragraph (3)(c).

(g) A sentence imposed under this section shall not be increased after such imposition.

(h) A sentence imposed under this section is not subject to s. 921.002.

(i) The provisions of this section do not apply to capital felonies, and a sentence authorized under this section does not preclude the imposition of the death penalty for a capital felony.

(j) The provisions of s. 947.1405 shall apply to persons sentenced as habitual felony offenders and persons sentenced as habitual violent felony offenders.

(k) 1. A defendant sentenced under this section as a habitual felony offender, a habitual violent felony offender, or a violent career criminal is eligible for gain-time granted by the Department of Corrections as provided in s. 944.275(4)(b).

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for any form of discretionary early release, other than pardon or executive clemency, or conditional medical release granted pursuant to s. 947.149.

3. For an offense committed on or after July 1, 1999, a defendant sentenced under this section as a three-time violent felony offender shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release.

(5) In order to be counted as a prior felony for purposes of sentencing under this section, the felony must have resulted in a conviction sentenced separately prior to the current offense and sentenced separately from any other felony conviction that is to be counted as a prior felony.

(6) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section, and to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

FLA. STAT. ANN. § 775.087 (2010). Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.

(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant carries, displays, uses, threatens to use, or attempts to use any weapon or firearm, or during the commission of such felony the defendant commits an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) In the case of a felony of the first degree, to a life felony.

(b) In the case of a felony of the second degree, to a felony of the first degree.

(c) In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense which is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

(2) (a) 1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a weapon is an element of the felony, and the conviction was for:

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated assault;

g. Aggravated battery;

h. Kidnapping;

i. Escape;

j. Aircraft piracy;

k. Aggravated child abuse;

l. Aggravated abuse of an elderly person or disabled adult;

m. Unlawful throwing, placing, or discharging of a destructive device or bomb;

n. Carjacking;

o. Home-invasion robbery;

p. Aggravated stalking;

q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); or

r. Possession of a firearm by a felon

and during the commission of the offense, such person actually possessed a "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for aggravated assault, possession of a firearm by a felon, or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a "firearm" or "destructive device" during the commission of the offense.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs (a)1.a.-q., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs (a)1.a.-q., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law.

Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

(c) If the minimum mandatory terms of imprisonment imposed pursuant to this section exceed the maximum sentences authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the mandatory minimum sentence must be imposed. If the mandatory minimum terms of imprisonment pursuant to this section are less than the sentences that could be imposed as authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the sentence imposed by the court must include the mandatory minimum term of imprisonment as required in this section.

(d) It is the intent of the Legislature that offenders who actually possess, carry, display, use, threaten to use, or attempt to use firearms or destructive devices be punished to the fullest extent of the law, and the minimum terms of imprisonment imposed pursuant to this subsection shall be imposed for each qualifying felony count for which the person is convicted. The court shall impose any term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense.

(3) (a) 1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a firearm is an element of the felony, and the conviction was for:

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated assault;

g. Aggravated battery;

h. Kidnapping;

i. Escape;

j. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;

k. Aircraft piracy;

l. Aggravated child abuse;

m. Aggravated abuse of an elderly person or disabled adult;

n. Unlawful throwing, placing, or discharging of a destructive device or bomb;

o. Carjacking;

p. Home-invasion robbery;

q. Aggravated stalking; or

r. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1);

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 15 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph (a)1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph (a)1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law. Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

(c) If the minimum mandatory terms of imprisonment imposed pursuant to this section exceed the maximum sentences authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the mandatory minimum sentence must be imposed. If the mandatory minimum terms of imprisonment pursuant to this section are less than the sentences that could be imposed as authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter

921, then the sentence imposed by the court must include the mandatory minimum term of imprisonment as required in this section.

(d) It is the intent of the Legislature that offenders who possess, carry, display, use, threaten to use, or attempt to use a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001 be punished to the fullest extent of the law, and the minimum terms of imprisonment imposed pursuant to this subsection shall be imposed for each qualifying felony count for which the person is convicted. The court shall impose any term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense.

(e) As used in this subsection, the term:

1. "High-capacity detachable box magazine" means any detachable box magazine, for use in a semiautomatic firearm, which is capable of being loaded with more than 20 centerfire cartridges.

2. "Semiautomatic firearm" means a firearm which is capable of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

(4) For purposes of imposition of minimum mandatory sentencing provisions of this section, with respect to a firearm, the term "possession" is defined as carrying it on the person. Possession may also be proven by demonstrating that the defendant had the firearm within immediate physical reach with ready access with the intent to use the firearm during the commission of the offense, if proven beyond a reasonable doubt.

(5) In every case in which a law enforcement agency based a criminal charge on facts demonstrating that the defendant met the criteria in subparagraph (2)(a)1., subparagraph (2)(a)2., or subparagraph (2)(a)3. or subparagraph (3)(a)1., subparagraph (3)(a)2., or subparagraph (3)(a)3. and in which the defendant did not receive the mandatory penalty, the state attorney must place in the court file a memorandum explaining why the minimum mandatory penalty was not imposed.

(6) This section does not apply to law enforcement officers or to United States military personnel who are performing their lawful duties or who are traveling to or from their places of employment or assignment to perform their lawful duties.

FLA. STAT. ANN. § 775.21 (2010). The Florida Sexual Predators Act

(1) Short title. --This section may be cited as "The Florida Sexual Predators Act."

(2) Definitions. --As used in this section, the term:

(a) "Chief of police" means the chief law enforcement officer of a municipality.

(b) "Community" means any county where the sexual predator lives or otherwise establishes or maintains a temporary or permanent residence.

(c) "Conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal,

including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(d) "Department" means the Department of Law Enforcement.

(e) "Entering the county" includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

(f) "Permanent residence" means a place where the person abides, lodges, or resides for 5 or more consecutive days.

(g) "Temporary residence" means a place where the person abides, lodges, or resides for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

(h) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

(i) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(j) "Electronic mail address" has the same meaning as provided in s. 668.602.

(k) "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

(3) Legislative findings and purpose; legislative intent.

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.30. The sexual predator is subject to specified terms and conditions implemented at

sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

(d) It is the purpose of the Legislature that, upon the court's written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;

2. Requiring sexual predators to register with the Florida Department of Law Enforcement, as provided in this section; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

(4) Sexual predator criteria.

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first-degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent or guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025(2)(b); s. 827.071; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another

jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony regardless of the date of offense of the prior felony.

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

2. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the criteria for designation as a sexual predator based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for administrative designation as a sexual predator, and, for an offender described under this paragraph, shall notify the state attorney of the county where the offender establishes or maintains a permanent or temporary residence. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the department.

(d) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a "sexual predator" under subsection (5) and subject to registration under subsection (6) and community and public notification under subsection (7).

(5) Sexual predator designation. --An offender is designated as a sexual predator as follows:

(a) 1. An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determined to be a sexually violent predator under chapter 394 that such person meets the criteria for designation as a sexual predator for purposes of this section. The clerk shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order;

2. An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing for a current offense committed on or after October 1, 1993, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

3. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent or temporary residence in this state meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) because the offender was civilly committed or committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender establishes or maintains a permanent or temporary residence of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record or record of civil commitment from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours after the court designating an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court's written sexual predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual predator finding must be submitted to the Department of Corrections.

(b) If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator's fingerprints are taken and forwarded to the department within 48 hours after the court renders its written sexual predator finding. The fingerprint card shall be clearly marked, "Sexual Predator Registration Card." The clerk of the court that convicts and sentences the sexual predator for the offense or offenses described in subsection (4) shall forward to the department and to the Department of Corrections a certified copy of any order entered by the court imposing any special condition or restriction on the sexual predator which restricts or prohibits access to the victim, if the victim is a minor, or to other minors.

(c) If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender meets the sexual predator criteria but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense for offenders described in subparagraph (a)1., or the state attorney of the county where the offender establishes or maintains a residence upon first entering the state for offenders described in subparagraph (a)3. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual predator

criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator. The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender, shall register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification as provided in s. 943.0435 or s. 944.607. A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. 943.0435 or s. 944.607 until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(6) Registration.

(a) A sexual predator must register with the department through the sheriff's office by providing the following information to the department:

1. Name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, photograph, address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box, any electronic mail address and any instant message name required to be provided pursuant to subparagraph (g)4., home telephone number and any cellular telephone number, date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

a. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

b. If the sexual predator is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's

enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, or the Department of Corrections if the sexual predator is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status. The sheriff or the Department of Corrections shall promptly notify each institution of the sexual predator's presence and any change in the sexual predator's enrollment or employment status.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator must register with the Department of Corrections. A sexual predator who is under the supervision of the Department of Corrections but who is not incarcerated must register with the Department of Corrections within 3 business days after the court finds the offender to be a sexual predator. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator within 3 business days after intake of the sexual predator for any reason and upon release, and shall forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

(d) If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward to the department any information regarding the sexual predator which is consistent with the information provided by the Department of Corrections under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the department for purposes of public notification.

(e) 1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a private correctional facility, the sexual predator shall register in person:

a. At the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

b. At the sheriff's office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change in the sexual predator's permanent or temporary residence, name, or any electronic mail address and any instant message name required to be provided pursuant to subparagraph (g)4., after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1., shall be accomplished in the manner provided in paragraphs (g), (i), and (j). When a sexual predator registers with the sheriff's office, the sheriff shall take a photograph and a

set of fingerprints of the predator and forward the photographs and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver's license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration. At the driver's license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent or temporary residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual predators. A post office box shall not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued to the sexual predator must be in compliance with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(g) 1. Each time a sexual predator's driver's license or identification card is subject to renewal, and, without regard to the status of the predator's driver's license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver's license office and shall be subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section.

2. A sexual predator who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator must provide or update all of the registration information required under paragraph (a). The sexual predator must provide an address for the residence or other

location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.

3. A sexual predator who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. A sexual predator must register any electronic mail address or instant message name with the department prior to using such electronic mail address or instant message name on or after October 1, 2007. The department shall establish an online system through which sexual predators may securely access and update all electronic mail address and instant message name information.

(h) The department must notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence.

(i) A sexual predator who intends to establish residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The sexual predator must provide to the sheriff the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to reside in another state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 48 hours after the date upon which the sexual predator indicated he or she would leave this state, report in person to the sheriff to which the sexual predator reported the intended change of residence, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to reside in another state or jurisdiction, but who remains in this state without reporting to the sheriff in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k) 1. The department is responsible for the online maintenance of current information regarding each registered sexual predator. The department must maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph and fingerprints do not have to be stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The department is authorized to disseminate this public

information by any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel must advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(l) A sexual predator must maintain registration with the department for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation.

(7) Community and public notification.

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed day care center, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator. Information provided to members of the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;

2. A description of the sexual predator, including a photograph;

3. The sexual predator's current address, including the name of the county or municipality if known;

4. The circumstances of the sexual predator's offense or offenses; and

5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

(b) The sheriff or the police chief may coordinate the community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

(d) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators.

(8) Verification. --The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections and shall report to the department any failure by a sexual predator to comply with registration requirements. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections. Local law enforcement agencies shall report to the department any failure by a sexual predator to comply with registration requirements.

(a) A sexual predator must report in person each year during the month of the sexual predator's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which shall be consistent with the reporting requirements of this paragraph. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; any electronic mail address and any instant message name required to be provided pursuant to subparagraph (6)(g)4.; home telephone number and any cellular telephone number; date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.

2. If the sexual predator is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment or employment status.

3. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

(b) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual predator to the department in a manner prescribed by the department.

(9) Immunity. --The department, the Department of Highway Safety and Motor Vehicles, the

Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual predator fails to report or falsely reports his or her current place of permanent or temporary residence.

(10) Penalties.

(a) Except as otherwise specifically provided, a sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver's license or identification card; who fails to provide required location information, electronic mail address information, instant message name information, home telephone number and any cellular telephone number, or change-of-name information; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence; or who otherwise fails, by act or omission, to comply with the requirements of this section, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, day care center, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual predator, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator. In addition, a sexual predator may be prosecuted for any such act or omission in the

county in which he or she was designated a sexual predator.

(e) An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the predator has been provided and advised of his or her statutory obligation to register under subsection (6). A sexual predator's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual predator charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual predator who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(f) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual predator of criminal liability for the failure to register.

(g) Any person who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this section:

1. Withholds information from, or does not notify, the law enforcement agency about the sexual predator's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual predator;

2. Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator;

3. Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator; or

4. Provides information to the law enforcement agency regarding the sexual predator which the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This paragraph does not apply if the sexual predator is incarcerated in or is in the custody of a state correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

FLA. STAT. ANN. § 921.0022 (2010). Criminal Punishment Code; offense severity ranking chart.

(1) The offense severity ranking chart must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe, which are level 1 offenses, to most severe, which are level 10 offenses, and each felony offense is assigned

to a level according to the severity of the offense. For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. 775.0845, s. 775.0861, s. 775.087, s. 775.0875, s. 794.023, or any other law that provides an enhanced penalty for a felony offense, to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0023.

(3) OFFENSE SEVERITY RANKING CHART

(a) LEVEL 1

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than $ 300 but less than $ 20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212(1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license or identification card.
322.212(5)(a)	3rd	False application for driver's license or identification card.
414.39(2)	3rd	Unauthorized use, possession, forgery, or alteration of food assistance program, Medicaid ID, value greater than $ 200.
414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than $ 200.
443.071(1)	3rd	False statement or representation to obtain or increase unemployment compensation benefits.
509.151(1)	3rd	Defraud an innkeeper, food or lodging

		value greater than $ 300.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
562.27(1)	3rd	Possess still or still apparatus.
713.69	3rd	Tenant removes property upon which lien has accrued, value more than $ 50.
812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
817.569(2)	3rd	Use of public record or public records information to facilitate commission of a felony.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud $ 150 or more.
832.05(2)(b)&(4)(c)	3rd	Knowing, making, issuing worthless checks $ 150 or more or obtaining property in return for worthless check $ 150 or more.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
849.01	3rd	Keeping gambling house.
849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
849.23	3rd	Gambling-related machines; "common offender" as to property rights.
849.25(2)	3rd	Engaging in bookmaking.
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20

grams).

934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
(b) LEVEL 2		
379.2431(1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431(1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07	3rd	Registration of securities and furnishing of prospectus required.
590.28(1)	3rd	Intentional burning of lands.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $ 1,000 or more to public communication or any other public service.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $ 300 or more but less than $ 5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $ 100 or more but less than $ 300, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $ 300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.

817.61	3rd	Fraudulent use of credit cards over $ 100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	Falsely impersonating an officer.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
(c) LEVEL 3		
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066(4)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

379.2431(1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
379.2431(1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
400.9935(4)	3rd	Operating a clinic without a license or filing false license application or other required information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $ 20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $ 5,000 or more but less than $ 10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $ 300 or more but less than $ 10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $ 20,000.
817.233	3rd	Burning to defraud insurer.
817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less

		than $ 20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods as new.
817.505(4)	3rd	Patient brokering.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record

		required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47(1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
(d) LEVEL 4		
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
499.0051(2)	3rd	Failure to authenticate pedigree papers.
499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or

		older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $ 10,000 or more but less than $ 20,000.
812.014(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen $ 300 or more.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05(1)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
(e) LEVEL 5		
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium

		collected $ 20,000 or more but less than $ 100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $ 10,000 or more but less than $ 50,000.
812.015(8)	3rd	Retail theft; property stolen is valued at $ 300 or more and one or more specified acts.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $ 20,000 to $ 50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $ 20,000 or more but less than $ 100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $ 5,000 or more or use of personal identification information of 10 or more individuals.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
825.1025(4)	3rd	Lewd or lascivious exhibition in the

		presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
827.071(5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137(2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138(2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
874.05(2)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b),

		(1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
(f) LEVEL 6		
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Knowing forgery of pedigree papers.
499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.

794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
812.014(2)(b)1.	2nd	Property stolen $ 20,000 or more, but less than $ 100,000, grand theft in 2nd degree.
812.014(6)	2nd	Theft; property stolen $ 3,000 or more; coordination of others.
812.015(9)(a)	2nd	Retail theft; property stolen $ 300 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; property stolen $ 3,000 or more; coordination of others.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.034(4)(a)1.	1st	Communications fraud, value greater than $ 50,000.
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than $ 20,000.
827.03(1)	3rd	Abuse of a child.
827.03(3)(c)	3rd	Neglect of a child.
827.071(2)&(3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill or do bodily injury.
843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the

		production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
(g) LEVEL 7		
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)(b)1.a.	3rd	Medicaid provider fraud; $ 10,000 or less
409.920(2)(b)1.b.	2nd	Medicaid provider fraud; more than $ 10,000 but less than $ 50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.

462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $ 50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $ 300 but less than $ 20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $ 300 but less than $ 20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $ 300 but less than $ 20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the

		operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less

		than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $ 100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $ 50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $ 50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $ 100,000 or more.
817.2341(2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $ 20,000 or more, but less than $ 100,000.

827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or

		more, less than 14 grams.
893.135(1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $ 300 but less than $ 20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $ 300 but less than $ 20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
(h) LEVEL 8		
316.193(3)(c)3.a.	2nd	DUI manslaughter.
316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding

		with serious bodily injury or death.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
499.0051(8)	1st	Knowing forgery of prescription labels or prescription drug labels.
499.0051(7)	1st	Knowing trafficking in contraband prescription drugs.
560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $ 20,000, but less than $ 100,000 by money transmitter.
560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding $ 20,000, but less than $ 100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $ 20,000, but less than $ 100,000 by financial institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
800.04(4)	2nd	Lewd or lascivious battery.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $ 1,000 or more property damage.
812.014(2)(a)2.	1st	Property stolen; cargo valued at $

		50,000 or more, grand theft in 1st degree.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $ 100,000 or more.
837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135(1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135(1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135(1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
893.135(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
893.135(1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
893.135(1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5

		kilograms or more, less than 10 kilograms.
893.135(1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding $ 20,000, but less than $ 100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $ 20,000 but less than $ 100,000.

(i) LEVEL 9

Florida Statute	Felony Degree	Description
316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
409.920(2)(b)1.c.	1st	Medicaid provider fraud; $ 50,000 or more.
499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding $ 100,000 by money transmitter.
560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding $ 100,000.
655.50(10)(b)3.	1st	Failure to report financial transactions

		totaling or exceeding $ 100,000 by financial institution.
775.0844	1st	Aggravated white collar crime.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
790.161	1st	Attempted capital destructive device offense.
790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.

794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
812.135(2)(b)	1st	Home-invasion robbery with weapon.
817.568(7)	2nd,PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
827.03(2)	1st	Aggravated child abuse.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning or introducing bacteria, radioactive materials,

		viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135(1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135(1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135(1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135(1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
893.135(1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
893.135(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135(1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding $ 100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $ 100,000. (j) LEVEL 10
499.0051(10)	1st	Knowing sale or purchase of contraband prescription drugs resulting in death.

782.04(2)	1st,PBL	Unlawful killing of human; act is homicide, unpremeditated.
787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
782.07(3)	1st	Aggravated manslaughter of a child.
794.011(3)	Life	Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
812.135(2)(a)	1st,PBL	Home-invasion robbery with firearm or other deadly weapon.
876.32	1st	Treason against the state.

FLA. STAT. ANN. § 921.0023 (2010). Criminal Punishment Code; ranking unlisted felony offenses.

A felony offense committed on or after October 1, 1998, that is not listed in s. 921.0022 is ranked with respect to offense severity level by the Legislature, commensurate with the harm or potential harm that is caused by the offense to the community. Until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

(1) A felony of the third degree within offense level 1.

(2) A felony of the second degree within offense level 4.

(3) A felony of the first degree within offense level 7.

(4) A felony of the first degree punishable by life within offense level 9.

(5) A life felony within offense level 10.

FLA. STAT. ANN. § 921.0024 (2010). Criminal Punishment Code; worksheet computations; scoresheets.

(1)(a) The Criminal Punishment Code worksheet is used to compute the subtotal and total sentence points as follows:

FLORIDA CRIMINAL PUNISHMENT CODE WORKSHEET

OFFENSE SCORE

Primary Offense

Level	Sentence Points		Total
10	116	=	
9	92	=	
8	74	=	
7	56	=	
6	36	=	
5	28	=	
4	22	=	
3	16	=	
2	10	=	
1	4	=	
		Total	

Additional Offenses

Level	Sentence Points		Counts		Total
10	58	x		=	
9	46	x		=	
8	37	x		=	
7	28	x		=	
6	18	x		=	
5	5.4	x		=	
4	3.6	x		=	
3	2.4	x		=	
2	1.2	x		=	
1	0.7	x		=	
M	0.2	x		=	
			Total	O	

Victim Injury

Level	Sentence Points		Number		Total
2nd degree murder-death	240	x		=	
Death	120	x		=	
Severe	40	x		=	
Moderate	18	x		=	
Slight	4	x		=	
Sexual penetration	80	x		=	
Sexual contact	40	x		=	
			Total	O	

Primary Offense + Additional Offenses + Victim Injury Primary Offense + Additional Offenses + Victim Injury

PRIOR RECORD SCORE

Level	Prior Record Sentence Points		Number		Total
10	29	x		=	
9	23	x		=	
8	19	x		=	
7	14	x		=	
6	9	x		=	
5	3.6	x		=	
4	2.4	x		=	
3	1.6	x		=	
2	0.8	x		=	
1	0.5	x		=	
M	0.2	x		=	
				Total	O

TOTAL OFFENSE SCORE

TOTAL PRIOR RECORD SCORE

LEGAL STATUS

COMMUNITY SANCTION VIOLATION

PRIOR SERIOUS FELONY

PRIOR CAPITAL FELONY

FIREARM OR SEMIAUTOMATIC WEAPON

SUBTOTAL

PRISON RELEASEE REOFFENDER (no)(yes)

VIOLENT CAREER CRIMINAL (no)(yes)

HABITUAL VIOLENT OFFENDER (no)(yes)

HABITUAL OFFENDER (no)(yes)

DRUG TRAFFICKER (no)(yes) (x multiplier)

LAW ENF. PROTECT. (no)(yes) (x multiplier)

MOTOR VEHICLE THEFT (no)(yes) (x multiplier)

CRIMINAL GANG OFFENSE (no)(yes) (x multiplier)

DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no)(yes) (x multiplier)

TOTAL SENTENCE POINTS

(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation and each successive community sanction violation, unless any of the following apply:

1. If the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06:

a. Twelve (12) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:

(I) The violation does not include a new felony conviction; and

(II) The community sanction violation is not based solely on the probationer or offender's failure to pay costs or fines or make restitution payments.

b. Twenty-four (24) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where the violation includes a new felony conviction.

Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior serious felonies, a single assessment of thirty (30) points shall be added. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0022 or s. 921.0023 and for which the offender is serving a sentence of confinement, supervision, or other

sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offense was committed.

Prior capital felony points: If the offender has one or more prior capital felonies in the offender's criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony in the offender's criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his or her possession: a firearm as defined in s. 790.001(6), an additional eighteen (18) sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his or her possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional twenty-five (25) sentence points are assessed.

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), or (4), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(10) or (11), the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Offense related to a criminal gang: If the offender is convicted of the primary offense and committed that offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang as prohibited under s. 874.04, the subtotal sentence points are multiplied by 1.5.

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who is a family or household member as defined in s. 741.28(3) with the victim or perpetrator, the subtotal sentence points are multiplied by 1.5.

(2) The lowest permissible sentence is the minimum sentence that may be imposed by the trial court, absent a valid reason for departure. The lowest permissible sentence is any nonstate prison

sanction in which the total sentence points equals or is less than 44 points, unless the court determines within its discretion that a prison sentence, which may be up to the statutory maximums for the offenses committed, is appropriate. When the total sentence points exceeds 44 points, the lowest permissible sentence in prison months shall be calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. The total sentence points shall be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing shall be the lowest permissible sentence up to and including the statutory maximum, as defined in s. 775.082, for the primary offense and any additional offenses before the court for sentencing. The sentencing court may impose such sentences concurrently or consecutively. However, any sentence to state prison must exceed 1 year. If the lowest permissible sentence under the code exceeds the statutory maximum sentence as provided in s. 775.082, the sentence required by the code must be imposed. If the total sentence points are greater than or equal to 363, the court may sentence the offender to life imprisonment. An offender sentenced to life imprisonment under this section is not eligible for any form of discretionary early release, except executive clemency or conditional medical release under s. 947.149.

(3) A single scoresheet shall be prepared for each defendant to determine the permissible range for the sentence that the court may impose, except that if the defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines or the code, separate scoresheets must be prepared. The scoresheet or scoresheets must cover all the defendant's offenses pending before the court for sentencing. The state attorney shall prepare the scoresheet or scoresheets, which must be presented to the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet or scoresheets must be approved and signed by the sentencing judge.

(4) The Department of Corrections, in consultation with the Office of the State Courts Administrator, state attorneys, and public defenders, must develop and submit the revised Criminal Punishment Code scoresheet to the Supreme Court for approval by June 15 of each year, as necessary. Upon the Supreme Court's approval of the revised scoresheet, the Department of Corrections shall produce and provide sufficient copies of the revised scoresheets by September 30 of each year, as necessary. Scoresheets must include item entries for the scoresheet preparer's use in indicating whether any prison sentence imposed includes a mandatory minimum sentence or the sentence imposed was a downward departure from the lowest permissible sentence under the Criminal Punishment Code.

(5) The Department of Corrections shall distribute sufficient copies of the Criminal Punishment Code scoresheets to those persons charged with the responsibility for preparing scoresheets.

(6) The clerk of the circuit court shall transmit a complete, accurate, and legible copy of the Criminal Punishment Code scoresheet used in each sentencing proceeding to the Department of Corrections. Scoresheets must be transmitted no less frequently than monthly, by the first of each month, and may be sent collectively.

(7) A sentencing scoresheet must be prepared for every defendant who is sentenced for a felony offense. A copy of the individual offender's Criminal Punishment Code scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or any other rule pertaining to the preparation and submission of felony sentencing scoresheets, must be attached to the copy of the uniform judgment and sentence form

provided to the Department of Corrections.

FLA. STAT. ANN. § 943.0435 (2010). Sexual offenders required to register with the department; penalty.

(1) As used in this section, the term:

(a) 1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a. (I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(b) where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall additionally make a written finding indicating that the offense did or did not involve sexual activity and indicating that the offense did or did not involve force or coercion. For a violation of s. 800.04(5), the court shall additionally make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) "Permanent residence" and "temporary residence" have the same meaning ascribed in s. 775.21.

(d) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

(e) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(f) "Electronic mail address" has the same meaning as provided in s. 668.602.

(g) "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent or temporary residence within 48 hours after:

a. Establishing permanent or temporary residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the sexual offender's permanent or temporary residence, name, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), after the sexual offender reports in person at the sheriff's office, shall be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence or address of any current temporary residence, within the state and out of state, including a rural route address and a post office box, home telephone number and any cellular telephone number, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), date and place of each conviction, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department through the sheriff's office the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, within 48 hours after any change in status. The sheriff shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment or employment status.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles,

unless a driver's license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4) (a) Each time a sexual offender's driver's license or identification card is subject to renewal, and, without regard to the status of the offender's driver's license or identification card, within 48 hours after any change in the offender's permanent or temporary residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606.

(b) A sexual offender who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.

(c) A sexual offender who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A sexual offender must register any electronic mail address or instant message name with the department prior to using such electronic mail address or instant message name on or after

October 1, 2007. The department shall establish an online system through which sexual offenders may securely access and update all electronic mail address and instant message name information.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) (a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a

defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(d) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(11) Except as provided in s. 943.04354, a sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a) 1. Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);

c. For a violation of s. 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)c.2. where the court finds the offense involved unclothed genitals or genital area;

f. For any attempt or conspiracy to commit any such offense; or

g. For a violation of similar law of another jurisdiction,

may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender.

2. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

3. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

(b) As defined in sub-subparagraph (1)(a)1.b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14) (a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)c.2. where the court finds molestation involving unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;

8. Any attempt or conspiracy to commit such offense; or

9. A violation of a similar law of another jurisdiction,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which shall be consistent with the reporting requirements of this subsection. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d); home telephone number and any cellular telephone number; date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall

not be provided in lieu of a physical residential address.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence or who fails to report electronic mail addresses or instant message names, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner prescribed by the department.

GEORGIA

GA. CODE ANN. § 16-5-40 (2010). Kidnapping.

(a) A person commits the offense of kidnapping when such person abducts or steals away another person without lawful authority or warrant and holds such other person against his or her will.

(b) (1) For the offense of kidnapping to occur, slight movement shall be sufficient; provided, however, that any such slight movement of another person which occurs while in the commission of any other offense shall not constitute the offense of kidnapping if such movement is merely incidental to such other offense.

(2) Movement shall not be considered merely incidental to another offense if it:

(A) Conceals or isolates the victim;

(B) Makes the commission of the other offense substantially easier;

(C) Lessens the risk of detection; or

(D) Is for the purpose of avoiding apprehension.

(c) The offense of kidnapping shall be considered a separate offense and shall not merge with any other offense.

(d) A person convicted of the offense of kidnapping shall be punished by:

(1) Imprisonment for not less than ten nor more than 20 years if the kidnapping involved a victim who was 14 years of age or older;

(2) Imprisonment for life or by a split sentence that is a term of imprisonment for not less than 25 years and not exceeding life imprisonment, followed by probation for life, if the kidnapping involved a victim who is less than 14 years of age;

(3) Life imprisonment or death if the kidnapping was for ransom; or

(4) Life imprisonment or death if the person kidnapped received bodily injury.

(e) Any person convicted under this Code section shall, in addition, be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

(f) The offense of kidnapping is declared to be a continuous offense, and venue may be in any county where the accused exercises dominion or control over the person of another.

GA. CODE ANN. § 16-5-45 (2010). Interference with custody.

(a) As used in this Code section, the term:

(1) "Child" means any individual who is under the age of 17 years or any individual who is under the age of 18 years who is alleged to be a deprived child as such is defined in Code Section 15-11-2, relating to juvenile proceedings.

(2) "Committed person" means any child or other person whose custody is entrusted to another individual by authority of law.

(3) "Lawful custody" means that custody inherent in the natural parents, that custody awarded by proper authority as provided in Code Section 15-11-45, or that custody awarded to a parent, guardian, or other person by a court of competent jurisdiction.

(b)(1) A person commits the offense of interference with custody when without lawful authority to do so the person:

(A) Knowingly or recklessly takes or entices any child or committed person away from the individual who has lawful custody of such child or committed person;

(B) Knowingly harbors any child or committed person who has absconded; or

(C) Intentionally and willfully retains possession within this state of the child or committed person upon the expiration of a lawful period of visitation with the child or committed person.

(2) A person convicted of the offense of interference with custody shall be punished as follows:

(A) Upon conviction of the first offense, the defendant shall be guilty of a misdemeanor and shall be fined not less than $200.00 nor more than $500.00 or shall be imprisoned for not less than one month nor more than five months, or both fined and imprisoned;

(B) Upon conviction of the second offense, the defendant shall be guilty of a misdemeanor and shall be fined not less than $400.00 nor more than $1,000.00 or shall be imprisoned for not less than three months nor more than 12 months, or both fined and imprisoned; and

(C) Upon the conviction of the third or subsequent offense, the defendant shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years.

(c)(1) A person commits the offense of interstate interference with custody when without lawful authority to do so the person knowingly or recklessly takes or entices any minor or committed person away from the individual who has lawful custody of such minor or committed person and in so doing brings such minor or committed person into this state or removes such minor or committed person from this state.

(2) A person also commits the offense of interstate interference with custody when the person removes a minor or committed person from this state in the lawful exercise of a visitation right and, upon the expiration of the period of lawful visitation, intentionally retains possession of the minor or committed person in another state for the purpose of keeping the minor or committed person away from the individual having lawful custody of the minor or committed person. The offense is deemed to be committed in the county to which the minor or committed person was to have been returned upon expiration of the period of lawful visitation.

(3) A person convicted of the offense of interstate interference with custody shall be guilty of a felony and shall be imprisoned for not less than one year nor more than five years.

GA. CODE ANN. § 16-5-70 (2010). Cruelty to children.

(a) A parent, guardian, or other person supervising the welfare of or having immediate charge or custody of a child under the age of 18 commits the offense of cruelty to children in the first degree when such person willfully deprives the child of necessary sustenance to the extent that the child's health or well-being is jeopardized.

(b) Any person commits the offense of cruelty to children in the first degree when such person maliciously causes a child under the age of 18 cruel or excessive physical or mental pain.

(c) Any person commits the offense of cruelty to children in the second degree when such person with criminal negligence causes a child under the age of 18 cruel or excessive physical or mental pain.

(d) Any person commits the offense of cruelty to children in the third degree when:

(1) Such person, who is the primary aggressor, intentionally allows a child under the age of 18 to witness the commission of a forcible felony, battery, or family violence battery; or

(2) Such person, who is the primary aggressor, having knowledge that a child under the age of 18 is present and sees or hears the act, commits a forcible felony, battery, or family violence battery.

(e)(1) A person convicted of the offense of cruelty to children in the first degree as provided in this Code section shall be punished by imprisonment for not less than five nor more than 20 years.

(2) A person convicted of the offense of cruelty to children in the second degree shall be punished by imprisonment for not less than one nor more than ten years.

(3) A person convicted of the offense of cruelty to children in the third degree shall be punished as for a misdemeanor upon the first or second conviction. Upon conviction of a third or subsequent offense of cruelty to children in the third degree, the defendant shall be guilty of a felony and shall be sentenced to a fine not less than $1,000.00 nor more than $5,000.00 or imprisonment for not less than one year nor more than three years or shall be sentenced to both fine and imprisonment.

GA. CODE ANN. § 16-5-72 (2010). Reckless abandonment.

(a) A parent, guardian, or other person supervising the welfare of or having immediate charge or custody of a child under the age of one year commits the offense of reckless abandonment of a child when the person willfully and voluntarily physically abandons such child with the intention of severing all parental or custodial duties and responsibilities to such child and leaving such child in a condition which results in the death of said child.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a felony and shall, upon conviction thereof, be punished by imprisonment for not less than ten nor more than 25 years.

GA. CODE ANN. § 16-5-73 (2010). Prohibition against presence of children during manufacture of methamphetamine; punishment.

(a) As used in this Code section, the term:

(1) "Chemical substance" means anhydrous ammonia, as defined in Code Section 16-11-111; ephedrine, pseudoephedrine, or phenylpropanolamine, as those terms are defined in Code Section 16-13-30.3; or any other chemical used in the manufacture of methamphetamine.

(2) "Child" means any individual who is under the age of 18 years.

(3) "Intent to manufacture" means but is not limited to the intent to manufacture methamphetamine, which may be demonstrated by a chemical substance's usage, quantity, or manner or method of storage, including but not limited to storing it in proximity to another chemical substance or equipment used to manufacture methamphetamine.

(4) "Methamphetamine" means methamphetamine, amphetamine, or any mixture containing either methamphetamine or amphetamine, as described in Code Section 16-13-26.

(5) "Serious injury" means an injury involving a broken bone, the loss of a member of the body, the loss of use of a member of the body, the substantial disfigurement of the body or of a member of the body, or an injury which is life threatening.

(b)(1) Any person who intentionally causes or permits a child to be present where any person is manufacturing methamphetamine or possessing a chemical substance with the intent to manufacture methamphetamine shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two nor more than 15 years.

(2) Any person who violates paragraph (1) of this subsection wherein a child receives serious injury as a result of such violation shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years.

GA. CODE ANN. § 16-6-3 (2010). Statutory rape.

(a) A person commits the offense of statutory rape when he or she engages in sexual intercourse with any person under the age of 16 years and not his or her spouse, provided that no conviction shall be had for this offense on the unsupported testimony of the victim.

(b) Except as provided in subsection (c) of this Code section, a person convicted of the offense of statutory rape shall be punished by imprisonment for not less than one nor more than 20 years; provided, however, that if the person so convicted is 21 years of age or older, such person shall be punished by imprisonment for not less than ten nor more than 20 years. Any person convicted under this subsection of the offense of statutory rape shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

(c) If the victim is at least 14 but less than 16 years of age and the person convicted of statutory rape is 18 years of age or younger and is no more than four years older than the victim, such person shall be guilty of a misdemeanor.

GA. CODE ANN. § 16-6-4 (2010). Child molestation; aggravated child molestation.

(a) A person commits the offense of child molestation when such person:

(1) Does any immoral or indecent act to or in the presence of or with any child under the age of 16 years with the intent to arouse or satisfy the sexual desires of either the child or the person; or

(2) By means of an electronic device, transmits images of a person engaging in, inducing, or otherwise participating in any immoral or indecent act to a child under the age of 16 years with the intent to arouse or satisfy the sexual desires of either the child or the person.

(b) (1) Except as provided in paragraph (2) of this subsection, a person convicted of a first offense of child molestation shall be punished by imprisonment for not less than five nor more than 20 years and shall be subject to the sentencing and punishment provisions of Code Sections 17-10-6.2 and 17-10-7. Upon a defendant being incarcerated on a conviction for a first offense, the Department of Corrections shall provide counseling to such defendant. Except as provided in paragraph (2) of this subsection, upon a second or subsequent conviction of an offense of child molestation, the defendant shall be punished by imprisonment for not less than ten years nor more than 30 years or by imprisonment for life and shall be subject to the sentencing and punishment

provisions of Code Sections 17-10-6.2 and 17-10-7; provided, however, that prior to trial, a defendant shall be given notice, in writing, that the state intends to seek a punishment of life imprisonment.

(2) If the victim is at least 14 but less than 16 years of age and the person convicted of child molestation is 18 years of age or younger and is no more than four years older than the victim, such person shall be guilty of a misdemeanor and shall not be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

(c) A person commits the offense of aggravated child molestation when such person commits an offense of child molestation which act physically injures the child or involves an act of sodomy.

(d) (1) Except as provided in paragraph (2) of this subsection, a person convicted of the offense of aggravated child molestation shall be punished by imprisonment for life or by a split sentence that is a term of imprisonment for not less than 25 years and not exceeding life imprisonment, followed by probation for life, and shall be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

(2) A person convicted of the offense of aggravated child molestation when:

(A) The victim is at least 13 but less than 16 years of age;

(B) The person convicted of aggravated child molestation is 18 years of age or younger and is no more than four years older than the victim; and

(C) The basis of the charge of aggravated child molestation involves an act of sodomy

shall be guilty of a misdemeanor and shall not be subject to the sentencing and punishment provisions of Code Section 17-10-6.1.

(e) A person shall be subject to prosecution in this state pursuant to Code Section 17-2-1 for any conduct made unlawful by paragraph (2) of subsection (a) of this Code section which the person engages in while:

(1) Either within or outside of this state if, by such conduct, the person commits a violation of paragraph (2) of subsection (a) of this Code section which involves a child who resides in this state; or

(2) Within this state if, by such conduct, the person commits a violation of paragraph (2) of subsection (a) of this Code section which involves a child who resides within or outside this state.

GA. CODE ANN. § 16-6-5 (2010). Enticing a child for indecent purposes.

(a) A person commits the offense of enticing a child for indecent purposes when he or she solicits, entices, or takes any child under the age of 16 years to any place whatsoever for the purpose of child molestation or indecent acts.

(b) Except as provided in subsection (c) of this Code section, a person convicted of the offense of enticing a child for indecent purposes shall be punished by imprisonment for not less than ten nor more than 30 years. Any person convicted under this Code section of the offense of enticing a

child for indecent purposes shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

(c) If the victim is at least 14 but less than 16 years of age and the person convicted of enticing a child for indecent purposes is 18 years of age or younger and is no more than four years older than the victim, such person shall be guilty of a misdemeanor and shall not be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

GA. CODE ANN. § 16-6-22.1 (2010). Sexual battery.

(a) For the purposes of this Code section, the term "intimate parts" means the primary genital area, anus, groin, inner thighs, or buttocks of a male or female and the breasts of a female.

(b) A person commits the offense of sexual battery when he or she intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person.

(c) Except as otherwise provided in this Code section, a person convicted of the offense of sexual battery shall be punished as for a misdemeanor of a high and aggravated nature.

(d) A person convicted of the offense of sexual battery against any child under the age of 16 years shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years.

(e) Upon a second or subsequent conviction under subsection (b) of this Code section, a person shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years and, in addition, shall be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

GA. CODE ANN. § 16-12-100 (2010). Sexual exploitation of children; reporting violation; forfeiture; penalties.

(a) As used in this Code section, the term:

(1) "Minor" means any person under the age of 18 years.

(2) "Performance" means any play, dance, or exhibit to be shown to or viewed by an audience.

(3) "Producing" means producing, directing, manufacturing, issuing, or publishing.

(4) "Sexually explicit conduct" means actual or simulated:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

(E) Flagellation or torture by or upon a person who is nude;

(F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;

(G) Physical contact in an act of apparent sexual stimulation or gratification with any person's unclothed genitals, pubic area, or buttocks or with a female's nude breasts;

(H) Defecation or urination for the purpose of sexual stimulation of the viewer; or

(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.

(5) "Visual medium" means any film, photograph, negative, slide, magazine, or other visual medium.

(b)(1) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.

(2) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.

(3) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of any performance.

(4) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of any performance.

(5) It is unlawful for any person knowingly to create, reproduce, publish, promote, sell, distribute, give, exhibit, or possess with intent to sell or distribute any visual medium which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.

(6) It is unlawful for any person knowingly to advertise, sell, purchase, barter, or exchange any medium which provides information as to where any visual medium which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct can be found or purchased.

(7) It is unlawful for any person knowingly to bring or cause to be brought into this state any material which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.

(8) It is unlawful for any person knowingly to possess or control any material which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.

(c) A person who, in the course of processing or producing visual or printed matter either privately or commercially, has reasonable cause to believe that the visual or printed matter submitted for processing or producing depicts a minor engaged in sexually explicit conduct shall immediately report such incident, or cause a report to be made, to the Georgia Bureau of Investigation or the law enforcement agency for the county in which such matter is submitted.

Any person participating in the making of a report or causing a report to be made pursuant to this subsection or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation pursuant to this subsection is made in good faith.

(d) The provisions of subsection (b) of this Code section shall not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities.

(e)(1) A person who is convicted of an offense under this Code section shall forfeit to the State of Georgia such interest as the person may have in:

(A) Any property constituting or directly derived from gross profits or other proceeds obtained from such offense; and

(B) Any property used, or intended to be used, to commit such offense.

(2) In any action under this Code section, the court may enter such restraining orders or take other appropriate action, including acceptance of performance bonds, in connection with any interest that is subject to forfeiture.

(3) The court shall order forfeiture of property referred to in paragraph (1) of this subsection if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

(4) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the disposition of any property forfeited under this subsection. In any disposition of property under this subsection, a convicted person shall not be permitted to acquire property forfeited by such person.

(f)(1) The following property shall be subject to forfeiture to the State of Georgia:

(A) Any material or equipment used, or intended for use, in producing, reproducing, transporting, shipping, or receiving any visual medium in violation of this Code section;

(B) Any visual medium produced, transported, shipped, or received in violation of this Code section, or any material containing such depiction; provided, however, that any such property so forfeited shall be destroyed by the appropriate law enforcement agency after it is no longer needed in any court proceedings; or

(C) Any property constituting or directly derived from gross profits or other proceeds obtained from a violation of this Code section;

except that no property of any owner shall be forfeited under this paragraph, to the extent of the interest of such owner, by reason of an act or omission established by such owner to have been committed or omitted without knowledge or consent of such owner.

(2) The procedure for forfeiture and disposition of forfeited property under this subsection shall be as provided for forfeitures under Code Section 16-13-49.

(g)(1) Except as otherwise provided in paragraph (2) of this subsection, any person who violates a provision of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years and by a fine of not more than $100,000.00. In the event, however, that the person so convicted is a member of the immediate family of the victim, no fine shall be imposed.

(2) Any person who violates subsection (c) of this Code section shall be guilty of a misdemeanor.

GA. CODE ANN. § 16-12-100.2 (2010). Computer or electronic pornography and child exploitation prevent.

(a) This Code section shall be known and may be cited as the "Computer or Electronic Pornography and Child Exploitation Prevention Act of 2007."

(b) As used in this Code section, the term:

(1) "Child" means any person under the age of 16 years.

(2) "Electronic device" means any device used for the purpose of communicating with a child for sexual purposes or any device used to visually depict a child engaged in sexually explicit conduct, store any image or audio of a child engaged in sexually explicit conduct, or transmit any audio or visual image of a child for sexual purposes. Such term may include, but shall not be limited to, a computer, cellular phone, thumb drive, video game system, or any other electronic device that can be used in furtherance of exploiting a child for sexual purposes;

(3) "Identifiable child" means a person:

(A) Who was a child at the time the visual depiction was created, adapted, or modified or whose image as a child was used in creating, adapting, or modifying the visual depiction; and

(B) Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature or by electronic or scientific means as may be available.

The term shall not be construed to require proof of the actual identity of the child.

(4) "Sadomasochistic abuse" has the same meaning as provided in Code Section 16-12-100.1.

(5) "Sexual conduct" has the same meaning as provided in Code Section 16-12-100.1.

(6) "Sexual excitement" has the same meaning as provided in Code Section 16-12-100.1.

(7) "Sexually explicit nudity" has the same meaning as provided in Code Section 16-12-102.

(8) "Visual depiction" means any image and includes undeveloped film and video tape and data stored on computer disk or by electronic means which is capable of conversion into a visual image or which has been created, adapted, or modified to show an identifiable child engaged in sexually explicit conduct.

(c) (1) A person commits the offense of computer or electronic pornography if such person intentionally or willfully:

(A) Compiles, enters into, or transmits by computer or other electronic device;

(B) Makes, prints, publishes, or reproduces by other computer or other electronic device;

(C) Causes or allows to be entered into or transmitted by computer or other electronic device; or

(D) Buys, sells, receives, exchanges, or disseminates

any notice, statement, or advertisement, or any child's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of offering or soliciting sexual conduct of or with an identifiable child or the visual depiction of such conduct.

(2) Any person convicted of violating paragraph (1) of this subsection shall be punished by a fine of not more than $10,000.00 and by imprisonment for not less than one nor more than 20 years.

(d) (1) It shall be unlawful for any person intentionally or willfully to utilize a computer on-line service or Internet service, including but not limited to a local bulletin board service, Internet chat room, e-mail, on-line messaging service, or other electronic device, to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice a child or another person believed by such person to be a child to commit any illegal act described in Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy; Code Section 16-6-4, relating to the offense of child molestation or aggravated child molestation; Code Section 16-6-5, relating to the offense of enticing a child for indecent purposes; or Code Section 16-6-8, relating to the offense of public indecency or to engage in any conduct that by its nature is an unlawful sexual offense against a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 20 years and by a fine of not more than $25,000.00; provided, however, that, if at the time of the offense the victim was 14 or 15 years of age and the defendant was no more than three years older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(e) (1) A person commits the offense of obscene Internet contact with a child if he or she has contact with someone he or she knows to be a child or with someone he or she believes to be a child via a computer on-line service or Internet service, including but not limited to a local bulletin board service, Internet chat room, e-mail, or on-line messaging service, and the contact involves any matter containing explicit verbal descriptions or narrative accounts of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse that is intended to arouse or satisfy the sexual desire of either the child or the person, provided that no conviction shall be had for a violation of this subsection on the unsupported testimony of a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or by a fine of not more than $10,000.00; provided, however, that, if at the time of the offense the victim was 14 or 15 years of age and the defendant was no more than three years older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(f) (1) It shall be unlawful for any owner or operator of a computer on-line service, Internet service, local bulletin board service, or other electronic device that is in the business of providing

a service that may be used to sexually exploit a child to intentionally or willfully to permit a subscriber to utilize the service to commit a violation of this Code section, knowing that such person intended to utilize such service to violate this Code section. No owner or operator of a public computer on-line service, Internet service, local bulletin board service, or other electronic device that is in the business of providing a service that may be used to sexually exploit a child shall be held liable on account of any action taken in good faith in providing the aforementioned services.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor of a high and aggravated nature.

(g) The sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section shall not constitute a defense to prosecution under this Code section.

(h) A person is subject to prosecution in this state pursuant to Code Section 17-2-1, relating to jurisdiction over crimes and persons charged with commission of crimes generally, for any conduct made unlawful by this Code section which the person engages in while:

(1) Either within or outside of this state if, by such conduct, the person commits a violation of this Code section which involves a child who resides in this state or another person believed by such person to be a child residing in this state; or

(2) Within this state if, by such conduct, the person commits a violation of this Code section which involves a child who resides within or outside this state or another person believed by such person to be a child residing within or outside this state.

(i) Any violation of this Code section shall constitute a separate offense.

GA. CODE ANN. § 16-12-100.3 (2010). Obscene telephone contact; conviction; penalties.

(a) As used in this Code section, the terms "sexual conduct," "sexual excitement," and "sadomasochistic abuse" have the same meanings as provided for those terms in Code Section 16-12-100.1, relating to electronically furnishing obscene materials to minors; the term "sexually explicit nudity" has the same meaning as provided for that term in Code Section 16-12-102, relating to distributing harmful materials to minors; and the term "child" means a person under 14 years of age.

(b) A person 17 years of age or over commits the offense of obscene telephone contact with a child if that person has telephone contact with an individual whom that person knows or should have known is a child, and that contact involves any aural matter containing explicit verbal descriptions or narrative accounts of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse which is intended to arouse or satisfy the sexual desire of either the child or the person, provided that no conviction shall be had for this offense on the unsupported testimony of the victim.

(c)(1) Except as otherwise provided in other paragraphs of this subsection, a person convicted of the offense of obscene telephone contact with a child shall be guilty of a misdemeanor of a high and aggravated nature.

(2) Upon the first conviction of the offense of obscene telephone contact with a child:

(A) If the person convicted is less than 21 years of age, such person shall be guilty of a misdemeanor; or

(B) The judge may probate the sentence without regard to the age of the convicted person, and such probation may be upon the special condition that the defendant undergo a mandatory period of counseling administered by a licensed psychiatrist or a licensed psychologist. However, if the judge finds that such probation should not be imposed, the judge shall sentence the defendant to imprisonment; provided, further, that upon a defendant's being incarcerated on a conviction for such first offense, the place of incarceration shall provide counseling to such defendant.

(3) Upon a second or subsequent conviction of such offense, the defendant shall be guilty of a felony and punished by imprisonment for not less than one nor more than five years.

GA. CODE ANN. § 17-10-3 (2010). Punishment for misdemeanors generally.

(a) Except as otherwise provided by law, every crime declared to be a misdemeanor shall be punished as follows:

(1) By a fine not to exceed $1,000.00 or by confinement in the county or other jail, county correctional institution, or such other places as counties may provide for maintenance of county inmates, for a total term not to exceed 12 months, or both;

(2) By confinement under the jurisdiction of the Board of Corrections in a state probation detention center or diversion center pursuant to Code Sections 42-8-35.4 and 42-8-35.5, for a determinate term of months which shall not exceed a total term of 12 months; or

(3) If the crime was committed by an inmate within the confines of a state correctional institution, by confinement under the jurisdiction of the Board of Corrections in a state correctional institution or such other institution as the Department of Corrections may direct for a term which shall not exceed 12 months.

(b) Either the punishment provided in paragraph (1) or (2) of subsection (a) of this Code section, but not both, may be imposed in the discretion of the sentencing judge. Misdemeanor punishment imposed under either paragraph may be subject to suspension or probation. The sentencing courts shall retain jurisdiction to amend, modify, alter, suspend, or probate sentences under paragraph (1) of subsection (a) of this Code section at any time, but in no instance shall any sentence under the paragraph be modified in a manner to place a county inmate under the jurisdiction of the Board of Corrections, except as provided in paragraph (2) of subsection (a) of this Code section.

(c) In all misdemeanor cases in which, upon conviction, a six-month sentence or less is imposed, it is within the authority and discretion of the sentencing judge to allow the sentence to be served on weekends by weekend confinement or during the nonworking hours of the defendant. A weekend shall commence and shall end in the discretion of the sentencing judge, and the nonworking hours of the defendant shall be determined in the discretion of the sentencing judge; provided, however, that the judge shall retain plenary control of the defendant at all times during

the sentence period. A weekend term shall be counted as serving two days of the full sentence. Confinement during the nonworking hours of a defendant during any day may be counted as serving a full day of the sentence.

(d) In addition to or instead of any other penalty provided for the punishment of a misdemeanor involving a traffic offense, or punishment of a municipal ordinance involving a traffic offense, with the exception of habitual offenders sentenced under Code Section 17-10-7, a judge may impose any one or more of the following sentences:

(1) Reexamination by the Department of Driver Services when the judge has good cause to believe that the convicted licensed driver is incompetent or otherwise not qualified to be licensed;

(2) Attendance at, and satisfactory completion of, a driver improvement course meeting standards approved by the court;

(3) Within the limits of the authority of the charter powers of a municipality or the punishment prescribed by law in other courts, imprisonment at times specified by the court or release from imprisonment upon such conditions and at such times as may be specified; or

(4) Probation or suspension of all or any part of a penalty upon such terms and conditions as may be prescribed by the judge. The conditions may include driving with no further motor vehicle violations during a specified time unless the driving privileges have been or will be otherwise suspended or revoked by law; reporting periodically to the court or a specified agency; and performing, or refraining from performing, such acts as may be ordered by the judge.

(e) Any sentence imposed under subsection (d) of this Code section shall be reported to the Department of Driver Services as prescribed by law.

(f) The Department of Corrections shall lack jurisdiction to supervise misdemeanor offenders, except when the sentence is made concurrent to a probated felony sentence or when the sentence is accepted pursuant to Code Section 42-9-71. Except as provided in this subsection, the Department of Corrections shall lack jurisdiction to confine misdemeanor offenders.

(g) This Code section will have no effect upon any offender convicted of a misdemeanor offense prior January 1, 2001, and sentenced to confinement under the jurisdiction of the Board of Corrections or to the supervision of the Department of Corrections.

GA. CODE ANN. § 17-10-3.1 (2010). Punishment for violations of Code Section 40-6-391.

(a) In any case where a person is sentenced to a period of imprisonment under Code Section 40-6-391 upon conviction for violating subsection (k) of said Code section, it is within the authority and discretion of the sentencing judge in cases involving the first such violation to allow the sentence to be served on weekends by weekend confinement or during the nonworking hours of the defendant. A weekend shall commence and shall end in the discretion of the sentencing judge, and the nonworking hours of the defendant shall be determined in the discretion of the sentencing judge; provided, however, that the judge shall retain plenary control of the defendant at all times during the sentence period. Confinement during the nonworking hours of a defendant during any day may be counted as serving a full day of the sentence.

(b) Any confinement of a person pursuant to a sentence to a period of imprisonment under Code Section 40-6-391 upon conviction for violating subsection (k) of said Code section shall be served in a county jail, provided that for the first such violation such person shall be kept segregated from all offenders other than those confined for violating subsection (k) of Code Section 40-6-391.

GA. CODE ANN. § 17-10-4 (2010). Punishment for misdemeanors of a high and aggravated nature.

(a) A person who is convicted of a misdemeanor of a high and aggravated nature shall be punished by a fine not to exceed $5,000.00 or by confinement in the county or other jail, county correctional institution, or such other places as counties may provide for maintenance of county inmates, for a term not to exceed 12 months, or both; provided, however, that a person convicted of a misdemeanor of a high and aggravated nature which was committed by an inmate within the confines of a state correctional institution and sentenced to confinement as a result of such offense shall be sentenced to confinement under the jurisdiction of the Board of Corrections in a state correctional institution or such other institution as the Department of Corrections may direct for a term which shall not exceed 12 months. In all cases of a conviction of a misdemeanor of a high and aggravated nature, the sentencing court shall retain jurisdiction to amend, modify, alter, suspend, or probate sentences imposed under this Code section at any time; but in no instance shall a sentence imposed under this Code section be modified in such a manner as to increase the amount of fine or the term of confinement.

(b) Notwithstanding any laws to the contrary, a person sentenced for a misdemeanor of a high and aggravated nature may earn no more than four days per month earned time allowance.

GA. CODE ANN. § 17-10-5 (2010). Imposition of misdemeanor punishment for felonies punishable by imprisonment for term of ten years or less.

When a defendant is found guilty of a felony punishable by imprisonment for a maximum term of ten years or less, the judge may, in his discretion, impose punishment as for a misdemeanor.

GA. CODE ANN. § 17-10-6.1 (2010). Punishment for serious violent offenders.

(a) As used in this Code section, the term "serious violent felony" means:

(1) Murder or felony murder, as defined in Code Section 16-5-1;

(2) Armed robbery, as defined in Code Section 16-8-41;

(3) Kidnapping, as defined in Code Section 16-5-40;

(4) Rape, as defined in Code Section 16-6-1;

(5) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4, unless subject to the provisions of paragraph (2) of subsection (d) of Code Section 16-6-4;

(6) Aggravated sodomy, as defined in Code Section 16-6-2; or

(7) Aggravated sexual battery, as defined in Code Section 16-6-22.2.

(b) (1) Notwithstanding any other provisions of law to the contrary, any person convicted of the serious violent felony of kidnapping involving a victim who is 14 years of age or older or armed robbery shall be sentenced to a mandatory minimum term of imprisonment of ten years and no portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court and shall not be reduced by any form of pardon, parole, or commutation of sentence by the State Board of Pardons and Paroles.

(2) Notwithstanding any other provisions of law to the contrary, the sentence of any person convicted of the serious violent felony of:

(A) Kidnapping involving a victim who is less than 14 years of age;

(B) Rape;

(C) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4, unless subject to the provisions of paragraph (2) of subsection (d) of Code Section 16-6-4;

(D) Aggravated sodomy, as defined in Code Section 16-6-2; or

(E) Aggravated sexual battery, as defined in Code Section 16-6-22.2

shall, unless sentenced to life imprisonment, be a split sentence which shall include a mandatory minimum term of imprisonment of 25 years, followed by probation for life. No portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court and shall not be reduced by any form of pardon, parole, or commutation of sentence by the State Board of Pardons and Paroles.

(3) No person convicted of a serious violent felony shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of Title 42, relating to probation for first offenders, or any other provision of Georgia law relating to the sentencing of first offenders. The State of Georgia shall have the right to appeal any sentence which is imposed by the superior court which does not conform to the provisions of this subsection in the same manner as is provided for other appeals by the state in accordance with Chapter 7 of Title 5, relating to appeals or certiorari by the state.

(c) (1) Except as otherwise provided in subsection (c) of Code Section 42-9-39, for a first conviction of a serious violent felony in which the accused has been sentenced to life imprisonment, that person shall not be eligible for any form of parole or early release administered by the State Board of Pardons and Paroles until that person has served a minimum of 30 years in prison. The minimum term of imprisonment shall not be reduced by any earned time, early release, work release, leave, or other sentence-reducing measures under programs administered by the Department of Corrections.

(2) For a first conviction of a serious violent felony in which the accused has been sentenced to death but the sentence of death has been commuted to life imprisonment, that person shall not be eligible for any form of parole or early release administered by the State Board of Pardons and Paroles until that person has served a minimum of 30 years in prison. The minimum term of

imprisonment shall not be reduced by any earned time, early release, work release, leave, or other sentence-reducing measures under programs administered by the Department of Corrections.

(3) For a first conviction of a serious violent felony in which the accused has been sentenced to imprisonment for life without parole, that person shall not be eligible for any form of parole or early release administered by the State Board of Pardons and Paroles or for any earned time, early release, work release, leave, or other sentence-reducing measures under programs administered by the Department of Corrections.

(4) Except as otherwise provided in this subsection, any sentence imposed for the first conviction of any serious violent felony shall be served in its entirety as imposed by the sentencing court and shall not be reduced by any form of parole or early release administered by the State Board of Pardons and Paroles or by any earned time, early release, work release, leave, or other sentence-reducing measures under programs administered by the Department of Corrections, the effect of which would be to reduce the period of incarceration ordered by the sentencing court; provided, however, during the final year of incarceration an offender so sentenced shall be eligible to be considered for participation in a department administered transitional center or work release program.

(d) For purposes of this Code section, a first conviction of any serious violent felony means that the person has never been convicted of a serious violent felony under the laws of this state or of an offense under the laws of any other state or of the United States, which offense if committed in this state would be a serious violent felony. Conviction of two or more crimes charged on separate counts of one indictment or accusation, or in two or more indictments or accusations consolidated for trial, shall be deemed to be only one conviction.

GA. CODE ANN. § 17-10-6.2 (2010). Punishment for sexual offenders.

(a) As used in this Code section, the term "sexual offense" means:

(1) Aggravated assault with the intent to rape, as defined in Code Section 16-5-21;

(2) False imprisonment, as defined in Code Section 16-5-41, if the victim is not the child of the defendant and the victim is less than 14 years of age;

(3) Sodomy, as defined in Code Section 16-6-2, unless subject to the provisions of subsection (d) of Code Section 16-6-2;

(4) Statutory rape, as defined in Code Section 16-6-3, if the person convicted of the crime is 21 years of age or older;

(5) Child molestation, as defined in subsection (a) of Code Section 16-6-4, unless subject to the provisions of paragraph (2) of subsection (b) of Code Section 16-6-4;

(6) Enticing a child for indecent purposes, as defined in Code Section 16-6-5, unless subject to the provisions of subsection (c) of Code Section 16-6-5;

(7) Sexual assault against persons in custody, as defined in Code Section 16-6-5.1;

(8) Incest, as defined in Code Section 16-6-22;

(9) A second or subsequent conviction for sexual battery, as defined in Code Section 16-6-22.1; or

(10) Sexual exploitation of children, as defined in Code Section 16-12-100.

(b) Except as provided in subsection (c) of this Code section, and notwithstanding any other provisions of law to the contrary, any person convicted of a sexual offense shall be sentenced to a split sentence which shall include the minimum term of imprisonment specified in the Code section applicable to the offense. No portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the sentencing court and such sentence shall include, in addition to the mandatory imprisonment, an additional probated sentence of at least one year. No person convicted of a sexual offense shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of Title 42, relating to probation for first offenders, or any other provision of Georgia law relating to the sentencing of first offenders.

(c) (1) In the court's discretion, the court may deviate from the mandatory minimum sentence as set forth in subsection (b) of this Code section, or any portion thereof, provided that:

(A) The defendant has no prior conviction of an offense prohibited by Chapter 6 of Title 16 or Part 2 of Article 3 of Chapter 12 of Title 16, nor a prior conviction for any offense under federal law or the laws of another state or territory of the United States which consists of the same or similar elements of offenses prohibited by Chapter 6 of Title 16 or Part 2 of Article 3 of Chapter 12 of Title 16;

(B) The defendant did not use a deadly weapon or any object, device, or instrument which when used offensively against a person would be likely to or actually did result in serious bodily injury during the commission of the offense;

(C) The court has not found evidence of a relevant similar transaction;

(D) The victim did not suffer any intentional physical harm during the commission of the offense;

(E) The offense did not involve the transportation of the victim; and

(F) The victim was not physically restrained during the commission of the offense.

(2) If the court deviates in sentencing pursuant to this subsection, the judge shall issue a written order setting forth the judge's reasons. Any such order shall be appealable by the defendant pursuant to Code Section 5-6-34, or by the State of Georgia pursuant to Code Section 5-7-1.

(d) If the court imposes a probated sentence, the defendant shall submit to review by the Sexual Offender Registration Review Board for purposes of risk assessment classification within ten days of being sentenced and shall otherwise comply with Article 2 of Chapter 1 of Title 42.

GA. CODE ANN. § 17-10-7 (2010). Punishment for repeat offenders; punishment and eligibility for parole of persons convicted of fourth felony offense.

(a) Except as otherwise provided in subsection (b) of this Code section, any person convicted of a felony offense in this state or having been convicted under the laws of any other state or of the United States of a crime which if committed within this state would be a felony and sentenced to confinement in a penal institution, who shall afterwards commit a felony punishable by confinement in a penal institution, shall be sentenced to undergo the longest period of time prescribed for the punishment of the subsequent offense of which he or she stands convicted, provided that, unless otherwise provided by law, the trial judge may, in his or her discretion, probate or suspend the maximum sentence prescribed for the offense.

(b)(1) As used in this subsection, the term "serious violent felony" means a serious violent felony as defined in subsection (a) of Code Section 17-10-6.1.

(2) Any person who has been convicted of a serious violent felony in this state or who has been convicted under the laws of any other state or of the United States of a crime which if committed in this state would be a serious violent felony and who after such first conviction subsequently commits and is convicted of a serious violent felony for which such person is not sentenced to death shall be sentenced to imprisonment for life without parole. Any such sentence of life without parole shall not be suspended, stayed, probated, deferred, or withheld, and any such person sentenced pursuant to this paragraph shall not be eligible for any form of pardon, parole, or early release administered by the State Board of Pardons and Paroles or for any earned time, early release, work release, leave, or any other sentence-reducing measures under programs administered by the Department of Corrections, the effect of which would be to reduce the sentence of life imprisonment without possibility of parole, except as may be authorized by any existing or future provisions of the Constitution.

(c) Except as otherwise provided in subsection (b) of this Code section, any person who, after having been convicted under the laws of this state for three felonies or having been convicted under the laws of any other state or of the United States of three crimes which if committed within this state would be felonies, commits a felony within this state shall, upon conviction for such fourth offense or for subsequent offenses, serve the maximum time provided in the sentence of the judge based upon such conviction and shall not be eligible for parole until the maximum sentence has been served.

(d) For the purpose of this Code section, conviction of two or more crimes charged on separate counts of one indictment or accusation, or in two or more indictments or accusations consolidated for trial, shall be deemed to be only one conviction.

(e) This Code section is supplemental to other provisions relating to recidivous offenders.

GA. CODE ANN. § 17-10-8 (2010). Requirement of payment of fine as condition precedent to probation; rebate or refund of fine upon revocation of probation.

In any case where the judge may, by any law so authorizing, place on probation a person convicted of a felony, the judge may in his discretion impose a fine on the person so convicted as a condition to such probation. The fine shall not exceed $100,000.00 or the amount of the maximum fine which may be imposed for conviction of such a felony, whichever is greater. In any case where probation is revoked, the defendant shall not be entitled to any rebate or refund of any part of the fine so paid.

GA. CODE ANN. § 17-10-10 (2010). Concurrent sentences.

(a) Where at one term of court a person is convicted on more than one indictment or accusation, or on more than one count thereof, and sentenced to imprisonment, the sentences shall be served concurrently unless otherwise expressly provided therein.

(b) Where a person is convicted on more than one indictment or accusation at separate terms of court, or in different courts, and sentenced to imprisonment, the sentences shall be served concurrently, one with the other, unless otherwise expressly provided therein.

(c) This Code section shall apply alike to felony and misdemeanor offenses.

(d) This Code section shall govern and shall be followed by the Department of Corrections in the computation of time that sentences shall run.

GA. CODE ANN. § 19-10-1 (2010). Abandonment of dependent child; criminal penalties; continuing offense; venue; blood tests or other comparisons as evidence; payment of expenses of birth of child born out of wedlock; agreement for support of child born out of wedlock.

(a) A child abandoned by its father or mother shall be considered to be in a dependent condition when the father or mother does not furnish sufficient food, clothing, or shelter for the needs of the child.

(b) If any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, he or she shall be guilty of a misdemeanor. Moreover, if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, and leaves this state or if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, after leaving this state, he or she shall be guilty of a felony punishable by imprisonment for not less than one nor more than three years. The felony shall be reducible to a misdemeanor. Any person, upon conviction of the third offense for violating this Code section, shall be guilty of a felony and shall be imprisoned for not less than one nor more than three years, which felony shall not be reducible to a misdemeanor. The husband and wife shall be competent witnesses in such cases to testify for or against the other.

(c) The offense of abandonment is a continuing offense. Except as provided in subsection (i) of this Code section, former acquittal or conviction of the offense shall not be a bar to further prosecution therefor under this Code section, if it is made to appear that the child in question was in a dependent condition, as defined in this Code section, for a period of 30 days prior to the commencement of prosecution.

(d) In prosecutions under this Code section when the child is born out of wedlock, the venue of the offense shall be in the county in which the child and the mother are domiciled at the time of the swearing out of the arrest warrant; but, if the child and the mother are domiciled in different counties, venue shall be in the county in which the child is domiciled.

(e) Upon the trial of an accused father or mother under this Code section, it shall be no defense that the accused father or mother has never supported the child.

(f) In the trial of any abandonment proceeding in which the question of parentage arises, regardless of any presumptions with respect to parentage, the accused father may request a paternity blood test and agree and arrange to pay for same; and in such cases the court before which the matter is brought, upon pretrial motion of the defendant, shall order that the alleged parent, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged parent, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other duly qualified person. Upon receipt of a motion and the entry of an order under this subsection, the court shall proceed as follows:

(1) Where the issue of parentage is to be decided by a jury, where the results of those blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged parent cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged parent is not the natural parent;

(2) The court shall require the defendant requesting the blood tests and comparisons pursuant to this subsection to be initially responsible for any of the expenses thereof. Upon the entry of a verdict incorporating a finding of parentage or nonparentage, the court shall tax the expenses for blood tests and comparisons, in addition to any fees for expert witnesses whose testimonies supported the admissibility thereof, as costs.

(g) In prosecutions under this Code section, when the child is born out of wedlock and the accused father is convicted, the father may be required by the court to pay the reasonable medical expenses paid by or incurred on behalf of the mother due to the birth of the child.

(h) The accused father and the mother of a child born out of wedlock may enter into a written agreement providing for future support of the child by regular periodic payments to the mother until the child reaches the age of 18 years, marries, or becomes self-supporting; provided, however, that the agreement shall not be binding on either party until it has been approved by the court having jurisdiction to try the pending case.

(i) If, during the trial of any person charged with the offense of abandonment as defined in this Code section, the person contends that he or she is not the father or mother of the child alleged to have been abandoned, in a jury trial the trial judge shall charge the jury that if its verdict is for the acquittal of the person and its reason for so finding is that the person is not the father or mother of the child alleged to have been abandoned, then its verdict shall so state. In a trial before the court without the intervention of the jury, if the court renders a verdict of acquittal based on the contention of the person that he or she is not the father or mother of the child alleged to have been abandoned, the trial judge shall so state this fact in his verdict of acquittal. Where the verdict of the jury or the court is for acquittal of a person on the grounds that the person is not the father or mother of the child alleged to have been abandoned, the person cannot thereafter again be tried

for the offense of abandoning the child, and the verdict of acquittal shall be a bar to all civil and criminal proceedings attempting to compel the person to support the child.

(j)(1) In a prosecution for and conviction of the offense of abandonment, the trial court may suspend the service of the sentence imposed in the case, upon such terms and conditions as it may prescribe for the support, by the defendant, of the child or children abandoned during the minority of the child or children. Service of the sentence, when so suspended, shall not begin unless and until ordered by the court having jurisdiction thereof, after a hearing as in cases of revocation or probated sentences, because of the failure or refusal of the defendant to comply with the terms and conditions upon which service of a sentence was suspended.

(2) Service of any sentence suspended in abandonment cases may be ordered by the court having jurisdiction thereof at any time before the child or children reach the age of 18 or become emancipated, after a hearing as provided in paragraph (1) of this subsection and a finding by the court that the defendant has failed or refused to comply with the terms and conditions upon which service of the sentence was suspended by the court having jurisdiction thereof.

(3) Notwithstanding any other provisions of law, in abandonment cases where the suspension of sentence has been revoked and the defendant is serving the sentence, the court may thereafter again suspend the service of sentence under the same terms and conditions as the original suspension. The sentence shall not be considered probated and the defendant shall not be on probation, but the defendant shall again be under a suspended sentence. However, the combined time of incarceration of the defendant during the periods of revocation of suspended sentences shall not exceed the maximum period of punishment for the offense.

(4) Notwithstanding any other provision of law to the contrary, the terms and conditions prescribed by the court as to support by the defendant shall be subject to review and modification by the court, upon notice and hearing to the defendant, as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs. The review provided for in this paragraph as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs shall not be had in less than two-year intervals and shall authorize the court to increase as well as to decrease the amount of child support to be paid as a term and condition of the suspended sentence. The review as to ability to support and adequacy of support shall not be equivalent to a hearing held in cases of revocation of probated sentences for purposes of service of the suspended sentence; nor shall a modification, if any, be deemed a change in sentence; nor shall a modification, if any, be deemed to change the suspended sentence to a probated sentence.

GA. CODE ANN. § 42-1-12 (2010). State Sexual Offender Registry.

(a) As used in this article, the term:

(1) "Address" means the street or route address of the sexual offender's residence. For purposes of this Code section, the term does not mean a post office box, and homeless does not constitute an address.

(2) "Appropriate official" means:

(A) With respect to a sexual offender who is sentenced to probation without any sentence of incarceration in the state prison system or who is sentenced pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, the Division of Probation of the Department of Corrections;

(B) With respect to a sexual offender who is sentenced to a period of incarceration in a prison under the jurisdiction of the Department of Corrections and who is subsequently released from prison or placed on probation, the commissioner of corrections or his or her designee;

(C) With respect to a sexual offender who is placed on parole, the chairperson of the State Board of Pardons and Paroles or his or her designee; and

(D) With respect to a sexual offender who is placed on probation through a private probation agency, the director of the private probation agency or his or her designee.

(3) "Area where minors congregate" shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, school bus stops, public libraries, and public and community swimming pools.

(4) "Assessment criteria" means the tests that the board members use to determine the likelihood that a sexual offender will commit another criminal offense against a victim who is a minor or commit a dangerous sexual offense.

(5) "Board" means the Sexual Offender Registration Review Board.

(6) "Child care facility" means all public and private pre-kindergarten facilities, day-care centers, child care learning centers, preschool facilities, and long-term care facilities for children.

(7) "Church" means a place of public religious worship.

(8) "Conviction" includes a final judgment of conviction entered upon a verdict or finding of guilty of a crime, a plea of guilty, or a plea of nolo contendere. A defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall be subject to the registration requirements of this Code section for the period of time prior to the defendant's discharge after completion of his or her sentence or upon the defendant being adjudicated guilty. Unless otherwise required by federal law, a defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall not be subject to the registration requirements of this Code section upon the defendant's discharge.

(9) (A) "Criminal offense against a victim who is a minor" with respect to convictions occurring on or before June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

(i) Kidnapping of a minor, except by a parent;

(ii) False imprisonment of a minor, except by a parent;

(iii) Criminal sexual conduct toward a minor;

(iv) Solicitation of a minor to engage in sexual conduct;

(v) Use of a minor in a sexual performance;

(vi) Solicitation of a minor to practice prostitution; or

(vii) Any conviction resulting from an underlying sexual offense against a victim who is a minor.

(B) "Criminal offense against a victim who is a minor" with respect to convictions occurring after June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

(i) Kidnapping of a minor, except by a parent;

(ii) False imprisonment of a minor, except by a parent;

(iii) Criminal sexual conduct toward a minor;

(iv) Solicitation of a minor to engage in sexual conduct;

(v) Use of a minor in a sexual performance;

(vi) Solicitation of a minor to practice prostitution;

(vii) Use of a minor to engage in any sexually explicit conduct to produce any visual medium depicting such conduct;

(viii) Creating, publishing, selling, distributing, or possessing any material depicting a minor or a portion of a minor's body engaged in sexually explicit conduct;

(ix) Transmitting, making, selling, buying, or disseminating by means of a computer any descriptive or identifying information regarding a child for the purpose of offering or soliciting sexual conduct of or with a child or the visual depicting of such conduct;

(x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors engaged in sexually explicit conduct; or

(xi) Any conduct which, by its nature, is a sexual offense against a minor.

(C) For purposes of subparagraph (a)(9)(B) of this Code section, conduct which is punished as for a misdemeanor or which is prosecuted in juvenile court shall not be considered a criminal offense against a victim who is a minor.

(10) (A) "Dangerous sexual offense" with respect to convictions occurring after June 30, 2006, means any criminal offense under Title 16 as specified in this paragraph or any offense under federal law or the laws of another state or territory of the United States which consists of the same or similar elements of the following offenses:

(i) Aggravated assault with the intent to rape in violation of Code Section 16-5-2;

(ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who is less than 14 years of age, except by a parent;

(iii) False imprisonment in violation of Code Section 16-5-41 which involves a victim who

is less than 14 years of age, except by a parent;

(iv) Rape in violation of Code Section 16-6-1;

(v) Sodomy in violation of Code Section 16-6-2;

(vi) Aggravated sodomy in violation of Code Section 16-6-2;

(vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted of the offense is 21 years of age or older;

(viii) Child molestation in violation of Code Section 16-6-4;

(ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the person was convicted of a misdemeanor offense;

(x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

(xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;

(xii) Incest in violation of Code Section 16-6-22;

(xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;

(xiv) Aggravated sexual battery in violation of Code Section 16-6-23;

(xv) Sexual exploitation of children in violation of Code Section 16-12-100;

(xvi) Electronically furnishing obscene material to minors in violation of Code Section 16-12-100.1;

(xvii) Computer pornography and child exploitation prevention in violation of Code Section 16-12-100.2;

(xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or

(xix) Any conduct which, by its nature, is a sexual offense against a minor or an attempt to commit a sexual offense against a minor.

(B) For purposes of this paragraph, conduct which is punished as for a misdemeanor or which is prosecuted in juvenile court shall not be considered a dangerous sexual offense.

(10.1) "Day-care center" shall have the same meaning as set forth in paragraph (4) of Code Section 20-1A-2.

(11) "Institution of higher education" means a private or public community college, state university, state college, or independent postsecondary institution.

(12) "Level I risk assessment classification" means the sexual offender is a low sex offense risk and low recidivism risk for future sexual offenses.

(13) "Level II risk assessment classification" means the sexual offender is an intermediate sex offense risk and intermediate recidivism risk for future sexual offenses and includes all sexual offenders who do not meet the criteria for classification either as a sexually dangerous predator or for Level I risk assessment.

(14) "Minor" means any individual under the age of 18 years and any individual that the sexual offender believed at the time of the offense was under the age of 18 years if such individual was the victim of an offense.

(15) "Public and community swimming pools" includes municipal, school, hotel, motel, or any pool to which access is granted in exchange for payment of a daily fee. The term includes apartment complex pools, country club pools, or subdivision pools which are open only to residents of the subdivision and their guests. This term does not include a private pool or hot tub serving a single-family dwelling and used only by the residents of the dwelling and their guests.

(16) "Required registration information" means:

(A) Name; social security number; age; race; sex; date of birth; height; weight; hair color; eye color; fingerprints; and photograph;

(B) Address of any permanent residence and address of any current temporary residence, within the state or out of state, and, if applicable in addition to the address, a rural route address and a post office box;

(C) If the place of residence is a motor vehicle or trailer, the vehicle identification number, the license tag number, and a description, including color scheme, of the motor vehicle or trailer;

(D) If the place of residence is a mobile home, the mobile home location permit number; the name and address of the owner of the home; a description, including the color scheme of the mobile home; and, if applicable, a description of where the mobile home is located on the property;

(E) If the place of residence is a manufactured home, the name and address of the owner of the home; a description, including the color scheme of the manufactured home; and, if applicable, a description of where the manufactured home is located on the property;

(F) If the place of residence is a vessel, live-aboard vessel, or houseboat, the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat;

(G) Date of employment, place of any employment, and address of employer;

(H) Place of vocation and address of the place of vocation;

(I) Vehicle make, model, color, and license tag number;

(J) If enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the name, address, and county of each institution, including each campus attended, and enrollment or employment status;

(K) E-mail addresses, usernames, and user passwords; and

(L) The name of the crime or crimes for which the sexual offender is registering and the date released from prison or placed on probation, parole, or supervised release.

(17) "Risk assessment classification" means the notification level into which a sexual offender is placed based on the board's assessment.

(18) "School" means all public and private kindergarten, elementary, and secondary schools.

(19) "School bus stop" means a school bus stop as designated by local school boards of education or by a private school.

(20) "Sexual offender" means any individual:

(A) Who has been convicted of a criminal offense against a victim who is a minor or any dangerous sexual offense; or

(B) Who has been convicted under the laws of another state or territory, under the laws of the United States, under the Uniform Code of Military Justice, or in a tribal court of a criminal offense against a victim who is a minor or a dangerous sexual offense.

(21) "Sexually dangerous predator" means a sexual offender:

(A) Who was designated as a sexually violent predator between July 1, 1996, and June 30, 2006; or

(B) Who is determined by the Sexual Offender Registration Review Board to be at risk of perpetrating any future dangerous sexual offense.

(21.1) "Username" means a string of characters chosen to uniquely identify an individual who uses a computer or other device with Internet capability to communicate with other individuals through the exchange of e-mail or instant messages or by participating in interactive online forums.

(21.2) "User password" means a string of characters that enables an individual who uses a computer or other device with Internet capability to gain access to e-mail messages and interactive online forums.

(22) "Vocation" means any full-time, part-time, or volunteer employment with or without compensation exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year.

(b) Before a sexual offender who is required to register under this Code section is released from prison or placed on parole, supervised release, or probation, the appropriate official shall:

(1) Inform the sexual offender of the obligation to register, the amount of the registration fee, and how to maintain registration;

(2) Obtain the information necessary for the required registration information;

(3) Inform the sexual offender that, if the sexual offender changes any of the required registration information, other than residence address, the sexual offender shall give the new information to the sheriff of the county with whom the sexual offender is registered within 72 hours of the change of information; if the information is the sexual offender's new residence address, the sexual offender shall give the information to the sheriff of the county with whom the sexual offender last registered within 72 hours prior to moving and to the sheriff of the county to which the sexual offender is moving within 72 hours after the change of information;

(4) Inform the sexual offender that he or she shall also register in any state where he or she is employed, carries on a vocation, or is a student;

(5) Inform the sexual offender that, if he or she changes residence to another state, the sexual offender shall register the new address with the sheriff of the county with whom the sexual offender last registered and that the sexual offender shall also register with a designated law enforcement agency in the new state within 72 hours after establishing residence in the new state;

(6) Obtain fingerprints and a current photograph of the sexual offender;

(7) Require the sexual offender to read and sign a form stating that the obligations of the sexual offender have been explained;

(8) Obtain and forward any information obtained from the clerk of court pursuant to Code Section 42-5-50 to the sheriff's office of the county in which the sexual offender will reside; and

(9) If required by Code Section 42-1-14, place any required electronic monitoring system on the sexually dangerous predator and explain its operation and cost.

(c) The Department of Corrections shall:

(1) Forward to the Georgia Bureau of Investigation a copy of the form stating that the obligations of the sexual offender have been explained;

(2) Forward any required registration information to the Georgia Bureau of Investigation;

(3) Forward the sexual offender's fingerprints and photograph to the sheriff's office of the county where the sexual offender is going to reside;

(4) Inform the board and the prosecuting attorney for the jurisdiction in which a sexual offender was convicted of the impending release of a sexual offender at least eight months prior to such release so as to facilitate compliance with Code Section 42-1-14; and

(5) Keep all records of sexual offenders in a secure facility until official proof of death of a registered sexual offender; thereafter, the records shall be destroyed in accordance with Code Sections 15-1-10, 15-6-62, and 15-6-62.1.

(d) No sexual offender shall be released from prison or placed on parole, supervised release, or probation until:

(1) The appropriate official has provided the Georgia Bureau of Investigation and the sheriff's office in the county where the sexual offender will be residing with the sexual offender's required registration information and risk assessment classification level; and

(2) The sexual offender's name has been added to the list of sexual offenders maintained by the Georgia Bureau of Investigation and the sheriff's office as required by this Code section.

(e) Registration pursuant to this Code section shall be required by any individual who:

(1) Is convicted on or after July 1, 1996, of a criminal offense against a victim who is a minor;

(2) Is convicted on or after July 1, 2006, of a dangerous sexual offense;

(3) Has previously been convicted of a criminal offense against a minor and may be released from prison or placed on parole, supervised release, or probation on or after July 1, 1996;

(4) Has previously been convicted of a sexually violent offense and may be released from prison or placed on parole, supervised release, or probation;

(5) Is a resident of Georgia who intends to reside in this state and who is convicted under the laws of another state or the United States, under the Uniform Code of Military Justice, or in a tribal court of a sexually violent offense, a criminal offense against a victim who is a minor on or after July 1, 1999, or a dangerous sexual offense on or after July 1, 2006;

(6) Is a nonresident sexual offender who changes residence from another state or territory of the United States to Georgia who is required to register as a sexual offender under federal law, military law, tribal law, or the laws of another state or territory, regardless of when the conviction occurred;

(7) Is a nonresident sexual offender who enters this state for the purpose of employment or any other reason for a period exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year regardless of whether such sexual offender is required to register under federal law, military law, tribal law, or the laws of another state or territory; or

(8) Is a nonresident sexual offender who enters this state for the purpose of attending school as a full-time or part-time student regardless of whether such sexual offender is required to register under federal law, military law, tribal law, or the laws of another state or territory.

(f) Any sexual offender required to register under this Code section shall:

(1) Provide the required registration information to the appropriate official before being released from prison or placed on parole, supervised release, or probation;

(2) Register with the sheriff of the county in which the sexual offender resides within 72 hours after the sexual offender's release from prison or placement on parole, supervised release, probation, or entry into this state;

(3) Maintain the required registration information with the sheriff of the county in which the sexual offender resides;

(4) Renew the required registration information with the sheriff of the county in which the sexual offender resides by reporting to the sheriff within 72 hours prior to such offender's birthday each year to be photographed and fingerprinted;

(5) Update the required registration information with the sheriff of the county in which the sexual offender resides within 72 hours of any change to the required registration information, other than residence address; if the information is the sexual offender's new residence address, the sexual offender shall give the information to the sheriff of the county with whom the sexual offender last registered within 72 hours prior to any change of residence address and to the sheriff of the county to which the sexual offender is moving within 72 hours after establishing the new residence;

(6) If convicted of a dangerous sexual offense on or after July 1, 2006, pay to the sheriff of the county where the sexual offender resides an annual registration fee of $250.00 upon each anniversary of such registration; and

(7) Continue to comply with the registration requirements of this Code section for the entire life of the sexual offender, including ensuing periods of incarceration.

(g) (1) Any sexual offender required to register under this Code section who meets the criteria set forth in paragraph (2) of this subsection may petition the superior court of the jurisdiction in which the sexual offender is registered to be released from the registration requirements of this Code section. The court may issue an order releasing the sexual offender from further registration if the court finds that the sexual offender does not pose a substantial risk of perpetrating any future dangerous sexual offense.

(2) In order to petition the court pursuant to paragraph (1) of this subsection, the sexual offender shall:

(A) Have been sentenced pursuant to subsection (c) of Code Section 17-10-6.2; and

(B) Have had ten years elapse since his or her release from prison, parole, supervised release, or probation.

(h) (1) The appropriate official or sheriff shall, within 72 hours after receipt of the required registration information, forward such information to the Georgia Bureau of Investigation. Once the data is entered into the Criminal Justice Information System by the appropriate official or sheriff, the Georgia Crime Information Center shall notify the sheriff of the sexual offender's county of residence, either permanent or temporary, the sheriff of the county of employment, and the sheriff of the county where the sexual offender attends an institution of higher education within 24 hours of entering the data or any change to the data.

(2) The Georgia Bureau of Investigation shall:

(A) Transmit all information, including the conviction data and fingerprints, to the Federal Bureau of Investigation within 24 hours of entering the data;

(B) Establish operating policies and procedures concerning record ownership, quality, verification, modification, and cancellation; and

(C) Perform mail out and verification duties as follows:

(i) Send each month Criminal Justice Information System network messages to sheriffs listing sexual offenders due for verification;

(ii) Create a photo image file from original entries and provide such entries to sheriffs to assist in sexual offender identification and verification;

(iii) Mail a nonforwardable verification form to the last reported address of the sexual offender within ten days prior to the sexual offender's birthday;

(iv) If the sexual offender changes residence to another state, notify the law enforcement agency with which the sexual offender shall register in the new state; and

(v) Maintain records required under this Code section.

(i) The sheriff's office in each county shall:

(1) Prepare and maintain a list of all sexual offenders and sexually dangerous predators residing in each county. Such list shall include the sexual offender's name; age; physical description; address; crime of conviction, including conviction date and the jurisdiction of the conviction; photograph; and the risk assessment classification level provided by the board, and an explanation of how the board classifies sexual offenders and sexually dangerous predators;

(2) Electronically submit and update all information provided by the sexual offender within two working days to the Georgia Bureau of Investigation in a manner prescribed by the Georgia Bureau of Investigation;

(3) Maintain and post a list of every sexual offender residing in each county:

(A) In the sheriff's office;

(B) In any county administrative building;

(C) In the main administrative building for any municipal corporation;

(D) In the office of the clerk of the superior court so that such list is available to the public; and

(E) On a website maintained by the sheriff of the county for the posting of general information;

(4) Update the public notices required by paragraph (3) of this Code section within two working days;

(5) Inform the public of the presence of sexual offenders in each community;

(6) Update the list of sexual offenders residing in the county upon receipt of new information affecting the residence address of a sexual offender or upon the registration of a sexual offender moving into the county by virtue of release from prison, relocation from another county, conviction in another state, federal court, military tribunal, or tribal court. Such list, and any additions to such list, shall be delivered, within 72 hours of updating the list of sexual offenders residing in the county, to all schools or institutions of higher education located in the county;

(7) Within 72 hours of the receipt of changed required registration information, notify the

Georgia Bureau of Investigation through the Criminal Justice Information System of each change of information;

(8) Retain the verification form stating that the sexual offender still resides at the address last reported;

(9) Enforce the criminal provisions of this Code section. The sheriff may request the assistance of the Georgia Bureau of Investigation to enforce the provisions of this Code section;

(10) Cooperate and communicate with other sheriffs' offices in this state and in the United States to maintain current data on the location of sexual offenders;

(11) Determine the appropriate time of day for reporting by sexual offenders, which shall be consistent with the reporting requirements of this Code section;

(12) If required by Code Section 42-1-14, place any electronic monitoring system on the sexually dangerous predator and explain its operation and cost;

(13) Provide current information on names and addresses of all registered sexual offenders to campus police with jurisdiction for the campus of an institution of higher education if the campus is within the sheriff's jurisdiction; and

(14) Collect the annual $250.00 registration fee from the sexual offender and transmit such fees to the state for deposit into the general fund.

(j) (1) The sheriff of the county where the sexual offender resides or last registered shall be the primary law enforcement official charged with communicating the whereabouts of the sexual offender and any changes in required registration information to the sheriff's office of the county or counties where the sexual offender is employed, volunteers, attends an institution of higher education, or moves.

(2) The sheriff's office may post the list of sexual offenders in any public building in addition to those locations enumerated in subsection (h) of this Code section.

(k) The Georgia Crime Information Center shall create the Criminal Justice Information System network transaction screens by which appropriate officials shall enter original data required by this Code section. Screens shall also be created for sheriffs' offices for the entry of record confirmation data; employment; changes of residence, institutions of higher education, or employment; or other pertinent data to assist in sexual offender identification.

(l) (1) On at least an annual basis, the Department of Education shall obtain from the Georgia Bureau of Investigation a complete list of the names and addresses of all registered sexual offenders and shall send such list, accompanied by a hold harmless provision, to each school in this state. In addition, the Department of Education shall provide information to each school in this state on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders.

(2) On at least an annual basis, the Department of Early Care and Learning shall provide current information to all child care programs regulated pursuant to Code Section 20-1A-10 and to all child care learning centers, day-care, group day-care, and family day-care programs regulated pursuant to Code Section 49-5-12 on accessing and retrieving from the Georgia Bureau of

Investigation's website a list of the names and addresses of all registered sexual offenders and shall include, on a continuing basis, such information with each application for licensure, commissioning, or registration for early care and education programs.

(3) On at least an annual basis, the Department of Human Services shall provide current information to all long-term care facilities for children on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders.

(m) Within ten days of the filing of a defendant's discharge and exoneration of guilt pursuant to Article 3 of Chapter 8 of this title, the clerk of court shall transmit the order of discharge and exoneration to the Georgia Bureau of Investigation and any sheriff maintaining records required under this Code section.

(n) Any individual who:

(1) Is required to register under this Code section and who fails to comply with the requirements of this Code section;

(2) Provides false information; or

(3) Fails to respond directly to the sheriff within 72 hours of such individual's birthday

shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that upon the conviction of the second offense under this subsection, the defendant shall be punished by imprisonment for life.

(o) The information collected pursuant to this Code section shall be treated as private data except that:

(1) Such information may be disclosed to law enforcement agencies for law enforcement purposes;

(2) Such information may be disclosed to government agencies conducting confidential background checks; and

(3) The Georgia Bureau of Investigation or any sheriff maintaining records required under this Code section shall, in addition to the requirements of this Code section to inform the public of the presence of sexual offenders in each community, release such other relevant information collected under this Code section that is necessary to protect the public concerning sexual offenders required to register under this Code section, except that the identity of a victim of an offense that requires registration under this Code section shall not be released.

(p) The Board of Public Safety is authorized to promulgate rules and regulations necessary for the Georgia Bureau of Investigation and the Georgia Crime Information Center to implement and carry out the provisions of this Code section.

(q) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this article.

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HAW. REV. STAT. ANN. § 706-606.5 (2010). Sentencing of repeat offenders.

(1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies: section 188-23 relating to possession or use of explosives, electrofishing devices, and poisonous substances in state waters; section 386-98(d)(1) relating to fraud violations and penalties; section 431:2-403(b)(2) relating to insurance fraud; section 707-703 relating to negligent homicide in the second degree; section 707-711 relating to assault in the second degree; section 707-713 relating to reckless endangering in the first degree; section 707-716 relating to terroristic threatening in the first degree; section 707-721 relating to unlawful imprisonment in the first degree; section 707-732 relating to sexual assault or rape in the third degree; section 707-752 relating to promoting child abuse in the third degree; section 707-757 relating to electronic enticement of a child in the second degree; section 707-766 relating to extortion in the second degree; section 708-811 relating to burglary in the second degree; section 708-821 relating to criminal property damage in the second degree; section 708-831 relating to theft in the first degree as amended by Act 68, Session Laws of Hawaii 1981; section 708-831 relating to theft in the second degree; section 708-835.5 relating to theft of livestock; section 708-836 relating to unauthorized control of propelled vehicle; section 708-839.8 relating to identity theft in the third degree; section 708-839.55 relating to unauthorized possession of confidential personal information; section 708-852 relating to forgery in the second degree; section 708-854 relating to criminal possession of a forgery device; section 708-875 relating to trademark counterfeiting; section 710-1071 relating to intimidating a witness; section 711-1103 relating to riot; section 712-1203 relating to promoting prostitution in the second degree; section 712-1221 relating to gambling in the first degree; section 712-1224 relating to possession of gambling records in the first degree; section 712-1243 relating to promoting a dangerous drug in the third degree; section 712-1247 relating to promoting a detrimental drug in the first degree; section 846E-9 relating to failure to comply with covered offender registration requirements; section 134-7 relating to ownership or possession of firearms or ammunition by persons convicted of certain crimes; section 134-8 relating to ownership, etc., of prohibited weapons; section 134-9 relating to permits to carry, or who is convicted of attempting to commit murder in the second degree, any class A felony, any class B felony, or any of the class C felony offenses enumerated above and who has a prior conviction or prior convictions for the following felonies, including an attempt to commit the same: murder, murder in the first or second degree, a class A felony, a class B felony, any of the class C felony offenses enumerated above, or any felony conviction of another jurisdiction, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

(a) One prior felony conviction:

(i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree--ten years;

(ii) Where the instant conviction is for a class A felony--six years, eight months;

(iii) Where the instant conviction is for a class B felony--three years, four months; and

(iv) Where the instant conviction is for a class C felony offense enumerated above--one year, eight months;

(b) Two prior felony convictions:

(i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree--twenty years;

(ii) Where the instant conviction is for a class A felony--thirteen years, four months;

(iii) Where the instant conviction is for a class B felony--six years, eight months; and

(iv) Where the instant conviction is for a class C felony offense enumerated above--three years, four months;

(c) Three or more prior felony convictions:

(i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree--thirty years;

(ii) Where the instant conviction is for a class A felony--twenty years;

(iii) Where the instant conviction is for a class B felony--ten years; and

(iv) Where the instant conviction is for a class C felony offense enumerated above--five years.

(2) Except as in subsection (3), a person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during such period as follows:

(a) Within twenty years after a prior felony conviction where the prior felony conviction was for murder in the first degree or attempted murder in the first degree;

(b) Within twenty years after a prior felony conviction where the prior felony conviction was for murder in the second degree or attempted murder in the second degree;

(c) Within twenty years after a prior felony conviction where the prior felony conviction was for a class A felony;

(d) Within ten years after a prior felony conviction where the prior felony conviction was for a class B felony;

(e) Within five years after a prior felony conviction where the prior felony conviction was for a class C felony offense enumerated above;

(f) Within the maximum term of imprisonment possible after a prior felony conviction of another jurisdiction.

(3) If a person was sentenced for a prior felony conviction to a special term under section 706-667, then the person shall not be sentenced to a mandatory minimum period of imprisonment under this section unless the instant felony offense was committed during such period as follows:

(a) Within eight years after a prior felony conviction where the prior felony conviction was for a class A felony;

(b) Within five years after the prior felony conviction where the prior felony conviction was for a class B felony;

(c) Within four years after the prior felony conviction where the prior felony conviction was for a class C felony offense enumerated above.

(4) Notwithstanding any other law to the contrary, any person convicted of any of the following misdemeanor offenses:

(a) Section 707-712 relating to assault in the third degree;

(b) Section 707-717 relating to terroristic threatening in the second degree;

(c) Section 707-733 relating to sexual assault in the fourth degree;

(d) Section 708-822 relating to criminal property damage in the third degree;

(e) Section 708-832 relating to theft in the third degree; and

(f) Section 708-833.5(2) relating to misdemeanor shoplifting,

and who has been convicted of any of the offenses enumerated above on at least three prior and separate occasions within three years of the date of the commission of the present offense, shall be sentenced to no less than nine months of imprisonment. Whenever a court sentences a defendant under this subsection for an offense under section 707-733, the court shall order the defendant to participate in a sex offender assessment and, if recommended based on the assessment, participate in the sex offender treatment program established by chapter 353E.

(5) The sentencing court may impose the above sentences consecutive to any sentence imposed on the defendant for a prior conviction, but such sentence shall be imposed concurrent to the sentence imposed for the instant conviction. The court may impose a lesser mandatory minimum period of imprisonment without possibility of parole than that mandated by this section where the court finds that strong mitigating circumstances warrant such action. Strong mitigating circumstances shall include, but shall not be limited to the provisions of section 706-621. The court shall provide a written opinion stating its reasons for imposing the lesser sentence.

(6) A person who is imprisoned in a correctional institution pursuant to subsection (1) shall not be paroled prior to the expiration of the mandatory minimum term of imprisonment imposed pursuant to subsection (1).

(7) For purposes of this section:

(a) Convictions under two or more counts of an indictment or complaint shall be considered a single conviction without regard to when the convictions occur;

(b) A prior conviction in this or another jurisdiction shall be deemed a felony conviction if it was punishable by a sentence of death or of imprisonment in excess of one year; and

(c) A conviction occurs on the date judgment is entered.

HAW. REV. STAT. ANN. § 706-606.6 (2010). Repeat violent and sexual offender; enhanced sentence.

(1) Notwithstanding any other provision of law to the contrary, any person who is convicted of an offense under section 707-701.5, 707-702, 707-730, 707-731, 707-732, 707-733.6, 707-750, or 708-840, after having been convicted on at least three prior and separate occasions of an offense under section 707-701.5, 707-702, 707-710, 707-711, 707-730, 707-731, 707-732, 707-733.6, 707-750, or 708-840, or of an offense under federal law or the laws of another state that is comparable to an offense under section 707-701.5, 707-702, 707-710, 707-711, 707-730, 707-731, 707-732, 707-733.6, 707-750, or 708-840, shall be sentenced to an extended term of imprisonment as provided in section 706-661.

(2) A conviction shall not be considered a prior offense unless the conviction occurred within the following time periods:

(a) For an offense under section 707-701.5, 707-702, 707-730, 707-733.6, 707-750, or 708-840, within the past twenty years from the date of the instant offense;

(b) For an offense under section 707-710 or 707-731, within the past ten years from the date of the instant offense;

(c) For an offense under section 707-711 or 707-732, within the past five years from the date of the instant offense; or

(d) For an offense under federal law or the laws of another state that is comparable to an offense under section 707-701.5, 707-702, 707-710, 707-711, 707-730, 707-731, 707-732, 707-733.6, 707-750, or 708-840, within the maximum term of imprisonment possible under the appropriate jurisdiction.

HAW. REV. STAT. ANN. § 706-640 (2010). Authorized fines.

(1) A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:

(a) $50,000, when the conviction is of a class A felony, murder in the first or second degree, or attempted murder in the first or second degree;

(b) $25,000, when the conviction is of a class B felony;

(c) $10,000, when the conviction is of a class C felony;

(d) $2,000, when the conviction is of a misdemeanor;

(e) $1,000, when the conviction is of a petty misdemeanor or a violation;

(f) Any higher amount equal to double the pecuniary gain derived from the offense by the defendant;

(g) Any higher or lower amount specifically authorized by statute.

(2) Notwithstanding section 706-641, the court shall impose a mandatory fine upon any defendant convicted of theft in the first or second degree committed by receiving stolen property as set forth in section 708-830(7). The fine imposed shall be the greater of double the value of the stolen property received or $25,000 in the case of a conviction for theft in the first degree; or the greater of double the value of the stolen property received or $10,000 in the case of a conviction for theft in the second degree. The mandatory fines imposed by this subsection shall not be reduced except and only to the extent that payment of the fine prevents the defendant from making restitution to the victim of the offense, or that the defendant's property, real or otherwise, has been forfeited under chapter 712A as a result of the same conviction for which the defendant is being fined under this subsection. Consequences for nonpayment shall be governed by section 706-644; provided that the court shall not reduce the fine under section 706-644(4) or 706-645.

HAW. REV. STAT. ANN. § 706-659 (2010). Sentence of imprisonment for class A felony.

Notwithstanding part II; sections 706-605, 706-606, 706-606.5, 706-660.1, 706-661, and 706-662; and any other law to the contrary, a person who has been convicted of a class A felony, except class A felonies defined in chapter 712, part IV, shall be sentenced to an indeterminate term of imprisonment of twenty years without the possibility of suspension of sentence or probation. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669. A person who has been convicted of a class A felony defined in chapter 712, part IV, may be sentenced to an indeterminate term of imprisonment, except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be twenty years. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.

HAW. REV. STAT. ANN. § 706-660 (2010). Sentence of imprisonment for class B and C felonies; ordinary terms.

A person who has been convicted of a class B or class C felony may be sentenced to an indeterminate term of imprisonment except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be as follows:

(1) For a class B felony -- 10 years; and

(2) For a class C felony -- 5 years.

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.

HAW. REV. STAT. ANN. § 706-660.2 (2010). Sentence of imprisonment for offenses against children, elder persons, or handicapped persons.

Notwithstanding section 706-669, a person who, in the course of committing or attempting to commit a felony, causes the death or inflicts serious or substantial bodily injury upon a person who is:

(1) Sixty years of age or older;

(2) Blind, a paraplegic, or a quadriplegic; or

(3) Eight years of age or younger;

and such disability is known or reasonably should be known to the defendant, shall, if not subjected to an extended term of imprisonment pursuant to section 706-662, be sentenced to a mandatory minimum term of imprisonment without possibility of parole as follows:

(1) For murder in the second degree -- fifteen years;

(2) For a class A felony -- six years, eight months;

(3) For a class B felony -- three years, four months;

(4) For a class C felony -- one year, eight months.

HAW. REV. STAT. ANN. § 706-661 (2010). Extended terms of imprisonment.

The court may sentence a person who satisfies the criteria for any of the categories set forth in section 706-662 to an extended term of imprisonment, which shall have a maximum length as follows:

(1) For murder in the second degree--life without the possibility of parole;

(2) For a class A felony--indeterminate life term of imprisonment;

(3) For a class B felony--indeterminate twenty-year term of imprisonment; and

(4) For a class C felony--indeterminate ten-year term of imprisonment.

When ordering an extended term sentence, the court shall impose the maximum length of imprisonment. The minimum length of imprisonment for an extended term sentence under paragraphs (2), (3), and (4) shall be determined by the Hawaii paroling authority in accordance with section 706-669.

HAW. REV. STAT. ANN. § 706-663 (2010). Sentence of imprisonment for misdemeanor and petty misdemeanor.

After consideration of the factors set forth in sections 706-606 and 706-621, the court may sentence a person who has been convicted of a misdemeanor or a petty misdemeanor to imprisonment for a definite term to be fixed by the court and not to exceed one year in the case of a misdemeanor or thirty days in the case of a petty misdemeanor.

HAW. REV. STAT. ANN. § 706-665 (2010). Former conviction in another jurisdiction.

For purposes of sections 706-606.5, 706-620, and 706-662(1), a conviction of the commission of a crime in another jurisdiction shall constitute a previous conviction. Such conviction shall be deemed to have been of a felony if sentence of death or of imprisonment in excess of one year was authorized under the law of such other jurisdiction. Such a conviction shall be graded, for purposes of section 706-620 by comparing the maximum imprisonment authorized under the law of such other jurisdiction with the maximum imprisonment authorized for the relevant grade of felony.

HAW. REV. STAT. ANN. § 846E-1 (2010). Definitions.

As used in this chapter, unless the context clearly requires otherwise:

"Agency having jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement or place a person on probation, supervised release, or parole and includes the department of public safety, the Hawaii paroling authority, the courts, and the department of health.

"Clean record" means no conviction for a felony or covered offense, if placed on probation or parole, completion of probation or parole without more than one revocation, and, for sex offenders, successful completion of an appropriate sex offender treatment program, if such program was ordered.

"Conviction" means a judgment on the verdict, or a finding of guilt after a plea of guilty or nolo contendere, excluding the adjudication of a minor.

"Covered offender" means a "sex offender" or an "offender against minors," as defined in this section.

"Covered offense" means a criminal offense that is:

(1) A crime within the definition of "crimes against minors" in this section; or

(2) A crime within the definition of "sexual offense" in this section.

"Crime against minors" excludes "sexual offenses" as defined in this section and means a criminal offense that consists of:

(1) Kidnapping of a minor, by someone other than a parent;

(2) Unlawful imprisonment in the first or second degree that involves the unlawful imprisonment of a minor by someone other than a parent;

(3) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraph (1) or (2); or

(4) A criminal offense that is comparable to or which exceeds one of the offenses designated in paragraphs (1) through (3) or any federal, military, or out-of-state conviction for any offense that, under the laws of this State would be a crime against minors as designated in paragraphs (1) through (3).

"Mental abnormality" means a condition involving a disposition to commit criminal sexual offenses with a frequency that makes the person a menace to others.

"Offender against minors" means a person who is not a "sex offender," as defined in this section, and is or has been:

(1) Convicted at any time, whether before or after the effective date of this Act, of a "crime against minors" as defined in this section; or

(2) Charged at any time, whether before or after the effective date of this Act with a "crime against minors" as defined in this section and who is found unfit to proceed and is released into the community or who is acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704 and is released into the community.

"Parent" means a parent, legal guardian, or a person who has a substantial familial or hanai relationship with the minor.

"Personality disorder" shall have the same meaning as the term is used in the Diagnostic and Statistical Manual of Mental Health Disorders: DSM-IV, American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994).

"Predatory" means an act directed at:

(1) A stranger; or

(2) A person with whom a relationship has been established or promoted for the primary purpose of victimization.

"Registration information" means the information specified in section 846E-2(d) and (e).

"Release" means release from:

(1) Imprisonment;

(2) Imprisonment and placed on parole;

(3) Imprisonment and placed on furlough;

(4) Any form of commitment, custody, or confinement resulting from an order made pursuant to chapter 704; or

(5) A halfway house or other equivalent facility,

whichever is later.

"Repeat covered offender" means:

(1) A person who is or has been convicted at any time, whether before or after May 9, 2005, of more than one covered offense as defined in this section, except that a conviction for multiple counts within a single charging document that allege covered offenses against the same victim and that allege the same date of the covered offense against that single victim shall be considered, for the purposes of this definition, a single covered offense; or

(2) A person who is or has been charged at any time, whether before or after the effective date of this Act with more than one covered offense as defined in this section and who has been, more than once, either:

(A) Convicted;

(B) Found unfit to proceed pursuant to chapter 704; or

(C) Acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704.

"Sex offender" means:

(1) A person who is or has been convicted at any time, whether before or after the effective date of this Act of a "sexual offense"; or

(2) A person who is or has been charged at any time, whether before or after the effective date of this Act with a "sexual offense" and is or has been found unfit to proceed and is or has been released into the community or who is acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704 and is released into the community.

"Sexual offense" means an offense that is:

(1) Set forth in section 707-730(1)(a), 707-730(1)(b), 707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a), 707-731(1)(b), 707-731(1)(c), 707-732(1)(a), 707-732(1)(b), 707-732(1)(c), 707-732(1)(d), 707-732(1)(e), 707-732(1)(f), 707-733(1)(a), 707-733.6, 712-1202(1)(b), or 712-1203(1)(b), but excludes conduct that is criminal only because of the age of the victim, as provided in section 707-730(1)(b), or section 707-732(1)(b) if the perpetrator is under the age of eighteen;

(2) An act defined in section 707-720 if the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;

(3) An act that consists of:

(A) Criminal sexual conduct toward a minor, including but not limited to an offense set

forth in section 707-759;

(B) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;

(C) Use of a minor in a sexual performance;

(D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;

(E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; or

(F) Solicitation of a minor to practice prostitution;

(4) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through (3) or any federal, military, or out-of-state conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through (3); or

(5) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (4).

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IDAHO CODE ANN. § 18-112 (2010). Punishment for felony.

Except in cases where a different punishment is prescribed by this code, every offense declared to be a felony is punishable by imprisonment in the state prison not exceeding five (5) years, or by fine not exceeding fifty thousand dollars ($ 50,000), or by both such fine and imprisonment.

IDAHO CODE ANN. § 18-113 (2010). Punishment for misdemeanor.

(1) Except in cases where a different punishment is prescribed in this code, every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars ($ 1,000), or by both.

(2) In addition to any other punishment prescribed for misdemeanors in specific statutes of the Idaho Code, the court may also impose a fine of up to one thousand dollars ($ 1,000). This paragraph shall not apply if the specific misdemeanor statute provides for the imposition of a fine.

IDAHO CODE ANN. § 18-206 (2010). Punishment of accessories.

Except in cases where a different punishment is prescribed, an accessory is punishable by imprisonment in the state prison not exceeding five (5) years, or by fine not exceeding fifty thousand dollars ($ 50,000), or by both such fine and imprisonment.

IDAHO CODE ANN. § 18-401 (2010). Desertion and nonsupport of children or spouse.

Every person who:

(1) Having any child under the age of eighteen (18) years dependent upon him or her for care, education or support, deserts such child in any manner whatever, with intent to abandon it;

(2) Willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, or medical attendance for his or her child or children, or ward or wards; provided however, that the practice of a parent or guardian who chooses for his child treatment by prayer or spiritual means alone shall not for that reason alone be construed to be a violation of the duty of care to such child;

(3) Having sufficient ability to provide for a spouse's support, or who is able to earn the means for such spouse's support, who willfully abandons and leaves a spouse in a destitute condition, or who refuses or neglects to provide such spouse with necessary food, clothing, shelter, or medical attendance, unless by the spouse's misconduct he or she is justified in abandoning him or her;

Shall be guilty of a felony and shall be punishable by a fine of not more than five hundred dollars ($ 500), or by imprisonment for not to exceed fourteen (14) years, or both.

IDAHO CODE ANN. § 18-1506 (2010). Sexual abuse of a child under the age of sixteen years.

(1) It is a felony for any person eighteen (18) years of age or older, with the intent to gratify the lust, passions, or sexual desire of the actor, minor child or third party, to:

(a) Solicit a minor child under the age of sixteen (16) years to participate in a sexual act;

(b) Cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in section 18-1508, Idaho Code;

(c) Make any photographic or electronic recording of such minor child; or

(d) Induce, cause or permit a minor child to witness an act of sexual conduct.

(2) For the purposes of this section "solicit" means any written, verbal, or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

(3) For the purposes of this section "sexual contact" means any physical contact between such minor child and any person, which is caused by the actor, or the actor causing such minor child to have self contact.

(4) For the purposes of this section "sexual conduct" means human masturbation, sexual intercourse, sadomasochistic abuse, or any touching of the genitals or pubic areas of the human

male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(5) Any person guilty of a violation of the provisions of this section shall be imprisoned in the state prison for a period not to exceed twenty-five (25) years.

IDAHO CODE ANN. § 18-1507A (2010). Possession of sexually exploitative material for other than a commercial purpose – Penalty.

(1) It is the policy of the legislature in enacting this section to protect children from the physical and psychological damage caused by their being used in photographic representations of sexual conduct which involves children. It is, therefore, the intent of the legislature to penalize possession of photographic representations of sexual conduct which involves children in order to protect the identity of children who are victimized by involvement in the photographic representations, and to protect children from future involvement in photographic representations of sexual conduct.

(2) Every person who knowingly and willfully has in his possession any sexually exploitative material as defined in section 18-1507, Idaho Code, for other than a commercial purpose, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period not to exceed ten (10) years and by a fine not to exceed ten thousand dollars ($ 10,000).

IDAHO CODE ANN. § 18-1508 (2010). Lewd conduct with minor child under sixteen.

Any person who shall commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a minor child under the age of sixteen (16) years, including but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact, or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve such minor child in any act of bestiality or sado-masochism as defined in section 18-1507, Idaho Code, when any of such acts are done with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person, such minor child, or third party, shall be guilty of a felony and shall be imprisoned in the state prison for a term of not more than life.

IDAHO CODE ANN. § 18-1508A (2010). Sexual battery of a minor child sixteen or seventeen years of age – Penalty.

(1) It is a felony for any person at least five (5) years of age older than a minor child who is sixteen (16) or seventeen (17) years of age, who, with the intent of arousing, appealing to or gratifying the lust, passion, or sexual desires of such person, minor child, or third party, to:

(a) Commit any lewd or lascivious act or acts upon or with the body or any part or any member thereof of such minor child including, but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact or manual-genital contact,

whether between persons of the same or opposite sex, or who shall involve such minor child in any act of explicit sexual conduct as defined in section 18-1507, Idaho Code; or

(b) Solicit such minor child to participate in a sexual act; or

(c) Cause or have sexual contact with such minor child, not amounting to lewd conduct as defined in paragraph (a) of this subsection; or

(d) Make any photographic or electronic recording of such minor child.

(2) For the purpose of subsection (b) of this section, "solicit" means any written, verbal or physical act which is intended to communicate to such minor child the desire of the actor or third party to participate in a sexual act or participate in sexual foreplay, by the means of sexual contact, photographing or observing such minor child engaged in sexual contact.

(3) For the purpose of this section, "sexual contact" means any physical contact between such minor child and any person or between such minor children which is caused by the actor, or the actor causing such minor child to have self contact.

(4) Any person guilty of a violation of the provisions of subsection (1)(a) of this section shall be imprisoned in the state prison for a period not to exceed life.

(5) Any person guilty of a violation of the provisions of subsections (1)(b), (1)(c), or (1)(d) of this section shall be imprisoned in the state prison for a period not to exceed twenty-five (25) years.

IDAHO CODE ANN. § 18-1509 (2010). Enticing of children.

(1) A person shall be guilty of a misdemeanor if that person attempts to persuade, or persuades, whether by words or actions or both, a minor child under the age of sixteen (16) years to either:

(a) Leave the child's home or school; or

(b) Enter a vehicle or building; or

(c) Enter a structure or enclosed area, or alley, with the intent that the child shall be concealed from public view;

while the person is acting without the authority of (i) the custodial parent of the child, (ii) the state of Idaho or a political subdivision thereof or (iii) one having legal custody of the minor child. Nothing contained in this section shall be construed to prevent the lawful detention of a minor child or the rendering of aid or assistance to a minor child.

(2) Every person who is convicted of a violation of the provisions of this section shall be punished by imprisonment in the county or municipal jail for not more than six (6) months or by a fine of not more than one thousand dollars ($ 1,000) or by both such fine and imprisonment. A person convicted a second or subsequent time of violating the provisions of this section shall be guilty of a felony and shall be punished by imprisonment in the state penitentiary for a period of time of not more than five (5) years.

IDAHO CODE ANN. § 18-1509A (2010). Enticing of children over the internet – Penalties – Jurisdiction.

(1) A person aged eighteen (18) years or older shall be guilty of a felony if he or she knowingly uses the internet to solicit, seduce, lure, persuade or entice by words or actions, or both, a minor child under the age of sixteen (16) years or a person the defendant believes to be a minor child under the age of sixteen (16) years to engage in any sexual act with or against the child where such act is a violation of chapter 15, 61 or 66, title 18, Idaho Code.

(2) Every person who is convicted of a violation of this section shall be punished by imprisonment in the state prison for a period not to exceed fifteen (15) years.

(3) It shall not constitute a defense against any charge or violation of this section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this section.

(4) The offense is committed in the state of Idaho for purposes of determining jurisdiction if the transmission that constitutes the offense either originates in or is received in the state of Idaho.

IDAHO CODE ANN. § 18-4504 (2010). Punishment – Liberation of kidnapped person.

1. Every person guilty of kidnapping in the first degree shall suffer death or be punished by imprisonment in the state prison for life, provided a sentence of death shall not be imposed unless the prosecuting attorney filed written notice of intent to seek the death penalty as required under the provisions of section 18-4504A, Idaho Code, and provided further that the sentence of death shall not be imposed if prior to its imposition the kidnapped person has been liberated unharmed.

2. Kidnapping in the second degree is punishable by imprisonment in the state prison not less than one (1) nor more than twenty-five (25) years.

IDAHO CODE ANN. § 18-4505 (2010). Inquiry into mitigating or aggravating circumstances – Sentence in kidnapping cases – Statutory aggravating circumstances – Judicial findings.

1. After a plea or verdict of guilty, where a discretion is conferred upon the court as to the extent of the punishment, the court, upon the oral or written suggestion of either party that there are circumstances which may be properly taken into view either in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily, at a specified time, and upon such notice to the adverse party as it may direct.

2. Where a person is convicted of an offense which may be punishable by death, a sentence of death shall not be imposed unless a notice of intent to seek the death penalty was filed and served as provided in section 18-4504A, Idaho Code, and the court finds at least one (1) statutory aggravating circumstance. Where the court finds a statutory aggravating circumstance the court shall sentence the defendant to death unless the court finds that mitigating circumstances which

may be presented outweigh the gravity of any aggravating circumstance found and make imposition of death unjust.

3. In all cases in which the death penalty may be imposed, the court shall, after conviction, order a presentence investigation to be conducted according to such procedures as are prescribed by law and shall thereafter convene a sentencing hearing for the purpose of hearing all relevant evidence and arguments of counsel in aggravation and mitigation of the offense. At such hearing, the state and the defendant shall be entitled to present all relevant evidence in aggravation and mitigation. Should any party present aggravating or mitigating evidence which has not previously been disclosed to the opposing party or parties, the court shall, upon request, adjourn the hearing until the party desiring to do so has had a reasonable opportunity to respond to such evidence. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing. Evidence offered at trial but not admitted may be repeated or amplified if necessary to complete the record.

4. Upon the conclusion of the evidence and arguments in mitigation and aggravation the court shall make written findings setting forth any statutory aggravating circumstance found. Further, the court shall set forth in writing any mitigating factors considered and, if the court finds that mitigating circumstances outweigh the gravity of any aggravating circumstance found so as to make unjust the imposition of the death penalty, the court shall detail in writing its reasons for so finding.

5. Upon making the prescribed findings, the court shall impose sentence within the limits fixed by law.

6. The following are statutory aggravating circumstances, at least one (1) of which must be found to exist beyond a reasonable doubt before a sentence of death can be imposed:

(a) The victim of the kidnapping was subjected by the kidnapper or those acting in concert with him to torture, maiming or the intentional infliction of grievous mental or physical injury.

(b) The defendant knowingly created a great risk of death to any person, including the kidnapped.

(c) The kidnapping was committed for remuneration or the promise of remuneration or the defendant employed another to commit the kidnapping for remuneration or the promise of remuneration.

(d) The kidnapping was especially heinous, atrocious or cruel, manifesting exceptional depravity.

(e) The kidnapping was committed for the purpose of murdering or maiming a witness or potential witness in a judicial proceeding.

IDAHO CODE ANN. § 18-8303 (2010). Definitions

As used in this chapter:

(1) "Aggravated offense" means any of the following crimes: 18-1506A (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder committed in the perpetration of rape); 18-

4502 (first-degree kidnapping committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-4503 (second degree kidnapping where the victim is an unrelated minor child and the kidnapping is committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-6101 (rape, but excluding section 18-6101(1) where the victim is at least twelve years of age or the defendant is eighteen years of age); 18-6108 (male rape, but excluding section 18-6108(1) where the victim is at least twelve years of age or the defendant is eighteen years of age); 18-6608 (forcible sexual penetration by use of a foreign object); 18-8602(1) (sex trafficking); and any other offense set forth in section 18-8304, Idaho Code, if at the time of the commission of the offense the victim was below the age of thirteen years.

(2) "Board" means the sexual offender classification board described in section 18-8312, Idaho Code.

(3) "Central registry" means the registry of convicted sexual offenders maintained by the Idaho state police pursuant to this chapter.

(4) "Certified evaluator" means either a psychiatrist licensed by this state pursuant to chapter 18, title 54, Idaho Code, or a master's or doctoral level mental health professional licensed by this state pursuant to chapter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person shall have by education, experience and training, expertise in the assessment and treatment of sexual offenders, and such person shall meet the qualifications and shall be approved by the board to perform psychosexual evaluations in this state, as described in section 18-8314, Idaho Code.

(5) "Department" means the Idaho state police.

(6) "Employed" means full-time or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment which involves counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, whether such employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.

(7) "Incarceration" means committed to the custody of the Idaho department of correction or department of juvenile corrections, but excluding cases where the court has retained jurisdiction.

(8) "Offender" means an individual convicted of an offense listed and described in section 18-8304, Idaho Code, or a substantially similar offense under the laws of another state or in a federal, tribal or military court or the court of another country.

(9) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(10) "Predatory" means actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior.

(11) "Psychosexual evaluation" means an evaluation which specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(12) "Recidivist" means an individual convicted two (2) or more times of any offense requiring

registration under this chapter.

(13) "Residence" means the offender's present place of abode.

(14) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(15) "Violent sexual predator" means a person who has been convicted of an offense listed in section 18-8314, Idaho Code, and who has been determined to pose a high risk of committing an offense or engaging in predatory sexual conduct.

IDAHO CODE ANN. § 18-8304 (2010). Application of chapter.

(1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), 18-1507A (possession of sexually exploitative material for other than a commercial purpose), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5609 (inducing person under eighteen years of age into prostitution), 18-6101 (rape, but excluding 18-6101(1) where the defendant is eighteen years of age or where the defendant is exempted under subsection (4) of this section), 18-6108 (male rape, but excluding 18-6108(1) where the defendant is eighteen years of age or where the defendant is exempted under subsection (4) of this section), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), upon a second or subsequent conviction under 18-6609 (video voyeurism) or 18-8602(1), Idaho Code, (sex trafficking).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1)(a) of this section and enters the state to establish permanent or temporary residence.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1)(a) of this section and was required to register as a sex offender in any other state or

jurisdiction when he established permanent or temporary residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) When a defendant is convicted of rape under section 18-6101(2) or 18-6108(2), Idaho Code, and at the time of the offense the defendant is nineteen (19) or twenty (20) years of age and not more than three (3) years older than the victim of the rape, the court may order that the defendant is exempt from the requirements of this chapter upon a finding by the court that:

(a) All parties have stipulated to the exemption; or

(b) The defendant has demonstrated by clear and convincing evidence that he is not a risk to commit another crime identified in subsection (1) of this section and in the case there were no allegations by the victim of any violation of section 18-6101(3) through (8) or 18-6108(3) through (7), Idaho Code.

IDAHO CODE ANN. § 18-8603 (2010). Penalties.

Notwithstanding any other law to the contrary, on and after July 1, 2006, any person who commits a crime as provided for in the following sections, and who, in the commission of such crime or crimes, also commits the crime of human trafficking, as defined in section 18-8602, Idaho Code, shall be punished by imprisonment in the state prison for not more than twenty-five (25) years unless a more severe penalty is otherwise prescribed by law: 18-905 (aggravated assault), 18-907 (aggravated battery), 18-909 (assault with intent to commit a serious felony), 18-911 (battery with intent to commit a serious felony), 18-913 (felonious administering of drugs), 18-1501(1) (felony injury to child), 18-1505(1) (felony injury to vulnerable adult), 18-1505(3) (felony exploitation of vulnerable adult), 18-1505B (sexual abuse and exploitation of vulnerable adult), 18-1506 (sexual abuse of a child under the age of sixteen years), 18-1506A (ritualized abuse of child), 18-1507 (sexual exploitation of child), 18-1508A (sexual battery of minor child sixteen or seventeen years of age), 18-1509A (enticing of children over the internet), 18-1511 (sale or barter of child), 18-2407(1) (grand theft), 18-5601 through 18-5614 (prostitution), or 18-7804 (racketeering).

IDAHO CODE ANN. § 19-2514 (2010). Persistent violator – Sentence on third conviction for felony.

Any person convicted for the third time of the commission of a felony, whether the previous convictions were had within the state of Idaho or were had outside the state of Idaho, shall be considered a persistent violator of law, and on such third conviction shall be sentenced to a term in the custody of the state board of correction which term shall be for not less than five (5) years and said term may extend to life.

IDAHO CODE ANN. § 19-2520 (2010). Extended sentence for use of firearm or deadly weapon.

Any person convicted of a violation of sections 18-905 (aggravated assault defined), 18-907 (aggravated battery defined), 18-909 (assault with intent to commit a serious felony defined), 18-911 (battery with intent to commit a serious felony defined), 18-1401 (burglary defined), 18-1508(3), 18-1508(4), 18-1508(5), 18-1508(6) (lewd conduct with minor or child under sixteen), 18-2501 (rescuing prisoners), 18-2505 (escape by one charged with or convicted of a felony), 18-2506 (escape by one charged with or convicted of a misdemeanor), 18-4003 (degrees of murder), 18-4006 (manslaughter), 18-4015 (assault with intent to murder), 18-4501 (kidnapping defined), 18-5001 (mayhem defined), 18-6101 (rape defined), 18-6501 (robbery defined), 37-2732(a) (delivery, manufacture or possession of a controlled substance with intent to deliver) or 37-2732B (trafficking), Idaho Code, who displayed, used, threatened, or attempted to use a firearm or other deadly weapon while committing or attempting to commit the crime, shall be sentenced to an extended term of imprisonment. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by fifteen (15) years.

For the purposes of this section, "firearm" means any deadly weapon capable of ejecting or propelling one (1) or more projectiles by the action of any explosive or combustible propellant, and includes unloaded firearms and firearms which are inoperable but which can readily be rendered operable.

The additional terms provided in this section shall not be imposed unless the fact of displaying, using, threatening, or attempting to use a firearm or other deadly weapon while committing the crime is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at the trial of the substantive crime.

This section shall apply even in those cases where the use of a firearm is an element of the offense.

IDAHO CODE ANN. § 19-2520B (2010). Infliction of great bodily injury – Attempted felony or conspiracy – Extension of prison term.

(1) Any person who inflicts great bodily injury, and the injury was either intended or the act causing the injury was done with a reckless disregard for the safety of another person, on any person, other than an accomplice, in the commission or attempted commission of a felony or

conspiracy to commit such a felony shall be sentenced to an extended term sentence. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by twenty (20) years. A term of imprisonment shall be extended as provided in this section unless infliction of great bodily injury is an element of the offense of which he is found guilty.

(2) As used in this section, "great bodily injury" means a significant or substantial physical injury.

(3) The extended term of imprisonment required by this section shall apply to any aider or abettor; a person who acts in concert with, or a person who conspires with, the perpetrator of the crime.

(4) The additional terms provided in this section shall not be imposed unless the fact of great bodily injury is separately charged in the accusatory pleading and admitted by the accused or found to be true by the trier of fact after a verdict or finding of guilty on the substantive crime.

IDAHO CODE ANN. § 19-2520C (2010). Extension of prison terms for repeated sex offenses, extortion and kidnapping.

(1) Any person who is found guilty of violation of the provisions of sections 18-2401 (extortion), 18-4501 (kidnapping), 18-6101 (rape), 18-6605 (crime against nature), or 18-1508 (lewd and lascivious conduct), Idaho Code, or any attempt or conspiracy to commit such crime(s); and committed such crime(s) by force, violence, duress, menace or threat of great bodily injury and who has been previously found guilty of any such crime, shall be sentenced to an extended term sentence. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by fifteen (15) years; provided, however, that no extension shall be imposed under this section for any such crime occurring prior to a period of fifteen (15) years during which the person remained free of prison custody, parole and being found guilty of a crime which is a felony; provided further that no extension shall be imposed under this subsection when the provisions of section 19-2520B, Idaho Code, would be applicable.

(2) Any person found guilty of an offense specified in subsection (1) of this section who has served two (2) or more prior prison terms for any crime specified in subsection (1) hereof, shall be sentenced to an extended term sentence. The extended term of imprisonment authorized in this section shall be computed by increasing the maximum sentence authorized for the crime for which the person was convicted by twenty (20) years; provided, that no extended term of imprisonment shall be imposed under this subsection for any prison term served prior to a period of fifteen (15) years during which the person remained free of prison custody, parole and being found guilty of a crime which is a felony.

(3) The extended terms of imprisonment required by this section shall apply to any aider or abettor; a person who acts in concert with, or a person who conspires with, the perpetrator of the crime.

(4) Any extended term of imprisonment required by this section shall not be imposed unless the fact of the prior commission of a crime is separately charged in the accusatory pleading and admitted by the accused or found to be true by the trier of fact after a verdict or finding of guilty on the substantive crime.

IDAHO CODE ANN. § 19-2520D (2010). Prior foreign conviction.

Every person who has been found guilty in any other state, country or jurisdiction of an offense for which, if committed within this state, such person could have been punished under the laws of this state by imprisonment in the state prison, is punishable for any subsequent crime committed within this state in the manner prescribed by law and to the same extent as if such prior conviction had taken place in a court of this state.

IDAHO CODE ANN. § 19-2520E (2010). Multiple enhanced penalties prohibited.

Notwithstanding the enhanced penalty provisions in sections 19-2520, 19-2520A, 19-2520B and 19-2520C, Idaho Code, any person convicted of two (2) or more substantive crimes provided for in the above code sections, which crimes arose out of the same indivisible course of conduct, may only be subject to one (1) enhanced penalty.

IDAHO CODE ANN. § 19-2520G (2010). Mandatory minimum sentencing.

(1) Pursuant to section 13, article V of the Idaho constitution, the legislature intends to provide mandatory minimum sentences for repeat offenders who have previously been found guilty of or pleaded guilty to child sexual abuse. The legislature hereby finds and declares that the sexual exploitation of children constitutes a wrongful invasion of a child and results in social, developmental and emotional injury to the child. It is the policy of the legislature to protect children from the physical and psychological damage caused by their being used in sexual conduct. In order to protect children from becoming victims of this type of conduct by perpetrators, it is necessary to provide the mandatory minimum sentencing format contained in subsection (2) of this section. By enacting mandatory minimum sentences, the legislature does not seek to limit the court's power to impose in any case a longer sentence as provided by law.

(2) Any person who is found guilty of or pleads guilty to any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, or any attempt or conspiracy to commit such a crime, shall be sentenced to a mandatory minimum term of confinement to the custody of the state board of correction for a period of not less than fifteen (15) years, if it is found by the trier of fact that previous to the commission of such crime the defendant has been found guilty of or has pleaded guilty to a violation of any crime or an offense committed in this state or another state which, if committed in this state, would require the person to register as a sexual offender as set forth in section 18-8304, Idaho Code.

(3) Any person who is found guilty of or pleads guilty to any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, or any attempt or conspiracy to commit such a crime, shall be sentenced to a mandatory minimum term of confinement to the custody of the state board of correction for a period of not less than life, if it is found by the trier of fact that previous to the commission of such crime the defendant has been and is designated a violent sexual predator as set forth in section 18-8314, Idaho Code, or the equivalent under the laws of another state at the time of committing such offense.

(4) The mandatory minimum term provided in this section shall be imposed where the aggravating factor is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at a trial of the substantive crime. A court shall not have the power to suspend, withhold, retain jurisdiction, or commute a mandatory minimum sentence imposed pursuant to this section. Any sentence imposed under the provisions of this section shall run consecutive to any other sentence imposed by the court.

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730 ILL. COMP. STAT. 5/5-4.5-25 (2010). Class X Felonies; Sentence.

Sec. 5-4.5-25. Class X Felonies; Sentence. For a Class X felony:

(a)TERM. The sentence of imprisonment shall be a determinate sentence of not less than 6 years and not more than 30 years. The sentence of imprisonment for an extended term Class X felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be not less than 30 years and not more than 60 years.

(b) PERIODIC IMPRISONMENT. A term of periodic imprisonment shall not be imposed.

(c) IMPACT INCARCERATION. The impact incarceration program or the county impact incarceration program is not an authorized disposition.

(d) PROBATION; CONDITIONAL DISCHARGE. A period of probation or conditional discharge shall not be imposed.

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning no credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 (730 ILCS 5/3-6-3) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be 3 years upon release from imprisonment.

730 ILL. COMP. STAT. 5/5-4.5-30 (2010). Class 1 Felonies; Sentence.

Sec. 5-4.5-30. Class 1 Felonies; Sentence. For a Class 1 felony:

(a) TERM. The sentence of imprisonment, other than for second degree murder, shall be a determinate sentence of not less than 4 years and not more than 15 years. The sentence of imprisonment for second degree murder shall be a determinate sentence of not less than 4 years and not more than 20 years. The sentence of imprisonment for an extended term Class 1 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 15 years and not more than 30 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of from 3 to 4 years, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 4 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3). In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he or she was serving a term of probation or conditional discharge for a felony.

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be 2 years upon release from imprisonment.

730 ILL. COMP. STAT. 5/5-4.5-35 (2010). Class 2 Felonies; Sentence.

Sec. 5-4.5-35. Class 2 Felonies; Sentence. For a Class 2 felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than 3 years and not more than 7 years. The sentence of imprisonment for an extended term Class 2 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 7 years and not more than 14 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of from 18 to 30 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 4 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be 2 years upon release from imprisonment.

730 ILL. COMP. STAT. 5/5-4.5-40 (2010). Class 3 Felonies; Sentence.

Sec. 5-4.5-40. Class 3 Felonies; Sentence. For a Class 3 felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than 2 years and not more than 5 years. The sentence of imprisonment for an extended term Class 3 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 5 years and not more than 10 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 18 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 30 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be one year upon release from imprisonment.

730 ILL. COMP. STAT. 5/5-4.5-45 (2010). Class 4 Felonies; Sentence.

Sec. 5-4.5-45. Class 4 Felonies; Sentence. For a Class 4 felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than one year and not more than 3 years. The sentence of imprisonment for an extended term Class 4 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 3 years and not more than 6 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 18 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 30 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be one year upon release from imprisonment.

730 ILL. COMP. STAT. 5/5-4.5-50 (2010). Sentence Provisions; All Felonies.

Sec. 5-4.5-50. Sentence Provisions; All Felonies. Except as otherwise provided, for all felonies:

(a) NO SUPERVISION. The court, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, may not defer further proceedings and the imposition of a sentence and may not enter an order for supervision of the defendant.

(b) FELONY FINES. An offender may be sentenced to pay a fine not to exceed, for each offense, $ 25,000 or the amount specified in the offense, whichever is greater, or if the offender is a corporation, $ 50,000 or the amount specified in the offense, whichever is greater. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) [730 ILCS 5/5-9-1 et seq.] for imposition of additional amounts and determination of amounts and payment.

(c) REASONS FOR SENTENCE STATED. The sentencing judge in each felony conviction shall set forth his or her reasons for imposing the particular sentence entered in the case, as provided in Section 5-4-1 (730 ILCS 5/5-4-1). Those reasons may include any mitigating or aggravating factors specified in this Code, or the lack of any such factors, as well as any other mitigating or aggravating factors that the judge sets forth on the record that are consistent with the purposes and principles of sentencing set out in this Code.

(d) MOTION TO REDUCE SENTENCE. A motion to reduce a sentence may be made, or the court may reduce a sentence without motion, within 30 days after the sentence is imposed. A defendant's challenge to the correctness of a sentence or to any aspect of the sentencing hearing shall be made by a written motion filed with the circuit court clerk within 30 days following the imposition of sentence. A motion not filed within that 30-day period is not timely. The court may not increase a sentence once it is imposed. A notice of motion must be filed with the motion. The notice of motion shall set the motion on the court's calendar on a date certain within a reasonable time after the date of filing.

If a motion filed pursuant to this subsection is timely filed, the proponent of the motion shall exercise due diligence in seeking a determination on the motion and the court shall thereafter decide the motion within a reasonable time.

If a motion filed pursuant to this subsection is timely filed, then for purposes of perfecting an appeal, a final judgment is not considered to have been entered until the motion to reduce the sentence has been decided by order entered by the trial court.

(e) CONCURRENT SENTENCE; PREVIOUS UNEXPIRED FEDERAL OR OTHER-STATE SENTENCE. A defendant who has a previous and unexpired sentence of imprisonment imposed by another state or by any district court of the United States and who, after sentence for a crime in Illinois, must return to serve the unexpired prior sentence may have his or her sentence by the Illinois court ordered to be concurrent with the prior other-state or federal sentence. The court may order that any time served on the unexpired portion of the other-state or federal sentence, prior to his or her return to Illinois, shall be credited on his or her Illinois sentence. The appropriate official of the other state or the United States shall be furnished with a copy of the order imposing sentence, which shall provide that, when the offender is released from other-state

or federal confinement, whether by parole or by termination of sentence, the offender shall be transferred by the Sheriff of the committing Illinois county to the Illinois Department of Corrections. The court shall cause the Department of Corrections to be notified of the sentence at the time of commitment and to be provided with copies of all records regarding the sentence.

(f) REDUCTION; PREVIOUS UNEXPIRED ILLINOIS SENTENCE. A defendant who has a previous and unexpired sentence of imprisonment imposed by an Illinois circuit court for a crime in this State and who is subsequently sentenced to a term of imprisonment by another state or by any district court of the United States and who has served a term of imprisonment imposed by the other state or district court of the United States, and must return to serve the unexpired prior sentence imposed by the Illinois circuit court, may apply to the Illinois circuit court that imposed sentence to have his or her sentence reduced.

The circuit court may order that any time served on the sentence imposed by the other state or district court of the United States be credited on his or her Illinois sentence. The application for reduction of a sentence under this subsection shall be made within 30 days after the defendant has completed the sentence imposed by the other state or district court of the United States.

(g) NO REQUIRED BIRTH CONTROL. A court may not impose a sentence or disposition that requires the defendant to be implanted or injected with or to use any form of birth control.

730 ILL. COMP. STAT. 5/5-4.5-55 (2010). Class A Misdemeanors; Sentence.

Sec. 5-4.5-55. Class A Misdemeanors; Sentence. For a Class A misdemeanor:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of less than one year.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of less than one year, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. A fine not to exceed $ 2,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) [730 ILCS 5/5-9-1 et seq.] for imposition of additional amounts and determination of amounts and payment.

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

730 ILL. COMP. STAT. 5/5-4.5-55 (2010). Class B Misdemeanors; Sentence.

Sec. 5-4.5-60. Class B Misdemeanors; Sentence. For a Class B misdemeanor:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not more than 6 months.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 6 months or as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

(c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. A fine not to exceed $ 1,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) [730 ILCS 5/5-9-1 et seq.] for imposition of additional amounts and determination of amounts and payment.

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

730 ILL. COMP. STAT. 5/5-4.5-65 (2010). Class C Misdemeanors; Sentence.

Sec. 5-4.5-65. Class C Misdemeanors; Sentence. For a Class C misdemeanor:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not more than 30 days.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 30 days or as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

(c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. A fine not to exceed $ 1,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) [730 ILCS 5/5-9-1 et seq.] for imposition of additional amounts and determination of amounts and payment.

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

730 ILL. COMP. STAT. 5/5-4.5-70 (2010). Sentence Provisions; All Misdemeanors.

Sec. 5-4.5-70. Sentence Provisions; All Misdemeanors. Except as otherwise provided, for all misdemeanors:

(a) SUPERVISION; ORDER. The court, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, may defer further proceedings and the imposition of a sentence and may enter an order for supervision of the defendant. If the defendant is not barred from receiving an order for supervision under Section 5-6-1 (730 ILCS 5/5-6-1) or otherwise, the court may enter an order for supervision after considering the circumstances of the offense, and the history, character, and condition of the offender, if the court is of the opinion that:

(1) the defendant is not likely to commit further crimes;

(2) the defendant and the public would be best served if the defendant were not to receive a criminal record; and

(3) in the best interests of justice, an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

(b) SUPERVISION; PERIOD. When a defendant is placed on supervision, the court shall enter an order for supervision specifying the period of supervision, and shall defer further proceedings in the case until the conclusion of the period. The period of supervision shall be reasonable under all of the circumstances of the case, and except as otherwise provided, may not be longer than 2 years, unless the defendant has failed to pay the assessment required by Section 10.3 of the Cannabis Control Act (720 ILCS 550/10.3), Section 411.2 of the Illinois Controlled Substances Act (720 ILCS 570/411.2), or Section 80 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/80), in which case the court may extend supervision beyond 2 years. The court shall specify the conditions of supervision as set forth in Section 5-6-3.1 (730 ILCS 5/5-6-3.1).

(c) NO REQUIRED BIRTH CONTROL. A court may not impose a sentence or disposition that requires the defendant to be implanted or injected with or to use any form of birth control.

730 ILL. COMP. STAT. 5/5-4.5-75 (2010). Petty Offenses; Sentence.

Sec. 5-4.5-75. Petty Offenses; Sentence. Except as otherwise provided, for a petty offense:

(a) FINE. A defendant may be sentenced to pay a fine not to exceed $ 1,000 for each offense or the amount specified in the offense, whichever is less. A fine may be imposed in addition to a sentence of conditional discharge or probation. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) [730 ILCS 5/5-9-1 et seq.] for imposition of additional amounts and determination of amounts and payment.

(b) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), a defendant may be sentenced to a period of probation or conditional discharge

not to exceed 6 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(c) RESTITUTION. A defendant may be sentenced to make restitution to the victim under Section 5-5-6 (730 ILCS 5/5-5-6).

(d) SUPERVISION; ORDER. The court, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, may defer further proceedings and the imposition of a sentence and may enter an order for supervision of the defendant. If the defendant is not barred from receiving an order for supervision under Section 5-6-1 (730 ILCS 5/5-6-1) or otherwise, the court may enter an order for supervision after considering the circumstances of the offense, and the history, character, and condition of the offender, if the court is of the opinion that:

(1) the defendant is not likely to commit further crimes;

(2) the defendant and the public would be best served if the defendant were not to receive a criminal record; and

(3) in the best interests of justice, an order of supervision is more appropriate than a sentence otherwise permitted under this Code.

(e) SUPERVISION; PERIOD. When a defendant is placed on supervision, the court shall enter an order for supervision specifying the period of supervision, and shall defer further proceedings in the case until the conclusion of the period. The period of supervision shall be reasonable under all of the circumstances of the case, and except as otherwise provided, may not be longer than 2 years. The court shall specify the conditions of supervision as set forth in Section 5-6-3.1 (730 ILCS 5/5-6-3.1).

730 ILL. COMP. STAT. 5/5-4.5-85 (2010). Unclassified Offenses; Sentence.

Sec. 5-4.5-85. Unclassified Offenses; Sentence. (a) FELONY. The particular classification of each felony is specified in the law defining the felony. Any unclassified offense that is declared by law to be a felony or that provides a sentence to a term of imprisonment for one year or more is a Class 4 felony.

(b) MISDEMEANOR. The particular classification of each misdemeanor is specified in the law or ordinance defining the misdemeanor.

(1) Any offense not so classified that provides a sentence to a term of imprisonment of less than one year but in excess of 6 months is a Class A misdemeanor.

(2) Any offense not so classified that provides a sentence to a term of imprisonment of 6 months or less but in excess of 30 days is a Class B misdemeanor.

(3) Any offense not so classified that provides a sentence to a term of imprisonment of 30 days or less is a Class C misdemeanor.

(c) PETTY OR BUSINESS OFFENSE. Any unclassified offense that does not provide for a sentence of imprisonment is a petty offense or a business offense.

730 ILL. COMP. STAT. 5/5-8-1 (2010). Natural life imprisonment; mandatory supervised release.

Sec. 5-8-1. Natural life imprisonment; mandatory supervised release. (a) Except as otherwise provided in the statute defining the offense or in Article 4.5 of Chapter V [730 ILCS 5/5-4.5-5 et seq.], a sentence of imprisonment for a felony shall be a determinate sentence set by the court under this Section, according to the following limitations:

(1) for first degree murder,

(a) (blank)

(b) if a trier of fact finds beyond a reasonable doubt that the murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty or, except as set forth in subsection (a)(1)(c) of this Section, that any of the aggravating factors listed in subsection (b) of Section 9-1 of the Criminal Code of 1961 [720 ILCS 5/9-1] are present, the court may sentence the defendant to a term of natural life imprisonment, or

(c) the court shall sentence the defendant to a term of natural life imprisonment when the death penalty is not imposed if the defendant,

(i) has previously been convicted of first degree murder under any state or federal law, or

(ii) is a person who, at the time of the commission of the murder, had attained the age of 17 or more and is found guilty of murdering an individual under 12 years of age; or, irrespective of the defendant's age at the time of the commission of the offense, is found guilty of murdering more than one victim, or

(iii) is found guilty of murdering a peace officer, fireman, or emergency management worker when the peace officer, fireman, or emergency management worker was killed in the course of performing his official duties, or to prevent the peace officer or fireman from performing his official duties, or in retaliation for the peace officer, fireman, or emergency management worker from performing his official duties, and the defendant knew or should have known that the murdered individual was a peace officer, fireman, or emergency management worker, or

(iv) is found guilty of murdering an employee of an institution or facility of the Department of Corrections, or any similar local correctional agency, when the employee was killed in the course of performing his official duties, or to prevent the employee from performing his official duties, or in retaliation for the employee performing his official duties, or

(v) is found guilty of murdering an emergency medical technician -- ambulance, emergency medical technician -- intermediate, emergency medical technician -- paramedic, ambulance driver or other medical assistance or first aid person while employed by a municipality or other governmental unit when the person was killed in the course of performing official duties or to prevent the person from performing official duties or in retaliation for performing official duties and the defendant knew or should have known that the murdered individual was an emergency

medical technician -- ambulance, emergency medical technician -- intermediate, emergency medical technician -- paramedic, ambulance driver, or other medical assistant or first aid personnel, or

(vi) is a person who, at the time of the commission of the murder, had not attained the age of 17, and is found guilty of murdering a person under 12 years of age and the murder is committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, or

(vii) is found guilty of first degree murder and the murder was committed by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961 [720 ILCS 5/2-3.5].

For purposes of clause (v), "emergency medical technician -- ambulance", "emergency medical technician -- intermediate", "emergency medical technician -- paramedic", have the meanings ascribed to them in the Emergency Medical Services (EMS) Systems Act [210 ILCS 50/1 et seq.].

(d)(i) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of imprisonment imposed by the court;

(ii) if, during the commission of the offense, the person personally discharged a firearm, 20 years shall be added to the term of imprisonment imposed by the court;

(iii) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(2) (blank)

(2.5) for a person convicted under the circumstances described in paragraph (3) of subsection (b) of Section 12-13 [720 ILCS 5/12-13], paragraph (2) of subsection (d) of Section 12-14 [720 ILCS 5/12-14], paragraph (1.2) of subsection (b) of Section 12-14.1 [720 ILCS 5/12-14.1], or paragraph (2) of subsection (b) of Section 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-14.1], the sentence shall be a term of natural life imprisonment

(b) (Blank.)

(c) (Blank.)

(d) Subject to earlier termination under Section 3-3-8 [730 ILCS 5/3-3-8], the parole or mandatory supervised release term shall be as follows:

(1) for first degree murder or a Class X felony except for the offenses of predatory criminal sexual assault of a child, aggravated criminal sexual assault, and criminal sexual assault if committed on or after the effective date of this amendatory Act of the 94th General Assembly [P.A. 94-715], and except for the offense of aggravated child pornography under Section 11-20.3 of the Criminal Code of 1961 [720 ILCS 5/11-20.3], if committed on or after January 1, 2009, 3 years;

(2) for a Class 1 felony or a Class 2 felony except for the offense of criminal sexual assault if committed on or after the effective date of this amendatory Act of the 94th General Assembly [P.A. 94-715], and except for the offenses of manufacture and dissemination of child pornography under clauses (a)(1) and (a)(2) of Section 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-20.1], if committed on or after January 1, 2009, 2 years;

(3) for a Class 3 felony or a Class 4 felony, 1 year;

(4) for defendants who commit the offense of predatory criminal sexual assault of a child, aggravated criminal sexual assault of a child, aggravated criminal sexual assault, or criminal sexual assault, on or after the effective date of this amendatory Act of the 94th General Assembly [P.A. 94-715], or who commit the offense of aggravated child pornography, manufacture of child pornography, or dissemination of child pornography after January 1, 2009, the term of mandatory supervised release shall range from a minimum of 3 years to a maximum of the natural life of the defendant;

(5) if the victim is under 18 years of age, for a second or subsequent offense of aggravated criminal sexual abuse or felony criminal sexual abuse, 4 years, at least the first 2 years of which the defendant shall serve in an electronic home detention program under Article 8A of Chapter V of this Code [730 ILCS 5/5-8A-1 et seq.].

(6) for a felony domestic battery, aggravated domestic battery, stalking, aggravated stalking, and a felony violation of an order of protection, 4 years.

(e) (Blank.)

(f) (Blank.)

730 ILL. COMP. Stat. 5/5-9-1.5 (2010). Domestic violence fine.

Sec. 5-9-1.5. Domestic violence fine. In addition to any other penalty imposed, a fine of $ 200 shall be imposed upon any person who pleads guilty or no contest to or who is convicted of murder, voluntary manslaughter, involuntary manslaughter, burglary, residential burglary, criminal trespass to residence, criminal trespass to vehicle, criminal trespass to land, criminal damage to property, telephone harassment, kidnapping, aggravated kidnapping, unlawful restraint, forcible detention, child abduction, indecent solicitation of a child, sexual relations between siblings, exploitation of a child, child pornography, assault, aggravated assault, battery, aggravated battery, heinous battery, aggravated battery of a child, domestic battery, reckless conduct, intimidation, criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, violation of an order of protection, disorderly conduct, endangering the life or health of a child, child abandonment, contributing to dependency or neglect of child, or cruelty to children and others; provided that the offender and victim are family or household members as defined in Section 103 of the Illinois Domestic Violence Act of 1986 [750 ILCS 60/103]. Upon request of the victim or the victim's representative, the court shall determine whether the fine will impose an undue burden on the victim of the offense. For purposes of this paragraph, the defendant may not be considered the victim's representative. If the court finds that the fine would impose an undue burden on the victim, the court may reduce or waive the fine. The court shall order that the defendant may not use funds belonging solely to the victim of the offense for payment of the fine.

The circuit clerk shall remit each fine within one month of its receipt to the State Treasurer for deposit as follows: (i) for sexual assault, as defined in Section 5-9-1.7 [730 ILCS 5/5-9-1.7], when the offender and victim are family members, one-half to the Domestic Violence Shelter and Service Fund, and one-half to the Sexual Assault Services Fund; (ii) for the remaining offenses to the Domestic Violence Shelter and Service Fund.

730 ILL. COMP. STAT. 5/5-9-1.7 (2010). Sexual assault fines.

Sec. 5-9-1.7. Sexual assault fines. (a) Definitions. The terms used in this Section shall have the following meanings ascribed to them:

(1) "Sexual assault" means the commission or attempted commission of the following: sexual exploitation of a child, criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, indecent solicitation of a child, public indecency, sexual relations within families, soliciting for a juvenile prostitute, keeping a place of juvenile prostitution, patronizing a juvenile prostitute, juvenile pimping, exploitation of a child, obscenity, child pornography, harmful material, or ritualized abuse of a child, as those offenses are defined in the Criminal Code of 1961 [720 ILCS 5/1-1 et seq.].

(2) "Family member" shall have the meaning ascribed to it in Section 12-12 of the Criminal Code of 1961 [720 ILCS 5/12-12].

(3) "Sexual assault organization" means any not-for-profit organization providing comprehensive, community-based services to victims of sexual assault. "Community-based services" include, but are not limited to, direct crisis intervention through a 24-hour response, medical and legal advocacy, counseling, information and referral services, training, and community education.

(b) Sexual assault fine; collection by clerk.

(1) In addition to any other penalty imposed, a fine of $ 200 shall be imposed upon any person who pleads guilty or who is convicted of, or who receives a disposition of court supervision for, a sexual assault or attempt of a sexual assault. Upon request of the victim or the victim's representative, the court shall determine whether the fine will impose an undue burden on the victim of the offense. For purposes of this paragraph, the defendant may not be considered the victim's representative. If the court finds that the fine would impose an undue burden on the victim, the court may reduce or waive the fine. The court shall order that the defendant may not use funds belonging solely to the victim of the offense for payment of the fine.

(2) Sexual assault fines shall be assessed by the court imposing the sentence and shall be collected by the circuit clerk. The circuit clerk shall retain 10% of the penalty to cover the costs involved in administering and enforcing this Section. The circuit clerk shall remit the remainder of each fine within one month of its receipt to the State Treasurer for deposit as follows:

(i) for family member offenders, one-half to the Sexual Assault Services Fund, and one-half to the Domestic Violence Shelter and Service Fund; and

(ii) for other than family member offenders, the full amount to the Sexual Assault Services Fund.

(c) Sexual Assault Services Fund; administration. There is created a Sexual Assault Services Fund. Moneys deposited into the Fund under this Section shall be appropriated to the Department of Public Health. Upon appropriation of moneys from the Sexual Assault Services Fund, the Department of Public Health shall make grants of these moneys from the Fund to sexual assault organizations with whom the Department has contracts for the purpose of providing community-based services to victims of sexual assault. Grants made under this Section are in addition to, and are not substitutes for, other grants authorized and made by the Department.

730 ILL. COMP. STAT. 5/5-9-1.8 (2010). Child pornography fines.

Sec. 5-9-1.8. Child pornography fines. Beginning July 1, 2006, 100% of the fines in excess of $ 10,000 collected for violations of Section 11-20.1 of the Criminal Code of 1961 [735 ILCS 5/11-20.1] shall be deposited into the Child Abuse Prevention Fund that is created in the State Treasury. Moneys in the Fund resulting from the fines shall be for the use of the Department of Children and Family Services for grants to private entities giving treatment and counseling to victims of child sexual abuse.

Notwithstanding any other provision of law, in addition to any other transfers that may be provided by law, on July 1, 2006, or as soon thereafter as practical, the State Comptroller shall direct and the State Treasurer shall transfer the remaining balance from the Child Sexual Abuse Fund into the Child Abuse Prevention Fund. Upon completion of the transfer, the Child Sexual Abuse Fund is dissolved, and any future deposits due to that Fund and any outstanding obligations or liabilities of the Fund pass to the Child Abuse Prevention Fund.

730 ILL. COMP. STAT. 5/5-9-1.14 (2010). Additional child pornography fines.

Sec. 5-9-1.14. Additional child pornography fines. In addition to any other penalty imposed, a fine of $ 500 shall be imposed upon a person convicted of child pornography under Section 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-20.1]. Such additional fine shall be assessed by the court imposing sentence and shall be collected by the circuit clerk. Of this fee, $ 5 shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court to be used to offset the costs incurred by the Circuit Court Clerk in performing the additional duties required to collect and disburse funds to entities of State and local government as provided by law. Each such additional fine shall be remitted by the Circuit Court Clerk within one month after receipt to the unit of local government whose law enforcement officers investigated the case that gave rise to the conviction of the defendant for child pornography.

730 ILL. COMP. STAT. 5/5-9-1.15 (2010). Sex offender fines.

Sec. 5-9-1.15. Sex offender fines. (a) There shall be added to every penalty imposed in sentencing for a sex offense as defined in Section 2 of the Sex Offender Registration Act [720 ILCS 5/11-

9.3] an additional fine in the amount of $ 500 to be imposed upon a plea of guilty, stipulation of facts or finding of guilty resulting in a judgment of conviction or order of supervision.

(b) Such additional amount shall be assessed by the court imposing sentence and shall be collected by the circuit clerk in addition to the fine, if any, and costs in the case. Each such additional penalty shall be remitted by the circuit clerk within one month after receipt to the State Treasurer for deposit into the Sex Offender Investigation Fund. The circuit clerk shall retain 10% of such penalty for deposit into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court to cover the costs incurred in administering and enforcing this Section. Such additional penalty shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing.

(c) Not later than March 1 of each year the clerk of the circuit court shall submit to the State Comptroller a report of the amount of funds remitted by him or her to the State Treasurer under this Section during the preceding calendar year. Except as otherwise provided by Supreme Court Rules, if a court in sentencing an offender levies a gross amount for fine, costs, fees and penalties, the amount of the additional penalty provided for herein shall be collected from the amount remaining after deducting from the gross amount levied all fees of the circuit clerk, the State's Attorney, and the sheriff. After deducting from the gross amount levied the fees and additional penalty provided for herein, less any other additional penalties provided by law, the clerk shall remit $ 100 of each $ 500 additional fine imposed under this Section to the State's Attorney of the county which prosecuted the case or the local law enforcement agency that investigated the case leading to the defendant's judgment of conviction or order of supervision and after such remission the net balance remaining to the entity authorized by law to receive the fine imposed in the case. For purposes of this Section "fees of the circuit clerk" shall include, if applicable, the fee provided for under Section 27.3a of the Clerks of Courts Act [705 ILCS 105/0.01et seq.] and the fee, if applicable, payable to the county in which the violation occurred under Section 5-1101 of the Counties Code [55 ILCS 5/5-1101].

(d) Subject to appropriation, moneys in the Sex Offender Investigation Fund shall be used by the Department of State Police to investigate alleged sex offenses and to make grants to local law enforcement agencies to investigate alleged sex offenses as such grants are awarded by the Director of State Police under rules established by the Director of State Police.

730 ILL. COMP. STAT. 150/2 (2010). Definitions.

Sec. 2. Definitions. (A) As used in this Article, "sex offender" means any person who is:

(1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law, with a sex offense set forth in subsection (B) of this Section or the attempt to commit an included sex offense, and:

(a) is convicted of such offense or an attempt to commit such offense; or

(b) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(c) is found not guilty by reason of insanity pursuant to Section 104-25(c) of the Code of Criminal Procedure of 1963 [725 ILCS 5/104-25] of such offense or an attempt to commit such offense; or

(d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to Section 104-25(a) of the Code of Criminal Procedure of 1963 [725 ILCS 5/104-25] for the alleged commission or attempted commission of such offense; or

(e) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law substantially similar to Section 104-25(c) of the Code of Criminal Procedure of 1963 [725 ILCS 5/104-25] of such offense or of the attempted commission of such offense; or

(f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law substantially similar to Section 104-25(a) of the Code of Criminal Procedure of 1963 [725 ILCS 5/104-25] for the alleged violation or attempted commission of such offense; or

(2) certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act [725 ILCS 205/0.01 et seq.], or any substantially similar federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law; or

(3) subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act [725 ILCS 205/2]; or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act [725 ILCS 207/1 et seq.] or any substantially similar federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law; or

(5) adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 [705 ILCS 405/5-1 et seq.] of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Article.

For purposes of this Section, "convicted" shall have the same meaning as "adjudicated".

(B) As used in this Article, "sex offense" means:

(1) A violation of any of the following Sections of the Criminal Code of 1961 [720 ILCS 5/1-1 et seq.]:

11-20.1 [720 ILCS 5/11-20.1] (child pornography),

11-20.3 [720 ILCS 5/11-20.3] (aggravated child pornography),

11-6 [720 ILCS 5/11-6] (indecent solicitation of a child),

11-9.1 [720 ILCS 5/11-9.1] (sexual exploitation of a child),

11-9.2 [720 ILCS 5/11-9.2] (custodial sexual misconduct),

11-9.5 [720 ILCS 5/11-9.5] (sexual misconduct with a person with a disability),

11-15.1 [720 ILCS 5/11-15.1] (soliciting for a juvenile prostitute),

11-18.1 [720 ILCS 5/11-18.1] (patronizing a juvenile prostitute),

11-17.1 [720 ILCS 5/11-17.1] (keeping a place of juvenile prostitution),

11-19.1 [720 ILCS 5/11-19.1] (juvenile pimping),

11-19.2 [720 ILCS 5/11-19.2] (exploitation of a child),

11-25 [720 ILCS 5/11-25] (grooming),

11-26 [720 ILCS 5/11-26] (traveling to meet a minor),

12-13 [720 ILCS 5/12-13] (criminal sexual assault),

12-14 [720 ILCS 5/12-14] (aggravated criminal sexual assault),

12-14.1 [720 ILCS 5/12-14.1] (predatory criminal sexual assault of a child),

12-15 [720 ILCS 5/12-15] (criminal sexual abuse),

12-16 [720 ILCS 5/12-16] (aggravated criminal sexual abuse),

12-33 [720 ILCS 5/12-33] (ritualized abuse of a child).

An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961 [720 ILCS 5/1-1 et seq.], when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act [20 ILCS 4026/10], and the offense was committed on or after January 1, 1996:

10-1 [720 ILCS 5/10-1] (kidnapping),

10-2 [720 ILCS 5/10-2] (aggravated kidnapping),

10-3 [720 ILCS 5/10-3] (unlawful restraint),

10-3.1 [720 ILCS 5/10-3.1] (aggravated unlawful restraint).

(1.6) First degree murder under Section 9-1 of the Criminal Code of 1961 [720 ILCS 5/9-1],

when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act [20 ILCS 4026/10].

(1.7) (Blank).

(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961 [720 ILCS 5/11-11], and the offense was committed on or after June 1, 1997.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 [720 ILCS 5/10-5] committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act [20 ILCS 4026/10].

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 [720 ILCS 5/1-1 et seq.] when the offense was committed on or after July 1, 1999:

10-4 [720 ILCS 5/10-4] (forcible detention, if the victim is under 18 years of age), provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act [20 ILCS 4026/10],

11-6.5 [720 ILCS 5/11-6.5] (indecent solicitation of an adult),

11-15 [720 ILCS 5/11-15] (soliciting for a prostitute, if the victim is under 18 years of age),

11-16 [720 ILCS 5/11-16] (pandering, if the victim is under 18 years of age),

11-18 [720 ILCS 5/11-18] (patronizing a prostitute, if the victim is under 18 years of age),

11-19 [720 ILCS 5/11-19] (pimping, if the victim is under 18 years of age).

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 [720 ILCS 5/1-1 et seq.] when the offense was committed on or after August 22, 2002:

11-9 [720 ILCS 5/11-9] (public indecency for a third or subsequent conviction).

(1.12) A violation or attempted violation of Section 5.1 of the Wrongs to Children Act [720 ILCS 150/5.1] (permitting sexual abuse) when the offense was committed on or after August 22, 2002.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (B), (C), and (E) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person or a sexually violent person under any federal law, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], or the law of another state or foreign country that is substantially equivalent to the Sexually

Dangerous Persons Act or the Sexually Violent Persons Commitment Act [725 ILCS 205/0.01 et seq. or 725 ILCS 207/1 et seq.] shall constitute an adjudication for the purposes of this Article.

(C-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961 [720 ILCS 5/9-1], against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-5) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-5) applies to a person who committed the offense before June 1, 1996 only if the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004 (the effective date of Public Act 93-977 [P.A. 93-977]).

(D) As used in this Article, "law enforcement agency having jurisdiction" means the Chief of Police in each of the municipalities in which the sex offender expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. "Law enforcement agency having jurisdiction" includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(D-1) As used in this Article, "supervising officer" means the assigned Illinois Department of Corrections parole agent or county probation officer.

(E) As used in this Article, "sexual predator" means any person who, after July 1, 1999, is:

(1) Convicted for an offense of federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (E) of this Section shall constitute a conviction for the purpose of this Article. Convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961 [720 ILCS 5/1-1 et seq.], if the conviction occurred after July 1, 1999:

11-17.1 [720 ILCS 5/11-17.1] (keeping a place of juvenile prostitution),

11-19.1 [720 ILCS 5/11-19.1] (juvenile pimping),

11-19.2 [720 ILCS 5/11-19.2] (exploitation of a child),

11-20.1 [720 ILCS 5/11-20.1] (child pornography),

11-20.3 [720 ILCS 5/11-20.3] (aggravated child pornography),

12-13 [720 ILCS 5/12-13] (criminal sexual assault),

12-14 [720 ILCS 5/12-14] (aggravated criminal sexual assault),

12-14.1 [720 ILCS 5/12-14.1] (predatory criminal sexual assault of a child),

12-16 [720 ILCS 5/12-16] (aggravated criminal sexual abuse),

12-33 [720 ILCS 5/12-33] (ritualized abuse of a child);

(2) (blank);

(3) certified as a sexually dangerous person pursuant to the Sexually Dangerous Persons Act [725 ILCS 205/0.01 et seq.] or any substantially similar federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law;

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act [725 ILCS 207/1 et seq.] or any substantially similar federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law; or

(5) convicted of a second or subsequent offense which requires registration pursuant to this Act. The conviction for the second or subsequent offense must have occurred after July 1, 1999. For purposes of this paragraph (5), "convicted" shall include a conviction under any substantially similar Illinois, federal, Uniform Code of Military Justice [10 U.S.C. § 801 et seq.], sister state, or foreign country law; or

(6) convicted of a second or subsequent offense of luring a minor under Section 10-5.1 of the Criminal Code of 1961 [720 ILCS 5/10-5.1].

(F) As used in this Article, "out-of-state student" means any sex offender, as defined in this Section, or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(G) As used in this Article, "out-of-state employee" means any sex offender, as defined in this Section, or sexual predator who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(H) As used in this Article, "school" means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(I) As used in this Article, "fixed residence" means any and all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.

(J) As used in this Article, "Internet protocol address" means the string of numbers by which a location on the Internet is identified by routers or other computers connected to the Internet.

730 ILL. COMP. STAT. 150/3 (2010). Duty to register.

Sec. 3. Duty to register. (a) A sex offender, as defined in Section 2 of this Act [730 ILCS 150/2], or sexual predator shall, within the time period prescribed in subsections (b) and (c), register in person and provide accurate information as required by the Department of State Police. Such information shall include a current photograph, current address, current place of employment, the employer's telephone number, school attended, all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or

plans to use, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information, extensions of the time period for registering as provided in this Article and, if an extension was granted, the reason why the extension was granted and the date the sex offender was notified of the extension. The information shall also include the county of conviction, license plate numbers for every vehicle registered in the name of the sex offender, the age of the sex offender at the time of the commission of the offense, the age of the victim at the time of the commission of the offense, and any distinguishing marks located on the body of the sex offender. A sex offender convicted under Section 11-6, 11-20.1, 11-20.3, or 11-21 of the Criminal Code of 1961 [720 ILCS 5/11-6, 720 ILCS 5/11-20.1, 720 ILCS 5/11-20.3, or 720 ILCS 5/11-21] shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The sex offender or sexual predator shall register:

(1) with the chief of police in the municipality in which he or she resides or is temporarily domiciled for a period of time of 5 or more days, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she resides or is temporarily domiciled for a period of time of 5 or more days in an unincorporated area or, if incorporated, no police chief exists.

If the sex offender or sexual predator is employed at or attends an institution of higher education, he or she shall register:

(i) with the chief of police in the municipality in which he or she is employed at or attends an institution of higher education, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(ii) with the sheriff in the county in which he or she is employed or attends an institution of higher education located in an unincorporated area, or if incorporated, no police chief exists.

For purposes of this Article, the place of residence or temporary domicile is defined as any and all places where the sex offender resides for an aggregate period of time of 5 or more days during any calendar year. Any person required to register under this Article who lacks a fixed address or temporary domicile must notify, in person, the agency of jurisdiction of his or her last known address within 3 days after ceasing to have a fixed residence.

Any person who lacks a fixed residence must report weekly, in person, with the sheriff's office of the county in which he or she is located in an unincorporated area, or with the chief of police in the municipality in which he or she is located. The agency of jurisdiction will document each weekly registration to include all the locations where the person has stayed during the past 7 days.

The sex offender or sexual predator shall provide accurate information as required by the Department of State Police. That information shall include the sex offender's or sexual predator's current place of employment.

(a-5) An out-of-state student or out-of-state employee shall, within 3 days after beginning school or employment in this State, register in person and provide accurate information as required by the Department of State Police. Such information will include current place of employment,

school attended, and address in state of residence. A sex offender convicted under Section 11-6, 11-20.1, 11-20.3, or 11-21 of the Criminal Code of 1961 [720 5/11-6, 720 ILCS 5/11-20, 720 ILCS 5/11-20.3, or 720 ILCS 5/11-21] shall provide all Internet protocol (IP) addresses in his or her residence, registered in his or her name, accessible at his or her place of employment, or otherwise under his or her control or custody. The out-of-state student or out-of-state employee shall register:

(1) with the chief of police in the municipality in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year, unless the municipality is the City of Chicago, in which case he or she shall register at the Chicago Police Department Headquarters; or

(2) with the sheriff in the county in which he or she attends school or is employed for a period of time of 5 or more days or for an aggregate period of time of more than 30 days during any calendar year in an unincorporated area or, if incorporated, no police chief exists.

The out-of-state student or out-of-state employee shall provide accurate information as required by the Department of State Police. That information shall include the out-of-state student's current place of school attendance or the out-of-state employee's current place of employment.

(a-10) Any law enforcement agency registering sex offenders or sexual predators in accordance with subsections (a) or (a-5) of this Section shall forward to the Attorney General a copy of sex offender registration forms from persons convicted under Section 11-6, 11-20.1, 11-20.3, or 11-21 of the Criminal Code of 1961 [720 5/11-6, 720 ILCS 5/11-20, 720 ILCS 5/11-20.3, or 720 ILCS 5/11-21], including periodic and annual registrations under Section 6 of this Act [730 ILCS 150/6].

(b) Any sex offender, as defined in Section 2 of this Act [730 ILCS 150/2], or sexual predator, regardless of any initial, prior, or other registration, shall, within 3 days of beginning school, or establishing a residence, place of employment, or temporary domicile in any county, register in person as set forth in subsection (a) or (a-5).

(c) The registration for any person required to register under this Article shall be as follows:

(1) Any person registered under the Habitual Child Sex Offender Registration Act or the Child Sex Offender Registration Act prior to January 1, 1996, shall be deemed initially registered as of January 1, 1996; however, this shall not be construed to extend the duration of registration set forth in Section 7 [730 ILCS 150/7].

(2) Except as provided in subsection (c)(4), any person convicted or adjudicated prior to January 1, 1996, whose liability for registration under Section 7 [730 ILCS 150/7] has not expired, shall register in person prior to January 31, 1996.

(2.5) Except as provided in subsection (c)(4), any person who has not been notified of his or her responsibility to register shall be notified by a criminal justice entity of his or her responsibility to register. Upon notification the person must then register within 3 days of notification of his or her requirement to register. If notification is not made within the offender's 10 year registration requirement, and the Department of State Police determines no evidence exists or indicates the offender attempted to avoid registration, the offender will no longer be required to register under this Act.

(3) Except as provided in subsection (c)(4), any person convicted on or after January 1, 1996, shall register in person within 3 days after the entry of the sentencing order based upon his or her conviction.

(4) Any person unable to comply with the registration requirements of this Article because he or she is confined, institutionalized, or imprisoned in Illinois on or after January 1, 1996, shall register in person within 3 days of discharge, parole or release.

(5) The person shall provide positive identification and documentation that substantiates proof of residence at the registering address.

(6) The person shall pay a $ 20 initial registration fee and a $ 10 annual renewal fee. The fees shall be used by the registering agency for official purposes. The agency shall establish procedures to document receipt and use of the funds. The law enforcement agency having jurisdiction may waive the registration fee if it determines that the person is indigent and unable to pay the registration fee. Ten dollars for the initial registration fee and $ 5 of the annual renewal fee shall be used by the registering agency for official purposes. Ten dollars of the initial registration fee and $ 5 of the annual fee shall be deposited into the Sex Offender Management Board Fund under Section 19 of the Sex Offender Management Board Act [20 ILCS 4026/19]. Money deposited into the Sex Offender Management Board Fund shall be administered by the Sex Offender Management Board and shall be used to fund practices endorsed or required by the Sex Offender Management Board Act [20 ILCS 4026/1 et seq.] including but not limited to sex offenders evaluation, treatment, or monitoring programs that are or may be developed, as well as for administrative costs, including staff, incurred by the Board.

(d) Within 3 days after obtaining or changing employment and, if employed on January 1, 2000, within 5 days after that date, a person required to register under this Section must report, in person to the law enforcement agency having jurisdiction, the business name and address where he or she is employed. If the person has multiple businesses or work locations, every business and work location must be reported to the law enforcement agency having jurisdiction.

INDIANA

IND. CODE ANN. § 11-8-8-4.5 (2010). "Sex offender" defined.

(a) Except as provided in section 22 [IC 11-8-8-22] of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), unless:

(A) the person is convicted of sexual misconduct with a minor as a Class C felony;

(B) the person is not more than:

(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or

(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (IC 35-42-4-4(c)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.

(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).

(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.

(18) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (17).

(19) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (18).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

IND. CODE ANN. § 11-8-8-5 (2010). "Sex or violent offender" defined.

(a) Except as provided in section 22 [IC 11-8-8-22] of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), unless:

(A) the person is convicted of sexual misconduct with a minor as a Class C felony;

(B) the person is not more than:

(i) four (4) years older than the victim if the offense was committed after June 30, 2007; or

(ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and

(C) the sentencing court finds that the person should not be required to register as a sex offender.

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.

(13) Possession of child pornography (IC 35-42-4-4(c)).

(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.

(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.

(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).

(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.

(18) Murder (IC 35-42-1-1).

(19) Voluntary manslaughter (IC 35-42-1-3).

(20) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (19).

(21) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (20).

(b) The term includes:

(1) a person who is required to register as a sex or violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

IND. CODE ANN. § 11-8-8-7 (2010). Persons who must register -- Place of registration -- Sexually violent predators -- Duties of local law enforcement authorities.

(a) Subject to section 19 [IC 11-8-8-19] of this chapter, the following persons must register under this chapter:

(1) A sex or violent offender who resides in Indiana. A sex or violent offender resides in Indiana if either of the following applies:

(A) The sex or violent offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex or violent offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex or violent offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:

(A) exceeding seven (7) consecutive days; or

(B) for a total period exceeding fourteen (14) days;

during any calendar year in Indiana regardless of whether the sex or violent offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex or violent offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or postsecondary educational institution.

(b) Except as provided in subsection (e), a sex or violent offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex or violent offender resides. If a sex or violent offender resides in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county in which the sex or violent offender resides. If the sex or violent offender is also required to register under subsection (a)(2) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex or violent offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex or violent offender is or intends to be employed or carry on a vocation. If a sex or violent offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex or violent offender described in subsection (a)(3) shall register with the local law

enforcement authority in the county where the sex or violent offender is enrolled or intends to be enrolled as a student. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(2), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex or violent offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex or violent offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex or violent offender committed to the department shall register with the department before the sex or violent offender is released from incarceration. The department shall forward the sex or violent offender's registration information to the local law enforcement authority of every county in which the sex or violent offender is required to register.

(g) This subsection does not apply to a sex or violent offender who is a sexually violent predator. A sex or violent offender not committed to the department shall register not more than seven (7) days after the sex or violent offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sex or violent offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex or violent offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex or violent offender who is a sexually violent predator. A sex or violent offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex or violent offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

(2) is released from a secure private facility (as defined in IC 31-9-2-115);

(3) is released from a juvenile detention facility;

(4) is transferred to a community transition program;

(5) is placed on parole;

(6) is placed on probation;

(7) is placed on home detention; or

(8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex or violent offender registers under this section shall make and publish a photograph of the sex or violent offender on the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex or violent offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex or violent offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5.

(j) When a sex or violent offender registers, the local law enforcement authority shall:

(1) immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5;

(2) notify every law enforcement agency having jurisdiction in the county where the sex or violent offender resides; and

(3) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS).

When a sex or violent offender from a jurisdiction outside Indiana registers a change of address, electronic mail address, instant messaging username, electronic chat room username, social networking web site username, employment, vocation, or enrollment in Indiana, the local law enforcement authority shall provide the department with the information provided by the sex or violent offender during registration.

IND. CODE ANN. § 35-38-1-7.5 (2010). Determination that person is sexually violent predator.

(a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly commit a sex offense (as defined in IC 11-8-8-5.2). The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3 as a Class A or Class B felony;

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(H) IC 35-42-4-5(b)(2);

(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

(J) an attempt or conspiracy to commit a crime listed in clauses (A) through (I); or

(K) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (J);

(2) commits a sex offense (as defined in IC 11-8-8-5.2) while having a previous unrelated conviction for a sex offense for which the person is required to register as a sex or violent offender under IC 11-8-8;

(3) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if, after considering expert testimony, a court finds by clear and convincing evidence that the person is likely to commit an additional sex offense; or

(4) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if the person was required to register as a sex or violent offender under IC 11-8-8-5(b)(2);

is a sexually violent predator. Except as provided in subsection (g) or (h), a person is a sexually violent predator by operation of law if an offense committed by the person satisfies the conditions set forth in subdivision (1) or (2) and the person was released from incarceration, secure detention, or probation for the offense after June 30, 1994.

(c) This section applies whenever a court sentences a person or a juvenile court issues a dispositional decree for a sex offense (as defined in IC 11-8-8-5.2) for which the person is required to register with the local law enforcement authority under IC 11-8-8.

(d) At the sentencing hearing, the court shall indicate on the record whether the person has been convicted of an offense that makes the person a sexually violent predator under subsection (b).

(e) If a person is not a sexually violent predator under subsection (b), the prosecuting attorney may request the court to conduct a hearing to determine whether the person (including a child adjudicated to be a delinquent child) is a sexually violent predator under subsection (a). If the court grants the motion, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person is a sexually violent predator under subsection (a). A hearing conducted under this subsection may be combined with the person's sentencing hearing.

(f) If a person is a sexually violent predator:

(1) the person is required to register with the local law enforcement authority as provided in IC 11-8-8; and

(2) the court shall send notice to the department of correction.

(g) This subsection does not apply to a person who has two (2) or more unrelated convictions for an offense described in IC 11-8-8-4.5 for which the person is required to register under IC 11-8-8. A person who is a sexually violent predator may petition the court to consider whether the person should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court or juvenile court makes its determination under subsection (e); or

(2) the person is released from incarceration or secure detention.

A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered a sexually violent predator. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered a sexually violent predator under subsection (a). If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction that the person is no longer considered a sexually violent predator. Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

(h) A person is not a sexually violent predator by operation of law under subsection (b)(1) if all of the following conditions are met:

(1) The victim was not less than twelve (12) years of age at the time the offense was committed.

(2) The person is not more than four (4) years older than the victim.

(3) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.

(4) The offense committed by the person was not any of the following:

(A) Rape (IC 35-42-4-1).

(B) Criminal deviate conduct (IC 35-42-4-2).

(C) An offense committed by using or threatening the use of deadly force or while armed with a deadly weapon.

(D) An offense that results in serious bodily injury.

(E) An offense that is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(5) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.

(6) The person did not have a position of authority or substantial influence over the victim.

(7) The court finds that the person should not be considered a sexually violent predator.

IND. CODE ANN. § 35-50-2-4 (2010). Class A felony.

A person who commits a Class A felony shall be imprisoned for a fixed term of between twenty (20) and fifty (50) years, with the advisory sentence being thirty (30) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

IND. CODE ANN. § 35-50-2-5 (2010). Class B felony.

A person who commits a Class B felony shall be imprisoned for a fixed term of between six (6) and twenty (20) years, with the advisory sentence being ten (10) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

IND. CODE ANN. § 35-50-2-6 (2010). Class C felony.

(a) A person who commits a Class C felony shall be imprisoned for a fixed term of between two (2) and eight (8) years, with the advisory sentence being four (4) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(b) Notwithstanding subsection (a), if a person has committed nonsupport of a child as a Class C felony under IC 35-46-1-5, upon motion of the prosecuting attorney, the court may enter judgment of conviction of a Class D felony under IC 35-46-1-5 and sentence the person accordingly. The court shall enter in the record detailed reasons for the court's action when the court enters a judgment of conviction of a Class D felony under this subsection.

IND. CODE ANN. § 35-50-2-7 (2010). Class D felony.

(a) A person who commits a Class D felony shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years. In addition, the person may be fined not more than ten thousand dollars ($10,000).

(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if:

(1) the court finds that:

(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and

(B) the prior felony was committed less than three (3) years before the second felony was committed;

(2) the offense is domestic battery as a Class D felony under IC 35-42-2-1.3; or

(3) the offense is possession of child pornography (IC 35-42-4-4(c)).

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

IND. CODE ANN. § 35-50-2-8 (2010). Habitual offenders.

(a) Except as otherwise provided in this section, the state may seek to have a person sentenced as a habitual offender for any felony by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two (2) prior unrelated felony convictions.

(b) The state may not seek to have a person sentenced as a habitual offender for a felony offense under this section if:

(1) the offense is a misdemeanor that is enhanced to a felony in the same proceeding as the habitual offender proceeding solely because the person had a prior unrelated conviction;

(2) the offense is an offense under IC 9-30-10-16 or IC 9-30-10-17; or

(3) all of the following apply:

(A) The offense is an offense under IC 16-42-19 or IC 35-48-4.

(B) The offense is not listed in section 2(b)(4) [IC 35-50-2-2(b)(4)] of this chapter.

(C) The total number of unrelated convictions that the person has for:

(i) dealing in or selling a legend drug under IC 16-42-19-27;

(ii) dealing in cocaine or a narcotic drug (IC 35-48-4-1);

(iii) dealing in a schedule I, II, III controlled substance (IC 35-48-4-2);

(iv) dealing in a schedule IV controlled substance (IC 35-48-4-3; and

(v) dealing in a schedule V controlled substance (IC 35-48-4-4);

does not exceed one (1).

(c) A person has accumulated two (2) prior unrelated felony convictions for purposes of this section only if:

(1) the second prior unrelated felony conviction was committed after sentencing for the first prior unrelated felony conviction; and

(2) the offense for which the state seeks to have the person sentenced as a habitual offender was committed after sentencing for the second prior unrelated felony conviction.

(d) A conviction does not count for purposes of this section as a prior unrelated felony conviction if:

(1) the conviction has been set aside;

(2) the conviction is one for which the person has been pardoned; or

(3) all of the following apply:

(A) The offense is an offense under IC 16-42-19 or IC 35-48-4.

(B) The offense is not listed in section 2(b)(4) of this chapter.

(C) The total number of unrelated convictions that the person has for:

(i) dealing in or selling a legend drug under IC 16-42-19-27;

(ii) dealing in cocaine or a narcotic drug (IC 35-48-4-1);

(iii) dealing in a schedule I, II, III controlled substance (IC 35-48-4-2);

(iv) dealing in a schedule IV controlled substance (IC 35-48-4-3; and

(v) dealing in a schedule V controlled substance (IC 35-48-4-4);

does not exceed one (1).

(e) The requirements in subsection (b) do not apply to a prior unrelated felony conviction that is used to support a sentence as a habitual offender. A prior unrelated felony conviction may be used under this section to support a sentence as a habitual offender even if the sentence for the prior unrelated offense was enhanced for any reason, including an enhancement because the person had been convicted of another offense. However, a prior unrelated felony conviction under IC 9-30-10-16, IC 9-30-10-17, IC 9-12-3-1 (repealed), or IC 9-12-3-2 (repealed) may not be used to support a sentence as a habitual offender.

(f) If the person was convicted of the felony in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing under IC 35-38-1-3.

(g) A person is a habitual offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated two (2) prior unrelated felony convictions.

(h) The court shall sentence a person found to be a habitual offender to an additional fixed term that is not less than the advisory sentence for the underlying offense nor more than three (3) times the advisory sentence for the underlying offense. However, the additional sentence may not exceed thirty (30) years.

IND. CODE ANN. § 35-50-2-8.5 (2010). Life imprisonment without parole – Prior felony convictions.

(a) The state may seek to have a person sentenced to life imprisonment without parole for any felony described in section 2(b)(4) [IC 35-50-2-2(b)(4)] of this chapter by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two (2) prior unrelated felony convictions described in section 2(b)(4) of this chapter.

(b) The state may seek to have a person sentenced to life imprisonment without parole for a Class A felony under IC 35-42-4 that is a sex offense against a child by alleging, on a page separate from the rest of the charging instrument, that the person has a prior unrelated Class A felony conviction under IC 35-42-4 that is a sex offense against a child.

(c) If the person was convicted of the felony in a jury trial, the jury shall reconvene to hear evidence on the life imprisonment without parole allegation. If the person was convicted of the felony by trial to the court without a jury or if the judgment was entered to guilty plea, the court alone shall hear evidence on the life imprisonment without parole allegation.

(d) A person is subject to life imprisonment without parole if the jury (in a case tried by a jury) or the court (in a case tried by the court or on a judgment entered on a guilty plea) finds that the state has proved beyond a reasonable doubt that the person:

(1) has accumulated two (2) prior unrelated convictions for offenses described in section 2(b)(4) of this chapter; or

(2) has a prior unrelated Class A felony conviction under IC 35-42-4 that is a sex offense against a child.

(e) The court may sentence a person found to be subject to life imprisonment without parole under this section to life imprisonment without parole.

IND. CODE ANN. § 35-50-2-11 (2010). Use of firearm.

(a) As used in this section, "firearm" has the meaning set forth in IC 35-47-1-5.

(b) As used in this section, "offense" means:

(1) a felony under IC 35-42 that resulted in death or serious bodily injury;

(2) kidnapping; or

(3) criminal confinement as a Class B felony.

(c) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense.

(d) If the person was convicted of the offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(e) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense, the court may sentence the person to an additional fixed term of imprisonment of five (5) years.

IND. CODE ANN. § 35-50-2-14 (2010). Repeat sexual offender.

(a) As used in this section, "sex offense" means a felony conviction:

(1) under IC 35-42-4-1 through IC 35-42-4-9 or under IC 35-46-1-3;

(2) for an attempt or conspiracy to commit an offense described in subdivision (1); or

(3) for an offense under the laws of another jurisdiction, including a military court, that is substantially similar to an offense described in subdivision (1).

(b) The state may seek to have a person sentenced as a repeat sexual offender for a sex offense described in subsection (a)(1) or (a)(2) by alleging, on a page separate from the rest of the

charging instrument, that the person has accumulated one (1) prior unrelated felony conviction for a sex offense described in subsection (a).

(c) After a person has been convicted and sentenced for a felony described in subsection (a)(1) or (a)(2) after having been sentenced for a prior unrelated sex offense described in subsection (a), the person has accumulated one (1) prior unrelated felony sex offense conviction. However, a conviction does not count for purposes of this subsection, if:

(1) it has been set aside; or

(2) it is a conviction for which the person has been pardoned.

(d) If the person was convicted of the sex offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(e) A person is a repeat sexual offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated one (1) prior unrelated felony sex offense conviction.

(f) The court may sentence a person found to be a repeat sexual offender to an additional fixed term that is the advisory sentence for the underlying offense. However, the additional sentence may not exceed ten (10) years.

IND. CODE ANN. § 35-50-3-1 (2010). Suspension – Probation.

(a) The court may suspend any part of a sentence for a misdemeanor.

(b) Except as provided in subsection (c), whenever the court suspends in whole or in part a sentence for a Class A, Class B, or Class C misdemeanor, it may place the person on probation under IC 35-38-2 for a fixed period of not more than one (1) year, notwithstanding the maximum term of imprisonment for the misdemeanor set forth in sections 2 through 4 [IC 35-50-3-2 through IC 35-50-3-4] of this chapter. However, the combined term of imprisonment and probation for a misdemeanor may not exceed one (1) year.

(c) Whenever the court suspends a sentence for a misdemeanor, if the court finds that the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense, the court may place the person on probation under IC 35-38-2 for a fixed period of not more than two (2) years. However, a court may not place a person on probation for a period of more than twelve (12) months in the absence of a report that substantiates the need for a period of probation that is longer than twelve (12) months for the purpose of completing a course of substance abuse treatment. A probation user's fee that exceeds fifty percent (50%) of the maximum probation user's fee allowed under IC 35-38-2-1 may not be required beyond the first twelve (12) months of probation.

IND. CODE ANN. § 35-50-3-2 (2010). Class A misdemeanor.

A person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year; in addition, he may be fined not more than five thousand dollars ($5,000).

IND. CODE ANN. § 35-50-3-3 (2010). Class B misdemeanor.

A person who commits a Class B misdemeanor shall be imprisoned for a fixed term of not more than one hundred eighty (180) days; in addition, he may be fined not more than one thousand dollars ($1,000).

IND. CODE ANN. § 35-50-3-4 (2010). Class C misdemeanor.

A person who commits a Class C misdemeanor shall be imprisoned for a fixed term of not more than sixty (60) days; in addition, he may be fined not more than five hundred dollars ($500).

IND. CODE ANN. § 35-50-5-2 (2010). Fine as alternative penalty for felony or misdemeanor.

In the alternative to the provisions concerning fines in this article, a person may be fined a sum equal to twice his pecuniary gain, or twice the pecuniary loss sustained by victims of the offense he committed.

IOWA

IOWA CODE § 692A.101 (2010). Definitions.

As used in this chapter and unless the context otherwise requires:

1. a. "Aggravated offense" means a conviction for any of the following offenses:

(1) Sexual abuse in the first degree in violation of section 709.2.

(2) Sexual abuse in the second degree in violation of section 709.3.

(3) Sexual abuse in the third degree in violation of section 709.4, subsection 1.

(4) Lascivious acts with a child in violation of section 709.8, subsection 1 or 2.

(5) Assault with intent to commit sexual abuse in violation of section 709.11.

(6) Burglary in the first degree in violation of section 713.3, subsection 1, paragraph "d".

(7) Kidnapping, if sexual abuse as defined in section 709.1 is committed during the commission of the offense.

(8) Murder in violation of section 707.2 or 707.3, if sexual abuse as defined in section 709.1 is committed during the offense.

(9) Criminal transmission of human immunodeficiency virus in violation of section 709C.1, subsection 1, paragraph "a".

b. Any conviction for an offense specified in the laws of another jurisdiction or any conviction for an offense prosecuted in federal, military, or foreign court, that is comparable to an offense listed in paragraph "a" shall be considered an aggravated offense for purposes of registering under this chapter.

2. "Aggravated offense against a minor" means a conviction for any of the following offenses, if such offense was committed against a minor, or otherwise involves a minor:

a. Sexual abuse in the first degree in violation of section 709.2.

b. Sexual abuse in the second degree in violation of section 709.3.

c. Sexual abuse in the third degree in violation of section 709.4, except for a violation of section 709.4, subsection 2, paragraph "c", subparagraph (4).

3. "Appearance" means to appear in person at a sheriff's office.

4. "Business day" means every day except Saturday, Sunday, or any paid holiday for county employees in the applicable county.

5. "Change" means to add, begin, or terminate.

6. "Child care facility" means the same as defined in section 237A.1.

7. "Convicted" means found guilty of, pleads guilty to, or is sentenced or adjudicated delinquent for an act which is an indictable offense in this state or in another jurisdiction including in a federal, military, tribal, or foreign court, including but not limited to a juvenile who has been adjudicated delinquent, but whose juvenile court records have been sealed under section 232.150, and a person who has received a deferred sentence or a deferred judgment or has been acquitted by reason of insanity. "Conviction" includes the conviction of a juvenile prosecuted as an adult. "Convicted" also includes a conviction for an attempt or conspiracy to commit an offense. "Convicted" does not mean a plea, sentence, adjudication, deferred sentence, or deferred judgment which has been reversed or otherwise set aside.

8. "Criminal or juvenile justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

9. "Department" means the department of public safety.

10. "Employee" means an offender who is self-employed, employed by another, and includes a person working under contract, or acting or serving as a volunteer, regardless of whether the self-employment, employment by another, or volunteerism is performed for compensation.

11. "Employment" means acting as an employee.

12. "Foreign court" means a court of a foreign nation that is recognized by the United States department of state that enforces the right to a fair trial during the period in which a conviction occurred.

13. "Habitually lives" means living in a place with some regularity, and with reference to where the sex offender actually lives, which could be some place other than a mailing address or primary address but would entail a place where the sex offender lives on an intermittent basis.

14. "Incarcerated" means to be imprisoned by placing a person in a jail, prison, penitentiary, juvenile facility, or other correctional institution or facility or a place or condition of confinement or forcible restraint regardless of the nature of the institution in which the person serves a sentence for a conviction.

15. "Internet identifier" means an electronic mail address, instant message address or identifier, or any other designation or moniker used for self-identification during internet communication or posting, including all designations used for the purpose of routing or self-identification in internet communications or postings.

16. "Jurisdiction" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, or a federally recognized Indian tribe.

17. "Loiter" means remaining in a place or circulating around a place under circumstances that would warrant a reasonable person to believe that the purpose or effect of the behavior is to enable a sex offender to become familiar with a location where a potential victim may be found, or to satisfy an unlawful sexual desire, or to locate, lure, or harass a potential victim.

18. "Military offense" means a sex offense specified by the secretary of defense under 10 U.S.C. § 951.

19. "Minor" means a person under eighteen years of age.

20. "Principal residence" for a sex offender means:

a. The residence of the offender, if the offender has only one residence in this state.

b. The residence at which the offender resides, sleeps, or habitually lives for more days per year than another residence in this state, if the offender has more than one residence in this state.

c. The place of employment or attendance as a student, or both, if the sex offender does not have a residence in this state.

21. "Professional licensing information" means the name or other description, number, if applicable, and issuing authority or agency of any license, certification, or registration required by law to engage in a profession or occupation held by a sex offender who is required at the time of the initial requirement to register under this chapter, or any such license, certification, or registration that was issued to an offender within the five-year period prior to conviction for a sex offense that requires registration under this chapter, or any such license, certification, or registration that is issued to an offender at any time during the duration of the registration

requirement.

22. "Public library" means any library that receives financial support from a city or county pursuant to section 256.69.

23. a. "Relevant information" means the following information with respect to a sex offender:

(1) Criminal history, including warrants, articles, status of parole, probation, or supervised release, date of arrest, date of conviction, and registration status.

(2) Date of birth.

(3) Passport and immigration documents.

(4) Government issued driver's license or identification card.

(5) DNA sample.

(6) Educational institutions attended as a student, including the name and address of such institutions.

(7) Employment information including name and address of employer.

(8) Fingerprints.

(9) Internet identifiers.

(10) Names, nicknames, aliases, or ethnic or tribal names, and if applicable, the real names of an offender protected under 18 U.S.C. § 3521.

(11) Palm prints.

(12) Photographs.

(13) Physical description, including scars, marks, or tattoos.

(14) Professional licensing information.

(15) Residence.

(16) Social security number.

(17) Telephone numbers, including any landline or wireless numbers.

(18) Temporary lodging information, including dates when residing in temporary lodging.

(19) Statutory citation and text of offense committed that requires registration under this chapter.

(20) Vehicle information for a vehicle owned or operated by an offender including license plate number, registration number, or other identifying number, vehicle description, and the permanent or frequent locations where the vehicle is parked, docked, or otherwise kept.

(21) The name, gender, and date of birth of each person residing in the residence.

b. "Relevant information" does not include relevant information in paragraph "a", subparagraphs (1) and (19), when a sex offender is required to provide relevant information pursuant to this chapter.

24. "Residence" means each dwelling or other place where a sex offender resides, sleeps, or habitually lives, or will reside, sleep, or habitually live, including a shelter or group home. If a sex offender does not reside, sleep, or habitually live in a fixed place, "residence" means a description of the locations where the offender is stationed regularly, including any mobile or transitory living quarters. "Residence" shall be construed to refer to the places where a sex offender resides, sleeps, habitually lives, or is stationed with regularity, regardless of whether the offender declares or characterizes such place as the residence of the offender.

25. "Sex act" means as defined in section 702.17.

26. "Sex offender" means a person who is required to be registered under this chapter.

27. "Sex offense" means an indictable offense for which a conviction has been entered that has an element involving a sexual act, sexual contact, or sexual conduct, and which is enumerated in section 692A.102, and means any comparable offense for which a conviction has been entered under prior law, or any comparable offense for which a conviction has been entered in a federal, military, or foreign court, or another jurisdiction.

28. "Sex offense against a minor" means an offense for which a conviction has been entered for a sex offense classified as a tier I, tier II, or tier III offense under this chapter if such offense was committed against a minor, or otherwise involves a minor.

29. "Sexually violent offense" means an offense for which a conviction has been entered for any of the following indictable offenses:

a. Sexual abuse as defined under section 709.1.

b. Assault with intent to commit sexual abuse in violation of section 709.11.

c. Sexual misconduct with offenders and juveniles in violation of section 709.16.

d. Any of the following offenses, if the offense involves sexual abuse or assault with intent to commit sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.

e. A criminal offense committed in another jurisdiction, including a conviction in a federal, military, or foreign court, which would constitute an indictable offense under paragraphs "a" through "d" if committed in this state.

30. "Sexually violent predator" means a sex offender who has been convicted of an offense which would qualify the offender as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14071(a)(3)(B), (C), (D), and (E).

31. "SORNA" means the Sex Offender Registration and Notification Act, which is Tit. I of the federal Adam Walsh Child Protection and Safety Act of 2006.

32. "Student" means a sex offender who enrolls in or otherwise receives instruction at an educational institution, including a public or private elementary school, secondary school, trade or professional school, or institution of higher education. "Student" does not mean a sex offender who enrolls in or attends an educational institution as a correspondence student, distance learning student, or any other form of learning that occurs without physical presence on the real property of an educational institution.

33. "Superintendent" means the superintendent or superintendent's designee of a public school or the authorities in charge of a nonpublic school.

34. "Vehicle" means a vehicle owned or operated by an offender, including but not limited to a vehicle for personal or work-related use, and including a watercraft or aircraft, that is subject to registration requirements under chapter 321, 328, or 462A.

IOWA CODE § 692A.102 (2010). Sex offense classifications.

1. For purposes of this chapter, all individuals required to register shall be classified as a tier I, tier II, or tier III offender. For purposes of this chapter, sex offenses are classified into the following tiers:

a. Tier I offenses include a conviction for the following sex offenses:

(1) Sexual abuse in the second degree in violation of section 709.3, subsection 2, if committed by a person under the age of fourteen.

(2) Sexual abuse in the third degree in violation of section 709.4, subsection 1, 3, or 4, if committed by a person under the age of fourteen.

(3) Sexual abuse in the third degree in violation of section 709.4, subsection 2, paragraph "a" or "b", if committed by a person under the age of fourteen.

(4) Sexual abuse in the third degree in violation of section 709.4, subsection 2, paragraph "c".

(5) Indecent exposure in violation of section 709.9.

(6) Harassment in violation of section 708.7, subsection 1, 2, or 3, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(7) Stalking in violation of section 708.11, except a violation of subsection 3, paragraph "b", subparagraph (3), if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(8) (a) Dissemination or exhibition of obscene material to minors in violation of section 728.2 or telephone dissemination of obscene material to minors in violation of 728.15.

(b) Rental or sale of hard-core pornography, if delivery is to a minor, in violation of section 728.4.

(9) Admitting minors to premises where obscene material is exhibited in violation of section

728.3.

(10) Receipt or possession of child pornography in violation of 18 U.S.C. § 2252.

(11) Material containing child pornography in violation of 18 U.S.C. § 2252A.

(12) Misleading domain names on the internet in violation of 18 U.S.C. § 2252B.

(13) Misleading words or digital images on the internet in violation of section 18 U.S.C. § 2252C.

(14) Failure to file a factual statement about an alien individual in violation of 18 U.S.C. § 2424.

(15) Transmitting information about a minor to further criminal sexual conduct in violation of 18 U.S.C. § 2425.

(16) Any sex offense specified in the laws of another jurisdiction or any sex offense that may be prosecuted in federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (15).

(17) Any sex offense under the prior laws of this state or another jurisdiction, or any sex offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (15).

b. Tier II offenses include a conviction for the following sex offenses:

(1) Detention in brothel in violation of section 709.7.

(2) Lascivious acts with a child in violation of section 709.8, subsection 3 or 4.

(3) Solicitation of a minor to engage in an illegal sex act in violation of section 705.1.

(4) Solicitation of a minor to engage in an illegal act under section 709.8, subsection 3, in violation of section 705.1.

(5) Solicitation of a minor to engage in an illegal act under section 709.12, in violation of section 705.1.

(6) False imprisonment of a minor in violation of section 710.7, except if committed by a parent.

(7) Assault with intent to commit sexual abuse if no injury results in violation of section 709.11.

(8) Invasion of privacy-nudity in violation of section 709.21.

(9) Stalking in violation of section 708.11, subsection 3, paragraph "b", subparagraph (3), if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(10) Indecent contact with a child in violation of section 709.12, if the child is thirteen years of age.

(11) Lascivious conduct with a minor in violation of section 709.14.

(12) Sexual exploitation by a counselor, therapist, or school employee in violation of section 709.15, if the victim is thirteen years of age or older.

(13) Sexual misconduct with offenders and juveniles in violation of section 709.16, if the victim is thirteen years of age or older.

(14) Kidnapping of a person who is not a minor in violation of section 710.2, 710.3, or 710.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(15) Solicitation of a minor to engage in an illegal act under section 725.3, subsection 2, in violation of section 705.1.

(16) Incest committed against a dependent adult as defined in section 235B.2 in violation of section 726.2.

(17) Incest committed against a minor in violation of section 726.2.

(18) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3.

(19) Material involving the sexual exploitation of a minor in violation of 18 U.S.C. § 2252(a), except receipt or possession of child pornography.

(20) Production of sexually explicit depictions of a minor for import into the United States in violation of 18 U.S.C. § 2260.

(21) Transportation of a minor for illegal sexual activity in violation of 18 U.S.C. § 2421.

(22) Coercion and enticement of a minor for illegal sexual activity in violation of 18 U.S.C. § 2422(a) or (b).

(23) Transportation of minors for illegal sexual activity in violation of 18 U.S.C. § 2423(a).

(24) Travel with the intent to engage in illegal sexual conduct with a minor in violation of 18 U.S.C. § 2423.

(25) Engaging in illicit sexual conduct in foreign places in violation of 18 U.S.C. § 2423(c).

(26) Video voyeurism of a minor in violation of 18 U.S.C. § 1801.

(27) Any sex offense specified in the laws of another jurisdiction or any offense that may be prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (26).

(28) Any sex offense under the prior laws of this state or another jurisdiction, or any sex offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to a sex offense listed in subparagraphs (1) through (26).

c. Tier III offenses include a conviction for the following sex offenses:

(1) Murder in violation of section 707.2 or 707.3 if sexual abuse as defined in section 709.1 is

committed during the commission of the offense.

(2) Murder in violation of section 707.2 or 707.3, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(3) Voluntary manslaughter in violation of section 707.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(4) Involuntary manslaughter in violation of section 707.5, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(5) Attempt to commit murder in violation of section 707.11, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(6) Sexual abuse in the first degree in violation of section 709.2.

(7) Sexual abuse in the second degree in violation of section 709.3, subsection 1 or 3.

(8) Sexual abuse in the second degree in violation of section 709.3, subsection 2, if committed by a person fourteen years of age or older.

(9) Sexual abuse in the third degree in violation of section 709.4, subsection 1, 3, or 4, if committed by a person fourteen years of age or older.

(10) Sexual abuse in the third degree in violation of section 709.4, subsection 2, paragraph "a" or "b", if committed by a person fourteen years of age or older.

(11) Lascivious acts with a child in violation of section 709.8, subsection 1 or 2.

(12) Kidnapping in violation of section 710.2 if sexual abuse as defined in section 709.1 is committed during the commission of the offense.

(13) Kidnapping of a minor in violation of section 710.2, 710.3, or 710.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(14) Assault with intent to commit sexual abuse resulting in serious or bodily injury in violation of section 709.11.

(15) Burglary in the first degree in violation of section 713.3, subsection 1, paragraph "d".

(16) Any other burglary in the first degree offense in violation of section 713.3 that is not included in subparagraph (15), if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(17) Attempted burglary in the first degree in violation of section 713.4, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(18) Burglary in the second degree in violation of section 713.5, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(19) Attempted burglary in the second degree in violation of section 713.6, if a determination is

made that the offense was sexually motivated pursuant to section 692A.126.

(20) Burglary in the third degree in violation of section 713.6A, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(21) Attempted burglary in the third degree in violation of section 713.6B, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(22) Criminal transmission of human immunodeficiency virus in violation of section 709C.1, subsection 1, paragraph "a".

(23) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense.

(24) Purchase or sale of an individual in violation of section 710.11 if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(25) Sexual exploitation of a minor in violation of section 728.12, subsection 1.

(26) Indecent contact with a child in violation of section 709.12 if the child is under thirteen years of age.

(27) Sexual exploitation by a counselor, therapist, or school employee in violation of section 709.15, if the child is under thirteen years of age.

(28) Sexual misconduct with offenders and juveniles in violation of section 709.16, if the child is under thirteen years of age.

(29) Child stealing in violation of section 710.5, if a determination is made that the offense was sexually motivated pursuant to section 692A.126.

(30) Enticing away a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor.

(31) Sex trafficking of children in violation of 18 U.S.C. § 1591.

(32) Aggravated sexual abuse in violation of 18 U.S.C. § 2241.

(33) Sexual abuse in violation of 18 U.S.C. § 2242.

(34) Sexual abuse of a minor or ward in violation of 18 U.S.C. § 2243.

(35) Abusive sexual contact in violation of 18 U.S.C. § 2244.

(36) Offenses resulting in death in violation of 18 U.S.C. § 2245.

(37) Sexual exploitation of children in violation of 18 U.S.C. § 2251.

(38) Selling or buying of children in violation of 18 U.S.C. § 2251A.

(39) Any sex offense specified in the laws of another jurisdiction or any sex offense that may be prosecuted in federal, military, or foreign court, that is comparable to an offense listed in subparagraphs (1) through (38).

(40) Any sex offense under the prior laws of this state or another jurisdiction, or any sex offense under prior law that was prosecuted in federal, military, or foreign court, that is comparable to a sex offense listed in subparagraphs (1) through (38).

2. A sex offender classified as a tier I offender shall be reclassified as a tier II offender, if it is determined the offender has one previous conviction for an offense classified as a tier I offense.

3. A sex offender classified as a tier II offender, shall be reclassified as a tier III offender, if it is determined the offender has a previous conviction for a tier II offense or has been reclassified as a tier II offender because of a previous conviction.

4. Notwithstanding the classifications of sex offenses in subsection 1, any sex offense which would qualify a sex offender as a sexually violent predator shall be classified as a tier III offense.

5. An offense classified as a tier II offense if committed against a person under thirteen years of age shall be reclassified as a tier III offense.

6. Convictions of more than one sex offense which require registration under this chapter but which are prosecuted within a single indictment shall be considered as a single offense for purposes of registration.

IOWA CODE § 692A.103 (2010). Offenders required to register.

1. A person who has been convicted of any sex offense classified as a tier I, tier II, or tier III offense, or an offender required to register in another jurisdiction under the other jurisdiction's sex offender registry, shall register as a sex offender as provided in this chapter if the offender resides, is employed, or attends school in this state. A sex offender shall, upon a first or subsequent conviction, register in compliance with the procedures specified in this chapter, for the duration of time specified in this chapter, commencing as follows:

a. From the date of placement on probation.

b. From the date of release on parole or work release.

c. From the date of release from incarceration.

d. Except as otherwise provided in this section, from the date an adjudicated delinquent is released from placement in a juvenile facility ordered by a court pursuant to section 232.52.

e. Except as otherwise provided in this section, from the date an adjudicated delinquent commences attendance as a student at a public or private educational institution, other than an educational institution located on the real property of a juvenile facility if the juvenile has been ordered placed at such facility pursuant to section 232.52.

f. From the date of conviction for a sex offense requiring registration if probation, incarceration,

or placement ordered pursuant to section 232.52 in a juvenile facility is not included in the sentencing, order, or decree of the court, except as otherwise provided in this section for juvenile cases.

2. A sex offender is not required to register while incarcerated. However, the running of the period of registration is tolled pursuant to section 692A.107 if a sex offender is incarcerated.

3. A juvenile adjudicated delinquent for an offense that requires registration shall be required to register as required in this chapter unless the juvenile court waives the requirement and finds that the person should not be required to register under this chapter.

4. Notwithstanding subsections 3 and 5, a juvenile fourteen years of age or older at the time the offense was committed shall be required to register if the adjudication was for an offense committed by force or the threat of serious violence, by rendering the victim unconscious, or by involuntary drugging of the victim. At the time of adjudication the judge shall make a determination as to whether the offense was committed by force or the threat of serious violence, by rendering the victim unconscious, or by involuntary drugging of the victim.

5. If a juvenile is required to register pursuant to subsection 3, the juvenile court may, upon motion of the juvenile, and after reasonable notice to the parties and hearing, modify or suspend the registration requirements if good cause is shown.

a. The motion to modify or suspend shall be made and the hearing shall occur prior to the discharge of the juvenile from the jurisdiction of the juvenile court for the sex offense that requires registration.

b. If at the time of the hearing the juvenile is participating in an appropriate outpatient treatment program for juvenile sex offenders, the juvenile court may enter orders temporarily suspending the requirement that the juvenile register and may defer entry of a final order on the matter until such time that the juvenile has completed or been discharged from the outpatient treatment program.

c. Final orders shall then be entered within thirty days from the date of the juvenile's completion or discharge from outpatient treatment.

d. Any order entered pursuant to this subsection that modifies or suspends the requirement to register shall include written findings stating the reason for the modification or suspension, and shall include appropriate restrictions upon the juvenile to protect the public during any period of time the registry requirements are modified or suspended. Upon entry of an order modifying or suspending the requirement to register, the juvenile court shall notify the superintendent or the superintendent's designee where the juvenile is enrolled of the decision.

e. This subsection does not apply to a juvenile fourteen years of age or older at the time the offense was committed if the adjudication was for a sex offense committed by force or the threat of serious violence, by rendering the victim unconscious, or by involuntary drugging of the victim.

6. If a juvenile is required to register and the court later modifies or suspends the order regarding the requirement to register, the court shall notify the department within five days of the decision.

IOWA CODE § 901A.2 (2010). Enhanced sentencing.

1. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the maximum period of incarceration for the offense, notwithstanding any other provision of the Code to the contrary, prior to being eligible for parole or work release. However, a person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

2. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has two or more prior convictions for sexually predatory offenses, shall be sentenced to and shall serve a period of incarceration of ten years, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

3. Except as otherwise provided in subsection 5, a person convicted of a sexually predatory offense which is a felony, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the maximum period of incarceration for the offense, or twenty-five years, whichever is greater, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

4. Except as otherwise provided in subsection 5, a person convicted of a sexually predatory offense which is a felony who has previously been sentenced under subsection 3 shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. In order for a person to be sentenced under this subsection, the prosecuting attorney shall allege and prove that this section is applicable to the person.

5. A person who has been convicted of a violation of section 709.3, subsection 2, shall, upon a second conviction for a violation of section 709.3, subsection 2, be committed to the custody of the director of the Iowa department of corrections for the rest of the person's life. In determining whether a conviction is a first or second conviction under this subsection, a prior conviction for a criminal offense committed in another jurisdiction which would constitute a violation of section 709.3, subsection 2, if committed in this state, shall be considered a conviction under this subsection. The terms and conditions applicable to sentences for class "A" felons under chapters 901 through 909 shall apply to persons sentenced under this subsection.

6. A person who has been placed in a transitional release program, released with or without supervision, or discharged pursuant to chapter 229A, and who is subsequently convicted of a sexually predatory offense or a sexually violent offense, shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. The terms and conditions applicable to sentences for class "A" felons under chapters 901 through 909 shall apply to persons sentenced under this subsection. However, if the person commits a sexually violent offense which is a misdemeanor offense under chapter 709, the person shall be sentenced to life in prison, with eligibility for parole as provided in chapter 906.

7. A person sentenced under the provisions of this section shall not be eligible for deferred judgment, deferred sentence, or suspended sentence.

8. In addition to any other sentence imposed on a person convicted of a sexually predatory offense pursuant to subsection 1, 2, or 3, the person shall be sentenced to an additional term of parole or work release not to exceed two years. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The sentence of parole supervision shall commence immediately upon the person's release by the board of parole and shall be under the terms and conditions as set out in chapter 906. Violations of parole or work release shall be subject to the procedures set out in chapter 905 or 908 or rules adopted under those chapters. For purposes of disposition of a parole violator upon revocation of parole or work release, the sentence of an additional term of parole or work release shall be considered part of the original term of commitment to the department of corrections.

IOWA CODE § 902.1 (2010). Class "A" felony.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class "A" felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the Iowa department of corrections for the rest of the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or reconsideration of sentence applies to a class "A" felony, and a person convicted of a class "A" felony shall not be released on parole unless the governor commutes the sentence to a term of years.

IOWA CODE § 902.7 (2010). Minimum sentence – use of a dangerous weapon.

At the trial of a person charged with participating in a forcible felony, if the trier of fact finds beyond a reasonable doubt that the person is guilty of a forcible felony and that the person represented that the person was in the immediate possession and control of a dangerous weapon, displayed a dangerous weapon in a threatening manner, or was armed with a dangerous weapon while participating in the forcible felony the convicted person shall serve a minimum of five years of the sentence imposed by law. A person sentenced pursuant to this section shall not be eligible for parole until the person has served the minimum sentence of confinement imposed by this section.

IOWA CODE § 902.8 (2010). Minimum sentence – habitual offender.

An habitual offender is any person convicted of a class "C" or a class "D" felony, who has twice before been convicted of any felony in a court of this or any other state, or of the United States. An offense is a felony if, by the law under which the person is convicted, it is so classified at the time of the person's conviction. A person sentenced as an habitual offender shall not be eligible for parole until the person has served the minimum sentence of confinement of three years.

IOWA CODE § 902.9 (2010). Maximum sentence for felons.

The maximum sentence for any person convicted of a felony shall be that prescribed by statute or, if not prescribed by statute, if other than a class "A" felony shall be determined as follows:

1. A felon sentenced for a first conviction for a violation of section 124.401D, shall be confined for no more than ninety-nine years.

2. A class "B" felon shall be confined for no more than twenty-five years.

3. An habitual offender shall be confined for no more than fifteen years.

4. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition shall be sentenced to a fine of at least one thousand dollars but not more than ten thousand dollars.

5. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars.

The surcharges required by sections 911.1, 911.2, and 911.3 shall be added to a fine imposed on a class "C" or class "D" felon, as provided by those sections, and are not a part of or subject to the maximums set in this section.

IOWA CODE § 902.12 (2010). Minimum sentence for certain felonies – eligibility for parole or work release.

A person serving a sentence for conviction of the following felonies, including a person serving a sentence for conviction of the following felonies prior to July 1, 2003, shall be denied parole or work release unless the person has served at least seven-tenths of the maximum term of the person's sentence:

1. Murder in the second degree in violation of section 707.3.

2. Attempted murder in violation of section 707.11.

3. Sexual abuse in the second degree in violation of section 709.3.

4. Kidnapping in the second degree in violation of section 710.3.

5. Robbery in the first or second degree in violation of section 711.2 or 711.3.

6. Vehicular homicide in violation of section 707.6A, subsection 1 or 2, if the person was also convicted under section 321.261, subsection 4, based on the same facts or event that resulted in the conviction under section 707.6A, subsection 1 or 2.

IOWA CODE § 902.14 (2010). Enhanced penalty – sexual abuse or lascivious acts with a child.

1. A person commits a class "A" felony if the person commits a second or subsequent offense involving any combination of the following offenses:

a. Sexual abuse in the second degree in violation of section 709.3.

b. Sexual abuse in the third degree in violation of section 709.4.

c. Lascivious acts with a child in violation of section 709.8, subsection 1 or 2.

2. In determining if a violation charged is a second or subsequent offense for purposes of criminal sentencing in this section, each previous violation on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense, regardless of whether the previous offense occurred before, on, or after July 1, 2005. Convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to the offenses listed in subsection 1 shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses listed in subsection 1 and can therefore be considered corresponding statutes.

IOWA CODE § 903.1 (2010). Maximum sentence for misdemeanants.

1. If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, which fine shall not be suspended by the court, within the following limits:

a. For a simple misdemeanor, there shall be a fine of at least sixty-five dollars but not to exceed six hundred twenty-five dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.

b. For a serious misdemeanor, there shall be a fine of at least three hundred fifteen dollars but not to exceed one thousand eight hundred seventy-five dollars. In addition, the court may also order imprisonment not to exceed one year.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years. There shall be a fine of at least six hundred twenty-five dollars but not to exceed six thousand two hundred fifty dollars. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

4. The surcharges required by sections 911.1, 911.2, 911.3, and 911.4 shall be added to a fine imposed on a misdemeanant as provided in those sections, and are not a part of or subject to the maximums set in this section.

IOWA CODE § 903B.1 (2010). Special sentence – class "B" or class "C" felonies.

A person convicted of a class "C" felony or greater offense under chapter 709, or a class "C" felony under section 728.12, shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the director of the Iowa department of corrections for the rest of the person's life, with eligibility for parole as provided in chapter 906. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provisions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole or work release. The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and chapter 908, and rules adopted under those chapters for persons on parole or work release. The revocation of release shall not be for a period greater than two years upon any first revocation, and five years upon any second or subsequent revocation. A special sentence shall be considered a category "A" sentence for purposes of calculating earned time under section 903A.2.

IOWA CODE § 903B.2 (2010). Special sentence – class "D" felonies or misdemeanors.

A person convicted of a misdemeanor or a class "D" felony offense under chapter 709, section 726.2, or section 728.12 shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the director of the Iowa department of corrections for a period of ten years, with eligibility for parole as provided in chapter 906. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provisions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole or work release. The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and 908, and rules adopted under those chapters for persons on parole or work release. The revocation of release shall not be for a period greater than two years upon any first revocation, and five years upon any second or subsequent revocation. A special sentence shall be considered a category "A" sentence for purposes of calculating earned time under section 903A.2.

IOWA CODE § 909.1 (2010). Fine without imprisonment.

Upon a verdict or plea of guilty of any public offense for which a fine is authorized, the court may impose a fine instead of any other sentence where it appears that the fine will be adequate to deter the defendant and to discourage others from similar criminal activity.

IOWA CODE § 909.2 (2010). Fine in addition to imprisonment.

The court may impose a fine in addition to confinement, where such is authorized.

IOWA CODE § 910.2 (2010). Restitution or community service to be ordered by sentencing court.

1. In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities, to the clerk of court for fines, penalties, surcharges, and, to the extent that the offender is reasonably able to pay, for crime victim assistance reimbursement, restitution to public agencies pursuant to section 321J.2, subsection 13, paragraph "b", court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, when applicable, contribution to a local anticrime organization, OR RESTITUTION TO THE MEDICAL ASSISTANCE PROGRAM PURSUANT TO CHAPTER 249A FOR EXPENDITURES PAID ON BEHALF OF THE VICTIM RESULTING FROM THE OFFENDER'S CRIMINAL ACTIVITIES. However, victims shall be paid in full before fines, penalties, surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expenses of a public defender, contributions to a local anticrime organization, OR THE MEDICAL ASSISTANCE PROGRAM are paid. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, contribution to a local anticrime organization , AND THE MEDICAL ASSISTANCE PROGRAM .

2. When the offender is not reasonably able to pay all or a part of the crime victim compensation program reimbursement, public agency restitution, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, contribution to a local anticrime organization, OR MEDICAL ASSISTANCE PROGRAM RESTITUTION, the court may require the offender in lieu of that portion of the crime victim compensation program reimbursement, public agency restitution, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, contribution to a local anticrime organization , OR MEDICAL ASSISTANCE PROGRAM RESTITUTION for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private nonprofit agency which provides a service to the youth, elderly, or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender which, for payment of court-appointed attorney fees ordered pursuant to section 815.9, including the expenses of a public defender, shall be approximately equivalent in value to those costs. The

judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

KANSAS

KAN. STAT. ANN. § 21-4501 (2009). Class of felonies and terms of imprisonment; crimes committed prior to July 1, 1993.

Repealed, Effective July 1, 2011
For the purpose of sentencing, the following classes of felonies and terms of imprisonment authorized for each class are established:

(a) Class A, the sentence for which shall be imprisonment for life.

(b) Class B, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than five years nor more than 15 years and the maximum of which shall be fixed by the court at not less than 20 years nor more than life.

(c) Class C, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than three years nor more than five years and the maximum of which shall be fixed by the court at not less than 10 years nor more than 20 years.

(d) Class D, the sentence for which shall be an indeterminate term of imprisonment fixed by the court as follows:

(1) For a crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, a minimum of not less than two years nor more than three years and a maximum of not less than five years nor more than 10 years; and

(2) for any other crime, a minimum of not less than one year nor more than three years and a maximum of not less than five years nor more than 10 years.

(e) Class E, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be one year and the maximum of which shall be fixed by the court at not less than two years nor more than five years.

(f) Unclassified felonies, which shall include all crimes declared to be felonies without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime. If no sentence is provided in the statute, the offender shall be sentenced as for a class E felony.

(g) The provisions of this section shall not apply to crimes committed on or after July 1, 1993.

KAN. STAT. ANN. § 21-4502 (2009). Classification of misdemeanors and terms of confinement; possible disposition.

Repealed, Effective July 1, 2011
(1) For the purpose of sentencing, the following classes of misdemeanors and the punishment and the terms of confinement authorized for each class are established:

(a) Class A, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one year.

(b) Class B, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed six months.

(c) Class C, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one month.

(d) Unclassified misdemeanors, which shall include all crimes declared to be misdemeanors without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a class C misdemeanor.

(2) Upon conviction of a misdemeanor, a person may be punished by a fine, as provided in K.S.A. 21-4503, and amendments thereto, instead of or in addition to confinement, as provided in this section.

(3) In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the misdemeanor was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary of social and rehabilitation services.

(4) Except as provided in subsection (5), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having committed, while under 21 years of age, a misdemeanor under K.S.A. 41-719, 41-727, K.S.A. 2009 Supp. 21-36a01 through 21-36a17 or 8-1599, and amendments thereto, the court shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to exceed the fee established by that statute for such evaluation. If the court finds that the person is indigent, the fee may be waived.

(5) If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (4) are permissive and not mandatory.

KAN. STAT. ANN. § 21-4503a (2009). Fines, crimes committed on or after July 1, 1993.

Repealed, Effective July 1, 2011
(a) A person who has been convicted of a felony may, in addition to the sentence authorized by law, be ordered to pay a fine which shall be fixed by the court as follows:

(1) For any off-grid felony crime or any felony ranked in severity level 1 of the drug grid as provided in K.S.A. 21-4705 and amendments thereto, a sum not exceeding $ 500,000.

(2) For any felony ranked in severity levels 1 through 5 of the nondrug grid as provided in K.S.A. 21-4704 and amendments thereto or in severity levels 2 or 3 of the drug grid as provided in K.S.A. 21-4705 and amendments thereto, a sum not exceeding $ 300,000.

(3) For any felony ranked in severity levels 6 through 10 of the nondrug grid as provided in K.S.A. 21-4704 and amendments thereto or in severity level 4 of the drug grid as provided in K.S.A. 21-4705 and amendments thereto, a sum not exceeding $ 100,000.

(b) A person who has been convicted of a misdemeanor, in addition to or instead of the imprisonment authorized by law, may be sentenced to pay a fine which shall be fixed by the court as follows:

(1) For a class A misdemeanor, a sum not exceeding $ 2,500.

(2) For a class B misdemeanor, a sum not exceeding $ 1,000.

(3) For a class C misdemeanor, a sum not exceeding $ 500.

(4) For an unclassified misdemeanor, any sum authorized by the statute that defines the crime. If no penalty is provided in such law, the fine shall not exceed the fine provided herein for a class C misdemeanor.

(c) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(d) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court, not exceeding $ 500.

(e) A person who has been convicted of a cigarette or tobacco infraction shall be sentenced to pay a fine of $ 25.

(f) The provisions of this section shall apply to crimes committed on or after July 1, 1993.

KAN. STAT. ANN. § 21-4504 (2009). Conviction of second and subsequent felonies; exceptions.

Repealed, Effective July 1, 2011
(a) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated, the punishment for which is confinement in the custody of the secretary of corrections after having previously been convicted of any such felony or comparable felony under the laws of another state, the federal government or a foreign government, the trial judge may sentence the defendant as follows, upon motion of the prosecuting attorney:

(1) The court may fix a minimum sentence of not less than the least nor more than twice the greatest minimum sentence authorized by K.S.A. 21-4501 and amendments thereto, for the crime for which the defendant is convicted; and

(2) the court may fix a maximum sentence of not less than the least nor more than twice the greatest maximum sentence provided for the crime by K.S.A. 21-4501 and amendments thereto.

(b) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated; having been convicted at least twice before for any such felony offenses or comparable felony offenses under the laws of another state, the federal government or a foreign government, the trial judge shall sentence the defendant as follows, upon motion of the prosecuting attorney:

(1) The court shall fix a minimum sentence of not less than the greatest nor more than three times the greatest minimum sentence authorized for the crime for which the defendant is convicted by K.S.A. 21-4501 and amendments thereto; and

(2) the court may fix a maximum sentence of not less than the least nor more than three times the greatest maximum sentence provided for the crime by K.S.A. 21-4501 and amendments thereto.

(c) If a defendant is convicted of a felony other than a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated, having been convicted at least twice before for any such felony offenses or comparable felony offenses under the laws of another state, the federal government or a foreign government, the trial judge shall sentence the defendant as follows, upon motion of the prosecuting attorney:

(1) The court shall fix a minimum sentence of not less than the greatest nor more than two times the greatest minimum sentence authorized for the crime for which the defendant is convicted by K.S.A. 21-4501 and amendments thereto; and

(2) the court may fix a maximum sentence of not less than the least nor more than two times the greatest maximum sentence provided for the crime by K.S.A. 21-4501 and amendments thereto.

(d) If any portion of a sentence imposed under K.S.A. 21-107a, and amendments thereto, or under this section, is determined to be invalid by any court because a prior felony conviction is itself invalid, upon resentencing the court may consider evidence of any other prior felony conviction that could have been utilized under K.S.A. 21-107a, and amendments thereto, or under this section, at the time the original sentence was imposed, whether or not it was introduced at that time, except that if the defendant was originally sentenced as a second offender, the defendant shall not be resentenced as a third offender.

(e) The provisions of this section shall not be applicable to:

(1) Any person convicted of a felony of which a prior conviction of a felony is a necessary element;

(2) any person convicted of a felony for which a prior conviction of such felony is considered in establishing the class of felony for which the person may be sentenced; or

(3) any felony committed on or after July 1, 1993.

(f) A judgment may be rendered pursuant to this section only after the court finds from competent evidence the fact of former convictions for felony committed by the prisoner, in or out of the state.

KAN. STAT. ANN. § 21-4611 (2009). Period of suspension of sentence, probation or assignment to community corrections; parole of misdemeanant; duration of probation in felony cases, modification or extension.

Repealed, Effective July 1, 2011

(a) The period of suspension of sentence, probation or assignment to community corrections fixed by the court shall not exceed five years in felony cases involving crimes committed prior to July 1, 1993, or two years in misdemeanor cases, subject to renewal and extension for additional fixed periods not exceeding five years in such felony cases, nor two years in misdemeanor cases. In no event shall the total period of probation, suspension of sentence or assignment to community corrections for a felony committed prior to July 1, 1993, exceed the greatest maximum term provided by law for the crime, except that where the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. Probation, suspension of sentence or assignment to community corrections may be terminated by the court at any time and upon such termination or upon termination by expiration of the term of probation, suspension of sentence or assignment to community corrections, an order to this effect shall be entered by the court. The provisions of K.S.A. 75-5291, and amendments thereto, shall be applicable to any assignment to a community correctional services program pursuant to this section.

(b) The district court having jurisdiction of the offender may parole any misdemeanant sentenced to confinement in the county jail. The period of such parole shall be fixed by the court and shall not exceed two years and shall be terminated in the manner provided for termination of suspended sentence and probation.

(c) For all crimes committed on or after July 1, 1993, the duration of probation in felony cases sentenced for the following severity levels on the sentencing guidelines grid for nondrug crimes and the sentencing guidelines grid for drug crimes is as follows:

(1) For nondrug crimes the recommended duration of probations is:

(A) Thirty-six months for crimes in crime severity levels 1 through 5; and

(B) 24 months for crimes in crime severity levels 6 and 7.

(2) For drug crimes the recommended duration of probation is 36 months for crimes in crime severity levels 1 and 2.

(3) Except as otherwise provided, in felony cases sentenced at severity levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and severity level 4 on the sentencing guidelines grid for drug crimes, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation of up to 12 months in length.

(4) In felony cases sentenced at severity level 8 on the sentencing guidelines grid for nondrug crimes, severity level 3 on the sentencing guidelines grid for drug crimes and felony cases

sentenced pursuant to K.S.A. 21-4729, and amendments thereto, if a nonprison sanction is imposed, the court shall order the defendant to serve a period of probation, or assignment to a community correctional services program, as provided under K.S.A. 75-5291 et seq., and amendments thereto, of up to 18 months in length.

(5) If the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by the length of the probation terms provided in subsections (c)(3) and (c)(4), the court may impose a longer period of probation. Such an increase shall not be considered a departure and shall not be subject to appeal.

(6) Except as provided in subsections (c)(7) and (c)(8), the total period in all cases shall not exceed 60 months, or the maximum period of the prison sentence that could be imposed whichever is longer. Nonprison sentences may be terminated by the court at any time.

(7) If the defendant is convicted of nonsupport of a child, the period may be continued as long as the responsibility for support continues. If the defendant is ordered to pay full or partial restitution, the period may be continued as long as the amount of restitution ordered has not been paid.

(8) The court may modify or extend the offender's period of supervision, pursuant to a modification hearing and a judicial finding of necessity. Such extensions may be made for a maximum period of five years or the maximum period of the prison sentence that could be imposed, whichever is longer, inclusive of the original supervision term.

(d) The provisions of subsection (c), as amended by this act, shall be applied retroactively. The sentencing court shall direct that a review of all persons serving a nonprison sanction for a crime in severity levels 8, 9 or 10 of the sentencing guidelines grid for nondrug crimes or a crime in severity levels 3 or 4 of the sentencing guidelines grid for drug crimes be conducted. On or before September 1, 2000, the duration of such person's probation shall be modified in conformity with the provisions of subsection (c).

KAN. STAT. ANN. § 21-4642 (2009). Aggravated habitual sex offender; sentence to imprisonment for life without parole.

Repealed, Effective July 1, 2011

(a) An aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole. Such offender shall spend the remainder of the offender's natural life incarcerated and in the custody of the secretary of corrections. An offender who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, or suspension, modification or reduction of sentence.

(b) Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.

(c) As used in this section:

(1) "Aggravated habitual sex offender" means a person who, on and after July 1, 2006: (A) Has been convicted in this state of a sexually violent crime, as described in paragraphs (3)(A) through 3(J) or (3)(L); and (B) prior to the conviction of the felony under subparagraph (A), has been convicted on at least two prior conviction events of any sexually violent crime.

(2) "Prior conviction event" means one or more felony convictions of a sexually violent crime occurring on the same day and within a single court. These convictions may result from multiple counts within an information or from more than one information. If a person crosses a county line and commits a felony as part of the same criminal act or acts, such felony, if such person is convicted, shall be considered part of the prior conviction event.

(3) "Sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, and amendments thereto;

(K) any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

(L) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of a sexually violent crime as defined in this section; or

(M) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

KAN. STAT. ANN. § 21-4643 (2009). Mandatory term of imprisonment of 25 or 40 years for certain sex offenders; exceptions.

Repealed, Effective July 1, 2011

(a) (1) Except as provided in subsection (b) or (d), a defendant who is 18 years of age or older and is convicted of the following crimes committed on or after July 1, 2006, shall be sentenced to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 25 years unless the court determines that the defendant should be sentenced as determined in paragraph (2):

(A) Aggravated trafficking, as defined in K.S.A. 21-3447, and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(C) aggravated indecent liberties with a child, as defined in subsection (a)(3) of K.S.A. 21-3504, and amendments thereto;

(D) aggravated criminal sodomy, as defined in subsection (a)(1) or (a)(2) of K.S.A. 21-3506, and amendments thereto;

(E) promoting prostitution, as defined in K.S.A. 21-3513, and amendments thereto, if the prostitute is less than 14 years of age;

(F) sexual exploitation of a child, as defined in subsection (a)(5) or (a)(6) of K.S.A. 21-3516, and amendments thereto; and

(G) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and amendments thereto, of an offense defined in paragraphs (A) through (F).

(2) The provision of paragraph (1) requiring a mandatory minimum term of imprisonment of not less than 25 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 21-4642, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 300 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(b) (1) On and after July 1, 2006, if a defendant who is 18 years of age or older is convicted of a crime listed in subsection (a)(1) and such defendant has previously been convicted of a crime listed in subsection (a)(1), a crime in effect at any time prior to the effective date of this act which is substantially the same as a crime listed in subsection (a)(1) or a crime under a law of another jurisdiction which is substantially the same as a crime listed in subsection (a)(1), the court shall sentence the defendant to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 40 years. The provisions of this paragraph shall not apply to a

crime committed under K.S.A. 21-3522, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A. 21-3522, and amendments thereto.

(2) The provision of paragraph (1) requiring a mandatory minimum term of imprisonment of not less than 40 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 21-4642, and amendments thereto; or

(B) the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 480 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(c) When a person is sentenced pursuant to subsection (a) or (b), such person shall be sentenced to a mandatory minimum term of imprisonment of not less than 25 years, 40 years or be sentenced as determined in subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving such mandatory term of imprisonment, and such imprisonment shall not be reduced by the application of good time credits.

(d) On or after July 1, 2006, for a first time conviction of an offense listed in paragraph (a)(1), the sentencing judge shall impose the mandatory minimum term of imprisonment provided by subsection (a), unless the judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose a departure. If the sentencing judge departs from such mandatory minimum term of imprisonment, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. The departure sentence shall be the sentence pursuant to the sentencing guidelines act, K. S. A. 21-4701 et seq., and amendments thereto, and no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder. as used in this subsection, mitigating circumstances shall include, but are not limited to, the following:

(1) The defendant has no significant history of prior criminal activity.

(2) The crime was committed while the defendant was under the influence of extreme mental or emotional disturbances.

(3) The victim was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor.

(4) The defendant acted under extreme distress or under the substantial domination of another person.

(5) The capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired.

(6) The age of the defendant at the time of the crime.

KAN. STAT. ANN. § 21-4704 (2009). Sentencing guidelines; grid for nondrug crimes; authority and responsibility of sentencing court; presumptive disposition; nongrid crime.

Repealed, Effective July 1, 2011

(a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3415, and amendments thereto, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-4707, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-3710, and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (ii) at the time of the

conviction under paragraph (A) (i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government; or (B) (i) has been convicted of rape, K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the conviction under paragraph (B) (i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in paragraph (2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and amendments thereto, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of subsection (a) of K.S.A. 21-3715 ,and amendments thereto , OR ANY ATTEMPT OR CONSPIRACY, AS DEFINED IN K.S.A. 21-3301 OR 21-3302, AND AMENDMENTS THERETO, TO COMMIT SUCH OFFENSE, when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716, and amendments thereto, OR ANY ATTEMPT OR CONSPIRACY TO COMMIT SUCH OFFENSE, shall be PRESUMPTIVE imprisonment.

(m) The sentence for a violation of K.S.A 22-4903 or subsection (d) of K.S.A. 21-3812, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism, such program is available and the offender can be admitted to such program within a reasonable period of time; or

(2) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence pursuant to this section shall not be considered a departure and shall not be subject to appeal.

(n) The sentence for a third or subsequent violation of subsection (b) of K.S.A. 21-3705, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) The sentence for a felony violation of K.S.A. 21-3701 or 21-3715, and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, and amendments thereto; or the sentence for a felony violation of K.S.A. 21-3701, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, and amendments thereto; or the sentence for a felony violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of subsection (f)(1) of K.S.A. 21-4729, and amendments thereto, shall apply to a defendant sentenced under this subsection.

The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) The sentence for a felony violation of K.S.A. 21-3701, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716 and amendments thereto, or the sentence for a violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally

adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) The sentence for a violation of subsection (a)(2) of K.S.A. 21-3413, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

Presumptive Imprisonment
Border Box
Presumptive Probation

A	B	C	D	E	F	G	H	I			
	3 + Person Felonies	2 Person Felonies	1 Person & 1 Non-person Felonies	1 Person Felony	3 + Non Person Felonies	2 Non-person Felonies	1 Non-Person Felony	2 + Misdemeanor	1 Misdemeanor No Record	PROB	POSTRELS
1	653/620/592	618/586/554	285/272/258	267/253/240	246/234/221	226/214/203	203/195/184	186/176/166	165/155/147	36	36
2	493/467/442	460/438/416	216/205/194	200/190/181	184/174/165	168/160/152	154/146/138	138/131/123	123/117/109	36	36
3	247/233/221	228/216/206	107/102/96	100/94/89	92/88/82	83/79/74	77/72/68	71/66/61	61/59/55	36	36
4	172/162/154	162/154/144	75/71/68	69/66/62	64/60/57	59/56/52	52/50/47	48/45/42	43/41/38	36	36
5	136/130/122	128/120/114	60/57/53	55/52/50	51/49/46	47/44/41	43/41/38	38/36/34	34/32/31	36	24
6	46/43/40	41/39/37	38/36/34	36/34/32	32/30/28	29/27/25	26/24/22	21/20/19	19/18/17	24	24
7	34/32/30	31/29/27	29/27/25	26/24/22	23/21/19	19/18/17	17/16/15	14/13/12	13/12/11	24	12
8	23/21/19	20/19/18	19/18/17	17/16/15	15/14/13	13/12/11	11/10/9	11/10/9	9/8/7	18	12
9	17/16/15	15/14/13	13/12/11	13/12/11	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	12	12
10	13/12/11	12/11/10	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	7/6/5	7/6/5	12	12

KAN. STAT. ANN. § 22-4902 (2009). Definitions.

As used in this act, unless the context otherwise requires:

(a) "Offender" means: (1) A sex offender as defined in subsection (b);

(2) a violent offender as defined in subsection (d);

(3) a sexually violent predator as defined in subsection (f);

(4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or

(C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto; or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who, on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(8) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4), (5), (7) or (11), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4), (5), (7) or (11);

(9) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4), (5), (7) or (10);

(10) any person who has been convicted of aggravated trafficking as defined in K.S.A. 21-3447, and amendments thereto; or

(11) any person who has been convicted of: (A) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined by K.S.A. 65-4159, prior to its repeal or K.S.A. 2009 Supp. 21-36a03, and amendments thereto, unless the court makes a finding

on the record that the manufacturing or attempting to manufacture such controlled substance was for such person's personal use;

(B) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by K.S.A. 65-7006, prior to its repeal or K.S.A. 2009 Supp. 21-36a09 or 21-36a10, and amendments thereto, unless the court makes a finding on the record that the possession of such product was intended to be used to manufacture a controlled substance for such person's personal use; or

(C) K.S.A. 65-4161, prior to its repeal or K.S.A. 2009 Supp. 21-36a05, and amendments thereto.

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;

(10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;

(11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or

(12) electronic solicitation as defined by K.S.A. 21-3523, and amendments thereto, committed on

and after the effective date of this act;

(13) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;

(14) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(15) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

(1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;

(2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;

(3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;

(4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;

(5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq. and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and

amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.

KENTUCKY

KY. REV. STAT. ANN. § 17.500 (2010). Definitions for KRS 17.500 to 17.580.

As used in KRS 17.500 to 17.580:

(1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;

(2) "Cabinet" means the Justice and Public Safety Cabinet;

(3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:

1. Kidnapping, as set forth in KRS 509.040, except by a parent;

2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;

3. Sex crime;

4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;

5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100;

6. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);

7. Use of a minor in a sexual performance, as set forth in KRS 531.310;

8. Sexual abuse, as set forth in KRS 510.120 and 510.130;

9. Unlawful transaction with a minor in the first degree, as set forth in KRS 530.064(1)(a);

10. Any offense involving a minor or depictions of a minor, as set forth in KRS Chapter 531;

11. Any attempt to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph; and

12. Solicitation to commit any of the offenses described in subparagraphs 1. to 10. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;

(4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;

(5) "Registrant" means:

(a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:

1. A sex crime; or

2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under KRS 17.510; or

(c) Any sexually violent predator; or

(d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;

(6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, DNA sample, a photograph, aliases used, residence, electronic mail address and any instant messaging, chat, or other Internet communication name identities, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;

(7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;

(8) "Sex crime" means:

(a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, or 531.320;

(b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;

(9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;

(10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;

(11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;

(12) "Victim" has the same meaning as in KRS 421.500;

(13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and

(14) "Authorized personnel" means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.

KY. REV. STAT. Ann. § 532.060 (2010). Sentence of imprisonment for felony.

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to KRS 532.070.

(2) The authorized maximum terms of imprisonment for felonies are:

(a) For a Class A felony, not less than twenty (20) years nor more than fifty (50) years, or life imprisonment;

(b) For a Class B felony, not less than ten (10) years nor more than twenty (20) years;

(c) For a Class C felony, not less than five (5) years nor more than ten (10) years; and

(d) For a Class D felony, not less than one (1) year nor more than five (5) years.

(3) For any felony specified in KRS Chapter 510, KRS 530.020, 530.064(1)(a), or 531.310, the sentence shall include an additional five (5) year period of conditional discharge which shall be added to the maximum sentence rendered for the offense. During this period of conditional

discharge, if a defendant violates the provisions of conditional discharge, the defendant may be reincarcerated for:

(a) The remaining period of his initial sentence, if any is remaining; and

(b) The entire period of conditional discharge, or if the initial sentence has been served, for the remaining period of conditional discharge.

(4) The actual time of release within the maximum established by subsection (1), or as modified pursuant to KRS 532.070, shall be determined under procedures established elsewhere by law.

KY. REV. STAT. ANN. § 532.080 (2010). Persistent felony offender sentencing.

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (5) or (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (5) or (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of two (2) or more felonies, or one (1) or more felony sex crimes against a minor as defined in KRS 17.500, and now stands convicted of any one (1) or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous felony convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. A violent

offender who is found to be a persistent felony offender in the second degree shall not be eligible for parole except as provided in KRS 439.3401.

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, or if the person was previously convicted of one (1) or more sex crimes committed against a minor as defined in KRS 17.500 and presently stands convicted of a subsequent sex crime, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty (20) years nor more than fifty (50) years, or life imprisonment, or life imprisonment without parole for twenty-five (25) years for a sex crime committed against a minor;

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten (10) years nor more than twenty (20) years.

(7) A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person or a sex crime as that term is defined in KRS 17.500, in which case, probation, shock probation, or conditional discharge may be granted. If the offense the person presently stands convicted of is a Class A, B, or C felony, the person shall not be eligible for parole until the person has served a minimum term of incarceration of not less than ten (10) years, unless another sentencing scheme applies. A violent offender who is found to be a persistent felony offender in the first degree shall not be eligible for parole except as provided in KRS 439.3401.

(8) No conviction, plea of guilty, or Alford plea to a violation of KRS 218A.500 shall bring a defendant within the purview of or be used as a conviction eligible for making a person a persistent felony offender under this section.

(9) The provisions of this section amended by 1994 Ky. Acts ch. 396, sec. 11, shall be retroactive.

KY. REV. STAT. ANN. § 532.090 (2010). Sentence of imprisonment for misdemeanor.

A sentence of imprisonment for a misdemeanor shall be a definite term and shall be fixed within the following maximum limitations:

(1) For a Class A misdemeanor, the term shall not exceed twelve (12) months; and

(2) For a Class B misdemeanor, the term shall not exceed ninety (90) days.

KY. REV. STAT. ANN. § 532.110 (2010). Concurrent and consecutive terms of imprisonment.

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one (1) crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, the multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one (1) year;

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed. In no event shall the aggregate of consecutive indeterminate terms exceed seventy (70) years; and

(d) The sentences of a defendant convicted of two (2) or more felony sex crimes, as defined in KRS 17.500, involving two (2) or more victims shall run consecutively.

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve unless the sentence is required by subsection (3) of this section or KRS 533.060 to run consecutively.

(3) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. The sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.

(4) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, the sentence imposed for that offense may, upon order of the trial court, be served in that institution. The person may be transferred to another institution pursuant to administrative regulations of the Department of Corrections.

KY. REV. STAT. ANN. § 532.115 (2010). Concurrent sentencing with federal sentencing or another state's felony sentencing.

The court in sentencing a person convicted of a felony, shall be authorized to run the sentence concurrent with any federal sentence received by that defendant for a federal crime and any sentence received by that defendant in another state for a felony offense. The time spent in federal custody and the time spent in custody in another state under the concurrent sentencing shall count as time spent in state custody; but the federal custody and custody in another state shall not include time spent on probation or parole or constraint incidental to release on bail. If the court

does not specify that its sentence is to run concurrent with a specific federal sentence or sentence of another state, the sentence shall not run concurrent with any federal sentence or sentence of another state.

KY. REV. STAT. ANN. § 532.120 (2010). Calculation of terms of imprisonment.

(1) An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the Department of Corrections. When a person is under more than one (1) indeterminate sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.

(2) A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. When a person is under more than one (1) definite sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the terms are added to arrive at an aggregate term and are satisfied by discharge of the aggregate term.

(3) Time spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the court imposing sentence toward service of the maximum term of imprisonment. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of the sentence shall be considered for all purposes as time served in prison.

(4) If a person has been in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction, the amount of time that would have been credited under subsection (3) of this section if the defendant had been convicted of that charge shall be credited as provided in subsection (3) of this section against any sentence based on a charge for which a warrant or commitment was lodged during the pendency of that custody.

(5) If a person serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence. The interruption shall continue until the person is returned to the institution from which he escaped or to an institution administered by the Department of Corrections. Time spent in actual custody prior to return under this subsection shall be credited against the sentence if custody rested solely on an arrest or surrender for the escape itself.

(6) As used in subsections (3) and (4) of this section, time spent in custody shall include time spent in the intensive secured substance abuse recovery program developed under KRS 196.285 and may include, at the discretion of the sentencing court, time spent in a different residential substance abuse treatment or recovery facility pursuant to KRS 431.518 or 533.251, if under each

option allowed by this subsection, the person has successfully completed the program offered by the intensive secured substance abuse recovery program or the residential substance abuse treatment or recovery facility. If the defendant fails to complete a program, the court may still award full or partial sentence credit if the defendant demonstrates that good cause existed for the failure to complete the program.

KY. REV. STAT. ANN. § 532.260 (2010). Home incarceratin for certain Class C or Class D felons – Eligiblity – Consequence of violation – Administrative regulations.

(1) Any Class C or Class D felon who is serving a sentence in a state-operated prison, contract facility, or county jail shall, at the discretion of the commissioner, be eligible to serve the remainder of his or her sentence outside the walls of the detention facility under terms of home incarceration using an approved monitoring device as defined in KRS 532.200, if the felon:

(a) 1. Has not been convicted of, pled guilty to, or entered an Alford plea to a violent felony as defined by the Department of Corrections classification system; or

2. Has not been convicted of, pled guilty to, or entered an Alford plea to a sex crime as defined in KRS 17.500;

(b) Has ninety (90) days or less to serve on his or her sentence;

(c) Has voluntarily participated in a discharge planning process with the department to address his or her:

1. Education;

2. Employment, technical, and vocational skills; and

3. Housing, medical, and mental health needs; and

(d) Has needs that may be adequately met in the community where he or she will reside upon release.

(2) A person who is placed under terms of home incarceration pursuant to subsection (1) of this section shall remain in the custody of the Department of Corrections. Any unauthorized departure from the terms of home incarceration may be prosecuted as an escape pursuant to KRS Chapter 520 and shall result in the person being returned to prison.

(3) The Department of Corrections shall promulgate administrative regulations to implement the provisions of this section.

KY. REV. STAT. ANN. § 532.356 (2010). Reimbursement and restitution as additional sanctions -- Ineligibility to operate motor vehicle upon conviction of theft of fuels.

(1) Upon a person's conviction and sentencing for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense, and, for the purposes of paragraph (b) of this subsection, any Class C felony offense listed in subsection (3) of this section, the court shall impose the following sanctions in addition to any imprisonment, fine, court cost, or community service:

(a) Reimbursement to the state or local government for the person's incarceration, determined by the per person, per diem, expenses of each prisoner incarcerated by the respective local government, times the number of days he has spent or shall spend in confinement, plus any medical services received by the prisoner, less copayments paid by the prisoner. The convicted person's ability to pay all or part of the reimbursement shall be considered by the sentencing court in imposing the sanction; and

(b) Restitution to the crime victim as set out in KRS 439.563, 532.032, and 532.033.

(2) In addition to any other penalty allowed by law, a court may declare the defendant ineligible to operate a motor vehicle for a period of up to sixty (60) days where the defendant is being sentenced for a conviction of KRS 514.030 involving the theft of gasoline or special fuels from a retail establishment and the defendant has been previously convicted of KRS 514.030 for a theft of gasoline or special fuels from a retail establishment. A retail establishment may post a sign at the location where the fuel is dispensed apprising the public of the sanctions available under this subsection.

(3) (a) In addition to any other penalty allowed by law, a court shall declare the defendant ineligible to operate a motor vehicle for the period of time that any amount of restitution ordered under this section remains unpaid, where the restitution is imposed as the result of the commission of the following offenses:

1. KRS 434.650;

2. KRS 434.655;

3. KRS 434.660;

4. KRS 434.670;

5. KRS 434.690;

6. KRS 514.030;

7. KRS 514.040;

8. KRS 514.050;

9. KRS 514.060;

10. KRS 514.070;

11. KRS 514.080;

12. KRS 514.090;

13. KRS 514.110;

14. KRS 514.120; or

15. KRS 506.120.

(b) Upon motion by the defendant with proper notice to the office of the attorney who represented the Commonwealth at sentencing, the court may authorize the defendant to obtain the hardship license authorized under KRS Chapter 189A. The defendant shall be subject to the same operating restrictions and penalties for noncompliance as are set out for a hardship license in that chapter. The court may waive compliance with provisions of KRS Chapter 189A relating to alcohol treatment, waiting periods, and ignition interlock installation for the purpose of authorizing issuance of a hardship license under this section.

(4) Sanctions imposed by the sentencing court shall become a judgment of the court. Reimbursement of incarceration costs shall be paid by the defendant directly to the jailer in the amount specified by written order of the court. Incarceration costs owed to the Department of Corrections shall be paid through the circuit clerk.

KY. REV. STAT. ANN. § 533.030 (2010). Conditions of probation and conditional discharge – Restitution to victim.

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;

(l) Submit to periodic testing for the use of controlled substances or alcohol, if the defendant's record indicates a controlled substance or alcohol problem, and to pay a reasonable fee, as determined by the court, which fee shall not exceed the actual cost of the test and analysis and shall be paid directly to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis, as specified by written order of the court, performed under this subsection. For good cause shown, the testing fee may be waived by the court; AND

(M) DURING ALL OR PART OF THE PERIOD OF PROBATION OR CONDITIONAL DISCHARGE, PARTICIPATE IN A GLOBAL POSITIONING MONITORING SYSTEM PROGRAM OPERATED BY A COUNTY PURSUANT TO SECTIONS 9 AND 10 OF THIS ACT UNDER THE SAME TERMS AND CONDITIONS AS PROVIDED IN SECTION 11 OF THIS ACT.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or where the victim incurred expenses in relocating for the purpose of the victim's safety or the safety of a member of the victim's household, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health and Family Services, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($ 100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(b) The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant

and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;

(c) When a defendant fails to make restitution ordered to be paid through the circuit clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney, the circuit clerk or court-authorized program shall notify the court; and

(d) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) When requiring fees for controlled substances or alcohol tests, or other fees and payments authorized by this section or other statute, except restitution, to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk.

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

KY. REV. STAT. ANN. § 534.030 (2010). Fines for felonies.

(1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony shall, in addition to any other punishment imposed upon him, be sentenced to pay a fine in an amount not less than one thousand dollars ($1,000) and not greater than ten thousand dollars ($10,000) or double his gain from commission of the offense, whichever is the greater.

(2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:

(a) The defendant's ability to pay the amount of the fine;

(b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;

(c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and

(d) The amount of the defendant's gain, if any, derived from the commission of the offense.

(3) When a defendant is convicted of two (2) or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of the fines shall not exceed ten thousand dollars ($10,000) or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

(4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.

(5) This section shall not apply to a corporation.

KY. REV. STAT. ANN. § 534.040 (2010). Fines for misdemeanors and violations.

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized, a fine may be levied in addition to the imprisonment, or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury, the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony shall be sentenced, in addition to any other punishment imposed upon him, to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, five hundred dollars ($500); or

(b) For a Class B misdemeanor, two hundred fifty dollars ($250); or

(c) For a violation, two hundred fifty dollars ($250).

(3) This section shall not apply to a corporation.

(4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.

LOUISIANA

LA. REV. STAT. ANN. § 14:42 (2010). Aggravated rape.

A. Aggravated rape is a rape committed upon a person sixty-five years of age or older or where the anal, oral, or vaginal sexual intercourse is deemed to be without lawful consent of the victim because it is committed under any one or more of the following circumstances:

(1) When the victim resists the act to the utmost, but whose resistance is overcome by force.

(2) When the victim is prevented from resisting the act by threats of great and immediate bodily harm, accompanied by apparent power of execution.

(3) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon.

(4) When the victim is under the age of thirteen years. Lack of knowledge of the victim's age shall not be a defense.

(5) When two or more offenders participated in the act.

(6) When the victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing such resistance.

B. For purposes of Paragraph (5), "participate" shall mean:

(1) Commit the act of rape.

(2) Physically assist in the commission of such act.

C. For purposes of this Section, the following words have the following meanings:

(1) "Physical infirmity" means a person who is a quadriplegic or paraplegic.

(2) "Mental infirmity" means a person with an intelligence quotient of seventy or lower.

D. (1) Whoever commits the crime of aggravated rape shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

(2) However, if the victim was under the age of thirteen years, as provided by Paragraph (A)(4) of this Section:

(a) And if the district attorney seeks a capital verdict, the offender shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence, in accordance with the determination of the jury. The provisions of C.Cr.P. Art. 782 relative to cases in which punishment may be capital shall apply.

(b) And if the district attorney does not seek a capital verdict, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. The provisions of C.Cr.P. Art. 782 relative to cases in which punishment is necessarily confinement at hard labor shall apply.

LA. REV. STAT. ANN. § 14:43.1 (2010). Sexual battery.

A. Sexual battery is the intentional engaging in any of the following acts with another person where the offender acts without the consent of the victim, or where the act is consensual but the other person, who is not the spouse of the offender, has not yet attained fifteen years of age and is at least three years younger than the offender:

(1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or

(2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.

B. Lack of knowledge of the victim's age shall not be a defense. However, where the victim is under seventeen, normal medical treatment or normal sanitary care of an infant shall not be construed as an offense under the provisions of this Section.

C. (1) Whoever commits the crime of sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.

(2) Whoever commits the crime of sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

LA. REV. STAT. ANN. § 14:43.2 (2010). Second degree sexual battery.

A. Second degree sexual battery is the intentional engaging in any of the following acts with another person when the offender intentionally inflicts serious bodily injury on the victim:

(1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or

(2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.

B. For the purposes of this Section, serious bodily injury means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

C. (1) Whoever commits the crime of second degree sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than fifteen years.

(2) Whoever commits the crime of second degree sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

LA. REV. STAT. ANN. § 14:43.3 (2010). Oral sexual battery.

A. Oral sexual battery is the intentional engaging in any of the following acts with another person, who is not the spouse of the offender when the other person has not yet attained fifteen years of age and is at least three years younger than the offender:

(1) The touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender; or

(2) The touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim.

B. Lack of knowledge of the victim's age shall not be a defense.

C. (1) Whoever commits the crime of oral sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.

(2) Whoever commits the crime of oral sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

LA. REV. STAT. ANN. § 14:44.2 (2010). Aggravated kidnapping of a child.

A. Aggravated kidnapping of a child is the unauthorized taking, enticing, or decoying away and removing from a location for an unlawful purpose by any person other than a parent, grandparent, or legal guardian of a child under the age of thirteen years with the intent to secret the child from his parent or legal guardian.

B. (1) Whoever commits the crime of aggravated kidnapping of a child shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, if the child is returned not physically injured or sexually abused, then the offender shall be punished in accordance with the provisions of R.S. 14:44.1.

LA. REV. STAT. ANN. § 14:45 (2010). Simple kidnapping.

A. Simple kidnapping is:

(1) The intentional and forcible seizing and carrying of any person from one place to another without his consent.

(2) The intentional taking, enticing or decoying away, for an unlawful purpose, of any child not his own and under the age of fourteen years, without the consent of its parent or the person charged with its custody.

(3) The intentional taking, enticing or decoying away, without the consent of the proper authority, of any person who has been lawfully committed to any orphan, insane, feeble-minded or other similar institution.

(4) The intentional taking, enticing or decoying away and removing from the state, by any parent of his or her child, from the custody of any person to whom custody has been awarded by any court of competent jurisdiction of any state, without the consent of the legal custodian, with intent to defeat the jurisdiction of the said court over the custody of the child.

(5) The taking, enticing or decoying away and removing from the state, by any person, other than the parent, of a child temporarily placed in his custody by any court of competent jurisdiction in the state, with intent to defeat the jurisdiction of said court over the custody of the child.

B. Whoever commits the crime of simple kidnapping shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

LA. REV. STAT. ANN. § 14:45.1 (2010). Interference with the custody of a child.

A. Interference with the custody of a child is the intentional taking, enticing, or decoying away of a minor child by a parent not having a right of custody, with intent to detain or conceal such child from a parent having a right of custody pursuant to a court order or from a person entrusted with the care of the child by a parent having custody pursuant to a court order.

It shall be an affirmative defense that the offender reasonably believed his actions were necessary to protect the welfare of the child.

B. Whoever commits the crime of interference with the custody of a child shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both. Costs of returning a child to the jurisdiction of the court shall be assessed against any defendant convicted of a violation of this Section, as court costs as provided by the Louisiana Code of Criminal Procedure.

LA. REV. STAT. ANN. § 14:74 (2010). Criminal neglect of family.

A. (1) Criminal neglect of family is the desertion or intentional nonsupport:

(a) By a spouse of his or her spouse who is in destitute or necessitous circumstances; or

(b) By either parent of his minor child who is in necessitous circumstances, there being a duty established by this Section for either parent to support his child.

(2) Each parent shall have this duty without regard to the reasons and irrespective of the causes of his living separate from the other parent. The duty established by this Section shall apply retrospectively to all children born prior to the effective date of this Section.

(3) For purposes of this Subsection, the factors considered in determining whether "necessitous circumstances" exist are food, shelter, clothing, health, and with regard to minor children only, adequate education, including but not limited to public, private, or home schooling, and comfort.

B. (1) Whenever a husband has left his wife or a wife has left her husband in destitute or necessitous circumstances and has not provided means of support within thirty days thereafter, his or her failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving he or she intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for purposes of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

(2) Whenever a parent has left his minor child in necessitous circumstances and has not provided means of support within thirty days thereafter, his failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving the parent intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for the purpose of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

C. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Section. Husband and wife are competent witnesses to testify to any relevant matter.

D. (1) Whoever commits the offense of criminal neglect of family shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both, and may be placed on probation pursuant to R.S. 15:305.

(2) If a fine is imposed, the court shall direct it to be paid in whole or in part to the spouse or to the tutor or custodian of the child, to the court approved fiduciary of the spouse or child, or to the Louisiana Department of Social Services in a FITAP or Family Independence Temporary Assistance Program case or in a non-FITAP or Family Independence Temporary Assistance Program case in which the said department is rendering services, whichever is applicable; hereinafter, said payee shall be referred to as the "applicable payee." In addition, the court may issue a support order, after considering the circumstances and financial ability of the defendant, directing the defendant to pay a certain sum at such periods as the court may direct. This support shall be ordered payable to the applicable payee. The amount of support as set by the court may be increased or decreased by the court as the circumstances may require.

(3) The court may also require the defendant to enter into a recognizance, with or without surety, in order that the defendant shall make his or her personal appearance in court whenever required to do so and shall further comply with the terms of the order or of any subsequent modification thereof.

E. For the purposes of this Section, "spouse" shall mean a husband or wife.

LA. REV. STAT. ANN. § 14:75 (2010). Failure to pay child supoprt obligation.

A. This law may be cited as the "Deadbeat Parents Punishment Act of Louisiana."

B. It shall be unlawful for any obligor to intentionally fail to pay a support obligation for any child who resides in the state of Louisiana, if such obligation has remained unpaid for a period longer than one year or is greater than five thousand dollars.

C. (1) For a first offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than five hundred dollars or imprisonment for not more than six months, or both.

(2) For a second or subsequent offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than twenty-five hundred dollars or imprisonment with or without hard labor for not more than two years, or both.

(3) Upon a conviction under this statute, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(4) In any case in which restitution is made prior to the time of sentencing, the court may suspend all or any portion of the imposition or execution of the sentence otherwise required in this Subsection.

(5) The penalty for failure to pay a legal child support obligation when the amount of the arrearage is more than fifteen thousand dollars and the obligation has been outstanding for at least one year shall be a fine of not more than twenty-five hundred dollars, or imprisonment with or without hard labor for not more than two years, or both.

D. With respect to an offense under this Section, an action may be prosecuted in a judicial district court in this state in which any child who is the subject of the support obligation involved resided during a period during which an obligor failed to meet that support obligation; or the judicial district in which the obligor resided during a period described in Subsection B of this Section; or any other judicial district with jurisdiction otherwise provided for by law.

E. As used in this Section, the following terms mean:

(1) "Obligor" means any person who has been ordered to pay a support obligation in accordance with law.

(2) "Support obligation" means any amount determined by a court order or an order of an administrative process pursuant to the law of the state of Louisiana to be due from a person for the support and maintenance of a child or children.

F. It shall be an affirmative defense to any charge under this Section that the obligor was financially unable to pay the support obligation during and after the period that he failed to pay as ordered by the court.

LA. REV. STAT. ANN. § 14:79 (2010). Criminal abandonment.

A. Criminal abandonment is any of the following:

(1) The intentional physical abandonment of a minor child under the age of ten years by the child's parent or legal guardian by leaving the minor child unattended and to his own care when the evidence demonstrates that the child's parent or legal guardian did not intend to return to the minor child or provide for adult supervision of the minor child.

(2) The intentional physical abandonment of an aged or disabled person by a caregiver as defined in R.S. 14:93.3 who is compensated for providing care to such person. For the purpose of this Paragraph an aged person shall mean any individual who is sixty years of age or older.

B. Whoever commits the crime of criminal abandonment shall be fined not more than one thousand dollars, or be imprisoned for not more than one year, or both.

LA. REV. STAT. ANN. § 14:80 (2010). Felony carnal knowledge of a juvenile.

A. Felony carnal knowledge of a juvenile is committed when:

(1) A person who is seventeen years of age or older has sexual intercourse, with consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim

is not the spouse of the offender and when the difference between the age of the victim and the age of the offender is four years or greater; or

(2) A person commits a second or subsequent offense of misdemeanor carnal knowledge of a juvenile, or a person who has been convicted one or more times of violating one or more crimes for which the offender is required to register as a sex offender under R.S. 15:542 commits a first offense of misdemeanor carnal knowledge of a juvenile.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

D. Whoever commits the crime of felony carnal knowledge of a juvenile shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

LA. REV. STAT. ANN. § 14:80.1 (2010). Misdemeanor carnal knowledge of a juvenile.

A. Misdemeanor carnal knowledge of a juvenile is committed when a person who is seventeen years of age or older has sexual intercourse, with consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the spouse of the offender, and when the difference between the age of the victim and age of the offender is greater than two years, but less than four years.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

D. Whoever commits the crime of misdemeanor carnal knowledge of a juvenile shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

E. The offender shall be eligible to have his conviction set aside and his prosecution dismissed in accordance with the appropriate provisions of the Code of Criminal Procedure.

F. The offender shall not be subject to any of the provisions of law which are applicable to sex offenders, including but not limited to the provisions which require registration of the offender and notice to the neighbors of the offender.

LA. REV. STAT. ANN. § 14:81 (2010). Indecent behavior with juveniles.

A. Indecent behavior with juveniles is the commission of any of the following acts with the intention of arousing or gratifying the sexual desires of either person:

(1) Any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons. Lack of knowledge of the child's age shall not be a defense; or

(2) The transmission, delivery or utterance of any textual, visual, written, or oral communication depicting lewd or lascivious conduct, text, words, or images to any person reasonably believed to be under the age of seventeen and reasonably believed to be at least two years younger than the offender. It shall not be a defense that the person who actually receives the transmission is not under the age of seventeen.

B. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

C. For purposes of this Section, "textual, visual, written, or oral communication" means any communication of any kind, whether electronic or otherwise, made through the use of the United States mail, any private carrier, personal courier, computer online service, Internet service, local bulletin board service, Internet chat room, electronic mail, online messaging service, or personal delivery or contact.

D. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, free over-the-air television broadcast station, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial on-line services.

E. An offense committed under this Section and based upon the transmission and receipt of textual, visual, written, or oral communication may be deemed to have been committed where the communication was originally sent, originally received, or originally viewed by any person.

F. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

G. Any evidence resulting from the commission of a crime under this Section shall constitute contraband.

H. Whoever commits the crime of indecent behavior with juveniles shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than seven years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

LA. REV. STAT. ANN. § 14:81.1 (2010). Pornography involving juveniles.

A. Pornography involving juveniles is any of the following:

(1) The photographing, videotaping, filming, or otherwise reproducing visually of any sexual performance involving a child under the age of seventeen.

(2) The solicitation, promotion, or coercion of any child under the age of seventeen for the purpose of photographing, videotaping, filming, or otherwise reproducing visually any sexual performance involving a child under the age of seventeen.

(3) The intentional possession, sale, distribution, or possession with intent to sell or distribute of any photographs, films, videotapes, or other visual reproductions of any sexual performance involving a child under the age of seventeen.

(4) The consent of a parent, legal guardian, or custodian of a child under the age of seventeen for the purpose of photographing, videotaping, filming, or otherwise reproducing visually any sexual performance involving the child.

B. For purposes of this Section the following definitions shall apply:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct involving a child under the age of seventeen.

(2) "Performance" means any play, motion picture, photograph, dance, or other visual presentation.

(3) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.

(4) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, prevent, exhibit, or advertise, or to offer or agree to do the same.

C. Possession of three or more of the same photographs, films, videotapes, or other visual reproductions shall be prima facie evidence of intent to sell or distribute.

D. Lack of knowledge of the juvenile's age shall not be a defense.

E. (1) Whoever commits the crime of pornography involving juveniles shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than two years or more than ten years, without benefit of parole, probation, or suspension of sentence.

(2) Whoever commits the crime of pornography involving juveniles by violating the provisions of Paragraph (A)(2) of this Section on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

F. (1) Any evidence of pornography involving a child under the age of seventeen shall be contraband. Such contraband shall be seized in accordance with law and shall be disposed of in accordance with R.S. 46:1845.

(2) Upon the filing of any information or indictment by the prosecuting authority for a violation of this Section, the investigating law enforcement agency which seized the photographs, films, videotapes, or other visual reproductions of pornography involving juveniles shall provide copies of those reproductions to the Internet crimes against children division within the attorney general's office.

(3) Upon receipt of the reproductions as provided in Paragraph (2) of this Subsection, the Internet crimes against children division shall:

(a) Provide those visual reproductions to the law enforcement agency representative assigned to the Child Victim Identification Program at the National Center for Missing and Exploited Children.

(b) Request the Child Victim Identification Program provide the law enforcement agency contact information for any visual reproductions recovered which contain an identified victim of pornography involving juveniles as defined in this Section.

(c) Provide case information to the Child Victim Identification Program, as requested by the National Center for Missing and Exploited Children guidelines, in any case where the Internet crimes against children division within the attorney general's office identifies a previously unidentified victim of pornography involving juveniles.

(4) The Internet crimes against children division shall submit to the designated prosecutor the law enforcement agency contact information provided by the Child Victim Identification Program at the National Center for Missing and Exploited Children, for any visual reproductions involved in the case which contain the depiction of an identified victim of pornography involving juveniles as defined in this Section.

(5) In all cases in which the prosecuting authority has filed an indictment or information for a violation of this Section and the victim of pornography involving juveniles has been identified and is a resident of this state, the prosecuting agency shall submit all of the following information to the attorney general for entry into the Louisiana Attorney General's Exploited Children's Identification database maintained by that office:

(a) The parish, district, and docket number of the case.

(b) The name, race, sex, and date of birth of the defendant.

(c) The identity of the victim.

(d) The contact information for the law enforcement agency which identified a victim of pornography involving juveniles, including contact information maintained by the Child Victim Identification Program and provided to the Internet crimes against children division in accordance with this Section.

(6) No sentence, plea, conviction, or other final disposition shall be invalidated due to failure to comply with the provisions of this Subsection, and no person shall have a cause of action against the investigating law enforcement agency or any prosecuting authority, or officer or agent thereof for failure to comply with the provisions of this Subsection.

G. In prosecutions for violations of this Section, the trier of fact may determine, utilizing the following factors, whether or not the person displayed or depicted in any photograph, videotape, film, or other video reproduction introduced in evidence was under the age of seventeen years at the time of filming or recording:

(1) The general body growth, bone structure, and bone development of the person.

(2) The development of pubic or body hair on the person.

(3) The development of the person's sexual organs.

(4) The context in which the person is placed or the age attributed to the person in any accompanying video, printed, or text material.

(5) Available expert testimony and opinion as to the chronological age or degree of physical or mental maturity or development of the person.

(6) Such other information, factors, and evidence available to the trier of fact which the court determines is probative and reasonably reliable.

LA. REV. STAT. ANN. § 14:81.2 (2010). Molestation of a juvenile.

A. Molestation of a juvenile is the commission by anyone over the age of seventeen of any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons, with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, or by the use of influence by virtue of a position of control or supervision over the juvenile. Lack of knowledge of the juvenile's age shall not be a defense.

B. Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than

ten years, or both; the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

C. Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, and when the offender has control or supervision over the juvenile, shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than twenty years, or both the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with Code of Criminal Procedure Article 893.

D. (1) Whoever commits the crime of molestation of a juvenile when the incidents of molestation recur during a period of more than one year shall, on first conviction, be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not less than five nor more than forty years, or both. At least five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence. After five years of the sentence have been served, the offender, who is otherwise eligible, may be eligible for parole if a licensed psychologist, medical psychologist, or a licensed clinical social worker or a board-certified psychiatrist, after psychological examination, including testing, approves.

(2) Conditions of parole shall include treatment in a qualified sex offender program for a minimum of five years, or until expiration of sentence, whichever comes first. The state shall be responsible for the cost of testing but the offender shall be responsible for the cost of the treatment program. It shall also be a condition of parole that the offender be prohibited from being alone with a child without the supervision of another adult.

(3) For purposes of this Subsection, a "qualified sex offender program" means one which includes both group and individual therapy and arousal reconditioning. Group therapy shall be conducted by two therapists, one male and one female, at least one of whom is licensed as a psychologist or medical psychologist or is board certified as a psychiatrist or clinical social worker.

(4) Repealed by Acts 2006, No. 36, § 2, effective August 15, 2006.

E. (1) Whoever commits the crime of molestation of a juvenile when the victim is under the age of thirteen years shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(2) Upon completion of the term of imprisonment imposed in accordance with Paragraph (1) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(3) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(4) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only, to the degree that sufficient funds are

made available for such purpose whether by appropriation of state funds or from any other source.

(5) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

F. (1) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, and when the offender is an educator of the juvenile, shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than forty years, or both. At least five years of the sentence imposed shall be without the benefit of parole, probation, or suspension of sentence and the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with Code of Criminal Procedure Article 893.

(2) For purposes of this Subsection, "educator" means any teacher or instructor, administrator, staff person, or employee of any public or private elementary, secondary, vocational-technical training, special, or post secondary school or institution, including any teacher aide, paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by a private, city, parish, or other local public school board.

LA. REV. STAT. ANN. § 14:81.3 (2010). Computer-aided solicitation of a minor.

A. (1) Computer-aided solicitation of a minor is committed when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two years, or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to persuade, induce, entice, or coerce the person to engage or participate in sexual conduct or a crime of violence as defined in R.S. 14:2(B), or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of seventeen, or person reasonably believed to have not yet attained the age of seventeen.

(2) It shall also be a violation of the provisions of this Section when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two years, or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to arrange for any third party to engage in any of the conduct proscribed by the provisions of Paragraph (1) of this Subsection.

(3) It shall also be a violation of the provisions of this Section when the contact or communication is initially made through the use of electronic textual communication and subsequent communication is made through the use of any other form of communication.

B. (1) (a) Whoever violates the provisions of this Section when the victim is thirteen years of age or more but has not attained the age of seventeen shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than five years nor more than ten years, without benefit of parole, probation, or suspension of sentence.

(b) Whoever violates the provisions of this Section when the victim is under thirteen years of age shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than ten years nor more than twenty years, without benefit of parole, probation, or suspension of sentence.

(c) Whoever violates the provisions of this Section, when the victim is a person reasonably believed to have not yet attained the age of seventeen, shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than two years nor more than ten years, without benefit of parole, probation, or suspension of sentence.

(2) On a subsequent conviction, the offender shall be imprisoned for not less than ten years nor more than twenty years at hard labor without benefit of parole, probation, or suspension of sentence.

(3) In addition to the penalties imposed in either Paragraph (1) or (2) of this Subsection, the court may impose, as an additional penalty on the violator, the limitation or restriction of access to the Internet when the Internet was used in the commission of the crime.

C. It shall not constitute a defense to a prosecution brought pursuant to this Section that the person reasonably believed to be under the age of seventeen is actually a law enforcement officer or peace officer acting in his official capacity.

D. For purposes of this Section, the following words have the following meanings:

(1) "Electronic textual communication" means a textual communication made through the use of a computer on-line service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or on-line messaging service.

(2) "Sexual conduct" means actual or simulated sexual intercourse, deviant sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, lewd exhibition of the genitals, or any lewd or lascivious act.

E. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services.

F. An offense committed under this Section may be deemed to have been committed where the electronic textual communication was originally sent, originally received, or originally viewed by any person, or where any other element of the offense was committed.

G. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

H. Any evidence resulting from the commission of computer-aided solicitation of a minor shall constitute contraband.

I. A violation of the provisions of this Section shall be considered a sex offense as defined in R.S. 15:541(14.1). Whoever commits the crime of computer- aided solicitation of a minor shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

LA. REV. STAT. ANN. § 14:81.4 (2010). Prohibited sexual conduct between educator and student.

A. Prohibited sexual conduct between an educator and a student is committed when any of the following occur:

(1) An educator has sexual intercourse with a person who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is not the spouse of the offender and is a student at the school where the educator is assigned, employed, or working at the time of the offense.

(2) An educator commits any lewd or lascivious act upon a student or in the presence of a student who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, with the intention of gratifying the sexual desires of either person, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense.

(3) An educator intentionally engages in the touching of the anus or genitals of a student seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, using any instrumentality or any part of the body of the educator, or the touching of the anus or genitals of the educator by a person seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense using any instrumentality or any part of the body of the student.

B. As used in this Section:

(1) "Educator" means any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide at any public or private school, assigned, employed, or working at the school or school system where the victim is enrolled as a student on a full-time, part-time, or temporary basis.

(2) "School" means a public or nonpublic elementary or secondary school or learning institution which shall not include universities and colleges.

(3) "Sexual intercourse" means anal, oral, or vaginal sexual intercourse. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

(4) "Student" includes students enrolled in a school who are seventeen years of age or older, but less than twenty-one years of age.

C. The consent of a student, whether or not that student is seventeen years of age or older, shall not be a defense to any violation of this Section.

D. Lack of knowledge of the student's age shall not be a defense.

E. (1) Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) For a second or subsequent offense, an offender may be fined not more than five thousand dollars and shall be imprisoned, with or without hard labor, for not less than one year nor more than five years.

F. Notwithstanding any claim of privileged communication, any educator having cause to believe that prohibited sexual conduct between an educator and student shall immediately report such conduct to a local or state law enforcement agency.

G. No cause of action shall exist against any person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings arising out of such report, and such persons shall have immunity from civil or criminal liability that otherwise might be incurred or imposed. This immunity shall not be extended to any person who makes a report known to be false or with reckless disregard for the truth of the report.

H. In any action to establish damages against a defendant who has made a false report of prohibited sexual conduct between an educator and student, the plaintiff shall bear the burden of proving that the defendant who filed the false report knew the report was false or that the report was filed with reckless disregard for the truth of the report. A plaintiff who fails to meet the burden of proof set forth in this Subsection shall pay all court costs and attorney fees of the defendant.

LA. REV. STAT. ANN. § 14:81.5 (2010). Unlawful possession of videotape of protected presons under R.S. 15:440.1 et seq.

A. It is unlawful for any person to knowingly and intentionally possess, sell, duplicate, distribute, transfer, or copy any films, recordings, videotapes, audio tapes, or other visual, audio, or written reproductions, of any recording of videotapes of protected persons provided in R.S. 15:440.1 through 440.6.

B. For purposes of this Section, "videotape" means the visual recording on a magnetic tape, film, videotape, compact disc, digital versatile disc, digital video disc, audio tape, written visual or audio reproduction or by other electronic means together with the associated oral record.

C. The provisions of this statute shall not apply to persons acting pursuant to a court order or exempted by R.S. 15:440.5 or by persons who in the course and scope of their employment are in possession of the videotape, including the office of community services, any law enforcement agency or its authorized agents and personnel, the office of the district attorney and its assistant district attorneys and authorized personnel, and the agency or organization producing the videotape, including Children Advocacy Centers.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

LA. REV. STAT. ANN. § 14:89.1 (2010). Aggravated crime against nature.

A. Aggravated crime against nature is crime against nature committed under any one or more of the following circumstances:

(1) When the victim resists the act to the utmost, but such resistance is overcome by force;

(2) When the victim is prevented from resisting the act by threats of great and immediate bodily harm accompanied by apparent power of execution;

(3) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon; or

(4) When through idiocy, imbecility, or any unsoundness of mind, either temporary or permanent, the victim is incapable of giving consent and the offender knew or should have known of such incapacity;

(5) When the victim is incapable of resisting or of understanding the nature of the act, by reason of stupor or abnormal condition of mind produced by a narcotic or anesthetic agent, administered by or with the privity of the offender; or when he has such incapacity, by reason of a stupor or abnormal condition of mind from any cause, and the offender knew or should have known of such incapacity; or

(6) When the victim is under the age of seventeen years and the offender is at least three years older than the victim.

B. Whoever commits the crime of aggravated crime against nature shall be imprisoned at hard labor for not less than three nor more than fifteen years, such prison sentence to be without benefit of suspension of sentence, probation or parole.

LA. REV. STAT. ANN. § 14:91.1 (2010). Unlawful presence of a sexually violent predator.

A. Unlawful presence of a sexually violent predator is:

(1) The physical presence of a sexually violent predator on the school property of any public or private, elementary or secondary school, or in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of eighteen years are present on the school property or in a school vehicle; or

(2) The physical residing of a sexually violent predator within one thousand feet of any public or private elementary or secondary school, a day care center, group home, residential home, or child care facility as defined in R.S. 46:1403, a family child day care home as defined in R.S.

46:1441.1, playground, public or private youth center, public swimming pool, or free standing video arcade facility.

B. It shall not be a violation of Paragraph (A)(1) of this Section if the offender has permission to be present from the superintendent of the school board in the case of a public school or the principal or headmaster in the case of a private school.

C. If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to Subsection B of this Section, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender. This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

D. For purposes of this Section:

(1) "School property" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

(2) "Sexually violent predator" means a person defined as such in accordance with the provisions of Chapter 3-D of Title 15 of the Louisiana Revised Statutes of 1950.

E. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

LA. REV. STAT. ANN. § 14:91.2 (2010). Unlawful presence of a sex offender.

A. The following acts when committed by a person convicted of a sex offense as defined in R.S. 15:541(14.1) when the victim is under the age of thirteen years shall constitute the crime of unlawful residence or presence of a sex offender:

(1) The physical presence of the offender in, on, or within one thousand feet of the school property of any public or private elementary or secondary school or the physical presence in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of eighteen years are present on the school property or in a school vehicle.

(2) The offender establishing a residence within one thousand feet of any public or private elementary or secondary school.

(3) The physical presence of the offender in, on, or within one thousand feet of a public park or recreational facility.

(4) The offender establishing a residence within one thousand feet of any public park or recreational facility.

B. The following acts, when committed by a person convicted of an aggravated offense as defined in R.S. 15:541(2) when the victim is under the age of thirteen years, shall constitute the crime of unlawful residence or presence of a sex offender:

(1) The physical presence of the offender in, on, or within one thousand feet of a day care center, group home, residential home, or child care facility as defined in R.S. 46:1403, or a family child day care home as defined in R.S. 46:1441.1.

(2) The establishment of a residence within one thousand feet of any day care center, group home, residential home, or child care facility as defined in R.S. 46:1403, a family child day care home as defined in R.S. 46:1441.1, playground, public or private youth center, public swimming pool, or free standing video arcade facility.

C. (1) It shall not be a violation of the provisions of this Section if the offender has permission to be present on school premises from the superintendent of the school board in the case of a public school or the principal or headmaster in the case of a private school.

(2) If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to this Subsection, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender. This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

(3) Any superintendent, principal, or school master who acts in good faith in compliance with this Subsection shall be immune from civil or criminal liability for his actions in connection with any injury or claim arising from an offender being present on school property pursuant to permission granted by that superintendent, principal, or school master.

D. For purposes of this Section:

(1) "School property" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

(2) "Public park or recreational facility" means any building or area owned by the state or by a political subdivision which is open to the public and used or operated as a park or recreational facility and shall include all parks and recreational areas administered by the office of state parks in the Department of Culture, Recreation and Tourism.

E. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

LA. REV. STAT. ANN. § 14:91.3 (2010). Unlawful participation in a child-related business.

A. No person convicted of a sex offense as defined in R.S. 15:541, whose offense involved a person under the age of thirteen years, shall own, operate, or in any way participate in the

governance of those child care facilities as enumerated in R.S. 46:1403 or in family child day care homes as defined in R.S. 46:1441.1.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

LA. REV. STAT. ANN. § 14:91.4 (2010). Contributing to the endangerment of a minor.

A. No person shall knowingly employ a person convicted of a sex offense as defined in R.S. 15:541, whose offense involved a minor child, to work in any of the following facilities:

(1) A day care center, residential home, community home, or group home or child care facility as defined in R.S. 46:1403; or

(2) A family child day care home as defined in R.S. 46:1441.1.

B. No person shall knowingly permit a person convicted of a sex offense as defined in R.S. 15:541 physical access to any of the following facilities:

(1) A day care center, residential home, community home, group home, or child care facility as defined in R.S. 46:1403; or

(2) A family child day care home as defined in R.S. 46:1441.1.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

LA. REV. STAT. ANN. § 14:93 (2010). Cruelty to juveniles.

A. Cruelty to juveniles is:

(1) The intentional or criminally negligent mistreatment or neglect by anyone seventeen years of age or older of any child under the age of seventeen whereby unjustifiable pain or suffering is caused to said child. Lack of knowledge of the child's age shall not be a defense; or

(2) The intentional or criminally negligent exposure by anyone seventeen years of age or older of any child under the age of seventeen to a clandestine laboratory operation as defined by R.S. 40:983 in a situation where it is foreseeable that the child may be physically harmed. Lack of knowledge of the child's age shall not be a defense.

(3) The intentional or criminally negligent allowing of any child under the age of seventeen years by any person over the age of seventeen years to be present during the manufacturing, distribution, or purchasing or attempted manufacturing, distribution, or purchasing of a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law. Lack of knowledge of the child's age shall not be a defense.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be criminally negligent mistreatment or neglect of a child. The provisions of this Subsection shall be an affirmative defense to a prosecution under this Section. Nothing herein shall be construed to limit the provisions of R.S. 40:1299.36.1.

C. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

D. Whoever commits the crime of cruelty to juveniles shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

LA. REV. STAT. ANN. § 14:93.2.1 (2010). Child desertion.

A. Child desertion is the intentional or criminally negligent exposure of a child under the age of ten years, by a person who has the care, custody, or control of the child, to a hazard or danger against which the child cannot reasonably be expected to protect himself, or the desertion or abandonment of such child, knowing or having reason to believe that the child could be exposed to such hazard or danger.

B. (1) Whoever commits the crime of child desertion shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

(2) On a second and subsequent conviction, the offender shall be fined not more than five hundred dollars and imprisoned for not less than thirty days nor more than six months, at least thirty days of which shall be without benefit of probation or suspension of sentence.

LA. REV. STAT. ANN. § 14:93.2.3 (2010). Second degree cruelty to juveniles.

A. (1) Second degree cruelty to juveniles is the intentional or criminally negligent mistreatment or neglect by anyone over the age of seventeen to any child under the age of seventeen which causes serious bodily injury or neurological impairment to that child.

(2) For purposes of this Section, "serious bodily injury" means bodily injury involving protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or substantial risk of death.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be intentional or criminally negligent mistreatment or neglect and shall be an affirmative defense to a prosecution under this Section.

C. Whoever commits the crime of second degree cruelty to juveniles shall be imprisoned at hard labor for not more than forty years.

LA. REV. STAT. ANN. § 14:403 (2010). Abuse of children; reports; waiver of privilege.

A. (1) Any person who, under Children's Code Article 609(A), is required to report the abuse or neglect or sexual abuse of a child and knowingly and willfully fails to so report shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Any person, any employee of a local child protection unit of the Department of Social Services, any employee of any local law enforcement agency, any employee or agent of any state department, or any school employee who knowingly and willfully violates the provisions of Chapter 5 of Title VI of the Children's Code, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of child abuse or neglect or sexual abuse, or who discloses without authorization confidential information about or contained within such reports shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(3) Any person who reports a child as abused or neglected or sexually abused to the department or to any law enforcement agency, knowing that such information is false, shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

B. In any proceeding concerning the abuse or neglect or sexual abuse of a child or the cause of such condition, evidence may not be excluded on any ground of privilege, except in the case of communications between an attorney and his client or between a priest, rabbi, duly ordained minister or Christian Science practitioner and his communicant.

LA. REV. STAT. ANN. § 14:403.3 (2010). Reports of missing children; procedures; false reports or communications; penalties.

A. (1) Any state or local law enforcement agency receiving a report of a missing child and having reasonable grounds to believe such report is accurate shall within forty-eight hours after the date of receipt of the report notify each of the following of the fact and contents of such report:

(a) The Department of Health and Human Resources.

(b) The Department of Public Safety and Corrections, if it did not originally receive the report.

(c) The office of the sheriff for the parish in which such report was received, if it did not originally receive the report.

(d) The office of the sheriff for all parishes adjacent to the parish in which such report was received.

(e) The National Crime Information Computer System.

(2) The law enforcement agency may also notify any other appropriate local, state, or federal agency of the fact and contents of such report.

B. No person shall knowingly file a false missing child report with a law enforcement agency.

C. No person shall intentionally communicate false information concerning a missing child to a law enforcement agency when such information is communicated with the specific intent to delay or otherwise hinder an investigation to locate the child.

D. Whoever violates the provisions of Subsections B or C herein shall be fined not more than two thousand dollars or be imprisoned for not more than, one year, with or without hard labor, or both.

LA. REV. STAT. ANN. § 15:303 (2010). Maximum fine or imprisonment when not specified.

Whenever the punishment of fine and imprisonment are left by law to the discretion of any court, the fine shall not exceed one thousand dollars, nor the imprisonment two years.

LA. REV. STAT. ANN. § 15:529.1 (2010). Sentences for second and subsequent offenses; certificate of warden or clerk of court in the state of Louisiana as evidence.

A. (1) Any person who, after having been convicted within this state of a felony or adjudicated a delinquent under Title VIII of the Louisiana Children's Code for the commission of a felony-grade violation of either the Louisiana Controlled Dangerous Substances Law involving the manufacture, distribution, or possession with intent to distribute a controlled dangerous substance or a crime of violence as listed in Paragraph (2) of this Subsection, or who, after having been convicted under the laws of any other state or of the United States, or any foreign government of a crime which, if committed in this state would be a felony, thereafter commits any subsequent felony within this state, upon conviction of said felony, shall be punished as follows:

(a) If the second felony is such that upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life, then the sentence to imprisonment shall be for a determinate term not less than one-half the longest term and not more than twice the longest term prescribed for a first conviction;

(b) If the third felony is such that upon a first conviction, the offender would be punishable by imprisonment for any term less than his natural life then:

(i) The person shall be sentenced to imprisonment for a determinate term not less than two-thirds of the longest possible sentence for the conviction and not more than twice the longest possible sentence prescribed for a first conviction; or

(ii) If the third felony and the two prior felonies are felonies defined as a crime of violence under La. Rev. Stat. Ann. § 14:2(B), a sex offense as defined in R.S. 15:540 et seq. when the victim is under the age of eighteen at the time of commission of the offense, or as a violation of

the Uniform Controlled Dangerous Substances Law punishable by imprisonment for ten years or more, or any other crimes punishable by imprisonment for twelve years or more, or any combination of such crimes, the person shall be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

(c) If the fourth or subsequent felony is such that, upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life then:

(i) The person shall be sentenced to imprisonment for the fourth or subsequent felony for a determinate term not less than the longest prescribed for a first conviction but in no event less than twenty years and not more than his natural life; or

(ii) If the fourth felony and two of the prior felonies are felonies defined as a crime of violence under La. Rev. Stat. Ann. § 14:2(B), a sex offense as defined in La. Rev. Stat. Ann. § 15:540 et seq. when the victim is under the age of eighteen at the time of commission of the offense, or as a violation of the Uniform Controlled Dangerous Substances Law punishable by imprisonment for ten years or more, or of any other crime punishable by imprisonment for twelve years or more, or any combination of such crimes, the person shall be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

(2) (a) Attempted first degree murder.

(b) Attempted second degree murder.

(c) Manslaughter.

(d) Armed robbery.

(e) Forcible rape.

(f) Simple rape.

(g) Second degree kidnapping.

(h) A second or subsequent aggravated battery.

(i) A second or subsequent aggravated burglary.

(j) A second or subsequent offense of burglary of an inhabited dwelling.

B. It is hereby declared to be the intent of this Section that an offender need not have been adjudged to be a second offender in a previous prosecution in order to be charged as and adjudged to be a third offender, or that an offender has been adjudged in a prior prosecution to be a third offender in order to be convicted as a fourth offender in a prosecution for a subsequent crime. Multiple convictions obtained on the same day prior to October 19, 2004, shall be counted as one conviction for the purpose of this Section.

C. The current offense shall not be counted as, respectively, a second, third, fourth, or higher offense if more than ten years have elapsed between the date of the commission of the current offense or offenses and the expiration of the maximum sentence or sentences of the previous

conviction or convictions, or adjudication or adjudications of delinquency, or between the expiration of the maximum sentence or sentences of each preceding conviction or convictions or adjudication or adjudications of delinquency alleged in the multiple offender bill and the date of the commission of the following offense or offenses. In computing the intervals of time as provided herein, any period of servitude by a person in a penal institution, within or without the state, shall not be included in the computation of any of said ten-year periods between the expiration of the maximum sentence or sentences and the next succeeding offense or offenses.

D. (1) (a) If, at any time, either after conviction or sentence, it shall appear that a person convicted of a felony has previously been convicted of a felony under the laws of this state or adjudicated a delinquent under Title VIII of the Louisiana Children's Code for the commission of a felony-grade violation of either the Louisiana Controlled Dangerous Substances Law involving the manufacture, distribution, or possession with intent to distribute a controlled dangerous substance or a crime of violence as listed in Paragraph (2) of Subsection A of this Section, or has been convicted under the laws of any other state, or of the United States, or of any foreign government or country, of a crime, which, if committed in this state would be a felony, the district attorney of the parish in which subsequent conviction was had may file an information accusing the person of a previous conviction or adjudication of delinquency. Whereupon the court in which the subsequent conviction was had shall cause the person, whether confined in prison or otherwise, to be brought before it and shall inform him of the allegation contained in the information and of his right to be tried as to the truth thereof according to law and shall require the offender to say whether the allegations are true. If he denies the allegation of the information or refuses to answer or remains silent, his plea or the fact of his silence shall be entered on the record and he shall be given fifteen days to file particular objections to the information, as provided in Subparagraph (b). The judge shall fix a day to inquire whether the offender has been convicted of a prior felony or felonies, or adjudicated a delinquent for an offense or offenses specified above as set forth in the information.

(b) Except as otherwise provided in this Subsection, the district attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. The presumption of regularity of judgment shall be sufficient to meet the original burden of proof. If the person claims that any conviction or adjudication of delinquency alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the prosecutor. A person claiming that a conviction or adjudication of delinquency alleged in the information was obtained in violation of the Constitutions of Louisiana or of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof, by a preponderance of the evidence, on any issue of fact raised by the response. Any challenge to a previous conviction or adjudication of delinquency which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

(2) Following a contradictory hearing, the court shall find that the defendant is:

(a) A second offender upon proof of a prior felony conviction or adjudication of delinquency as authorized in Subsection A.

(b) A third offender, upon proof of two prior felony convictions or adjudications of delinquency as authorized in Subsection A, or any combination thereof.

(c) A fourth offender, upon proof of three or more prior felony convictions or adjudications of delinquency as authorized in Subsection A, or any combination thereof.

(3) When the judge finds that he has been convicted of a prior felony or felonies or adjudicated a delinquent as authorized in Subsection A, or if he acknowledges or confesses in open court, after being duly cautioned as to his rights, that he has been so convicted or adjudicated, the court shall sentence him to the punishment prescribed in this Section, and shall vacate the previous sentence if already imposed, deducting from the new sentence the time actually served under the sentence so vacated. The court shall provide written reasons for its determination. Either party may seek review of an adverse ruling.

E. Whenever it shall become known to any superintendent or prison, probation, parole, police, or other peace officer, that any person charged with or convicted of a felony has been previously convicted or adjudicated delinquent within the meaning of this Section, he shall immediately report the fact to the district attorney of the parish in which the charge lies, or the conviction has been had.

F. The certificates of the warden or other chief officer of any state prison, or of the superintendent or other chief officer of any penitentiary of this state or any other state of the United States, or of any foreign country, or of any chief officer of any parish or county jail in this state or any other state of the United States, or of the clerk of court of the place of conviction in the state of Louisiana, under the seal of his office, if he has a seal, containing the name of the person imprisoned, the photograph, and the fingerprints of the person as they appear in the records of his office, a statement of the court in which a conviction was had, the date and time of sentence, length of time imprisoned, and date of discharge from prison or penitentiary, shall be prima facie evidence of the imprisonment and of the discharge of the person, either by a pardon or expiration of his sentence as the case may be under the conviction stated and set forth in the certificate.

G. Any sentence imposed under the provisions of this Section shall be at hard labor without benefit of probation or suspension of sentence.

H. A person shall not be qualified to be a candidate for elected public office or take elected office if that person has been convicted of a felony, whether convicted within this state or convicted under the laws of any other state or of the United States of a crime which, if committed in this state would be a felony, and has not received a pardon therefor.

LA. REV. STAT. ANN. § 15:537 (2010). Sentencing of sexual offenders; serial sexual offenders.

A. If a person is convicted of or pleads guilty to, or where adjudication has been deferred or withheld for a violation of R.S. 14:78 (incest), R.S. 14:78.1 (aggravated incest), R.S. 14:80 (felony carnal knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.2 (molestation of a juvenile), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:89(A)(1) (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:93.5 (sexual battery of the infirm) or any provision of Subpart C of Part II of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, and is sentenced to imprisonment for a stated number of years or months, the person shall not be eligible for diminution of sentence for good behavior.

B. The court shall sentence a person who has on two or more occasions previously pleaded guilty, nolo contendere, or has been found guilty of violating R.S. 14:42, 42.1, 43, 43.1, 43.2, 43.3, 43.4,

43.5, 78, 78.1, 80, 81, 81.1, 81.2, 89.1, or 107.1(C)(2) to life imprisonment without the benefit of parole, probation, or suspension of sentence.

LA. REV. STAT. ANN. § 15:541 (2010). Definitions.

For the purposes of this Chapter, the definitions of terms in this Section shall apply:

(1) "Administration of criminal justice" means performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The term also includes criminal identification activities, the collection, storage, and dissemination of criminal history record information, and the compensation of victims of crime.

(2) "Aggravated offense" means a conviction for the perpetration or attempted perpetration of, or conspiracy to commit, any of the following:

(a) Aggravated rape (R.S. 14:42).

(b) Forcible rape (R.S. 14:42.1).

(c) Simple rape under the provisions of R.S. 14:43(A)(1) and (2).

(d) Sexual battery prosecuted under the provisions of R.S. 14:43.1(C)(2).

(e) Second degree sexual battery (R.S. 14:43.2)

(f) Aggravated kidnapping (R.S. 14:44) of a child who has not attained the age of eighteen years.

(g) Second degree kidnapping (R.S. 14:44.1) of a child who has not attained the age of eighteen years.

(h) Aggravated kidnapping of child (R.S. 14:44.2).

(i) Simple kidnapping (R.S. 14:45) of a child who has not attained the age of eighteen years.

(j) Aggravated incest (R.S. 14:78.1) involving sexual intercourse, second degree sexual battery, oral sexual battery, or when prosecuted under the provisions of R.S. 14:78.1(D)(2).

(k) Molestation of a juvenile prosecuted under the provisions of R.S. 14:81.2(E)(1).

(l) Aggravated crime against nature (R.S. 14:89.1).

(m) Sexual battery of the infirm (R.S. 14:93.5).

(3) "Bureau" means the Louisiana Bureau of Criminal Identification and Information as established in Chapter 6 of this Title.

(4) "Chat room" means any Internet web site through which users have the ability to communicate via text and which allows messages to be visible to all other users or to a designated

segment of all other users.

(5) "Child predator" means a person who has been convicted of a criminal offense against a victim who is a minor, as defined in Paragraph (12).

(6) "Child sexual predator" means a person defined as such in accordance with the provisions of R.S. 15:560.1.

(7) "Conviction or other disposition adverse to the subject" means any disposition of charges, except a decision not to prosecute, a dismissal, or an acquittal, except when the acquittal is due to a finding of not guilty by reason of insanity and the person was committed. However, a dismissal entered after a period of probation, suspension, or deferral of sentence shall be considered a disposition adverse to the subject.

(8) "Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject.

(9) "Court determination" means a determination that a person is a sexually violent predator or a determination that a person is no longer a sexually violent predator that shall be made by the sentencing court after receiving a report by the commission.

(10) "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions and notations of arrests, detention, indictments, information, or other formal criminal charges, and any disposition arising therefrom, including sentences, correctional supervision, and release. The term includes information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

(a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons.

(b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis.

(c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during judicial proceedings.

(d) Records of traffic violations which are not punishable by a maximum term of imprisonment of more than ninety days.

(e) Records of any traffic offenses as maintained by the office of motor vehicles for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses.

(f) Records of any aviation violation or offenses as maintained by the Department of Transportation and Development for the purpose of regulating pilots or other aviation operators.

(g) Announcements of pardons.

(11) "Criminal justice agency" means:

(a) A court.

(b) A government agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(12) "Criminal offense against a victim who is a minor" for the purposes of this Chapter means conviction for the perpetration or attempted perpetration of or conspiracy to commit any of the following offenses:

(a) A violation of Subpart D of Part II of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950 when the victim is under eighteen years of age and the defendant is not the parent of the victim.

(b) A violation of any of the following provisions when the victim is under eighteen years of age: R.S. 14:82.1, 84(1), (3), (5), or (6), or 86, or R.S. 23:251(A)(4).

(13) "Disposition" means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(14) "Dissemination" means disclosing criminal history record information or disclosing the absence of criminal history record information to any person or agency outside the agency possessing the information, subject to the following exceptions:

(a) When criminal justice agencies jointly participate in the maintenance of a single recordkeeping department as an alternative to maintaining separate records, the furnishing of information by that department to personnel of any participating agency.

(b) The furnishing of information by any criminal justice agency to another for the purpose of processing a matter through the criminal justice system, such as a police department providing information to a prosecutor for use in preparing a charge.

(c) The reporting of an event to a recordkeeping agency for the purpose of maintaining the record.

(15) "Instant message address" means an identifier that allows a person to communicate with another person using the Internet.

(16) "Institution of postsecondary education" means any public or private institution of postsecondary education in the state licensed by the Board of Regents under the provisions of R.S. 17:1808 or each proprietary school licensed by the Board of Regents under the provisions of R.S. 17:3141.4.

(17) "Interactive computer service" means any information service, system, or access software provider that offers users the capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including a service or system that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or

services offered by libraries or educational institutions.

(18) "Mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or apply to the definitions found in R.S. 14:10 or R.S. 14:14 in reference to criminal intent or insanity.

(19) "Nonconviction data" consists of all criminal history record information relating to an incident which has not led to a conviction or other disposition adverse to the subject, and for which proceedings are no longer actively pending. There shall be a rebuttable presumption that proceedings are no longer actively pending if more than one year has elapsed since arrest, citation, or service of warrant and no disposition has been entered.

(20) "Online identifier" means any electronic e-mail address, instant message name, chat name, social networking name, or other similar Internet communication name.

(21) "Predatory" means an act directed at a stranger or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(22) "Residence" means a dwelling where an offender regularly resides, regardless of the number of days or nights spent there. For those offenders who lack a fixed abode or dwelling, "residence" shall include the area or place where the offender habitually lives, including but not limited to a rural area with no address or a shelter.

(23) "School" includes any public or nonpublic school which the person attends, including but not limited to institutions of postsecondary education.

(24) "Sex offense" means deferred adjudication, adjudication withheld, or conviction for the perpetration or attempted perpetration of or conspiracy to commit R.S. 14:78 (incest), R.S. 14:78.1 (aggravated incest), R.S. 14:89 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:80 (felony carnal knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S.14:81.1 (pornography involving juveniles), R.S. 14:81.2 (molestation of a juvenile), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:81.4 (prohibited sexual conduct between an educator and student), R.S. 14:92(A)(7) (contributing to the delinquency of juveniles), R.S. 14:93.5 (sexual battery of the infirm), R.S. 14:106(A)(5) (obscenity by solicitation of a person under the age of seventeen), R.S. 14:283 (video voyeurism), any provision of Subpart C of Part II of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, or a second or subsequent conviction of R.S. 14:283.1 (voyeurism), committed on or after June 18, 1992, or committed prior to June 18, 1992, if the person, as a result of the offense, is under the custody of the Department of Public Safety and Corrections on or after June 18, 1992. A conviction for any offense provided in this definition includes a conviction for the offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to an offense provided for in this Chapter, unless the tribal court or foreign conviction was not obtained with sufficient safeguards for fundamental fairness and due process for the accused as provided by the federal guidelines adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

(25) "Sexual offense against a victim who is a minor" means a conviction for the perpetration or attempted perpetration of, or conspiracy to commit, any of the following:

(a) Sexual battery (R.S. 14:43.1) when the victim is under the age of eighteen, except when prosecuted under the provisions of R.S. 14:43.1(C)(2).

(b) Oral sexual battery (R.S. 14:43.3).

(c) Human trafficking (R.S. 14:46.2(B)(2)).

(d) Aggravated incest (R.S. 14:78.1) under the circumstances not listed as those which constitute an "aggravated offense" as defined in this Section.

(e) Pornography involving juveniles (R.S. 14:81.1).

(f) Molestation of a juvenile (R.S. 14:81.2), except when prosecuted under the provisions of R.S. 14:81.2(E)(1).

(g) Computer-aided solicitation of a minor (R.S. 14:81.3).

(h) Prostitution; persons under seventeen (R.S. 14:82.1).

(i) Enticing minors into prostitution (R.S. 14:86).

(j) Pandering in violation of R.S. 14:84(1), (3), (5), and (6).

(k) Repealed by Acts 2008, No. 816, § 2, effective August 15, 2008.

(26) "Sexual predator commission," the commission, means an advisory panel containing not less than two nor more than three physicians who are licensed to practice medicine in Louisiana, who have been in the actual practice of medicine for not less than three consecutive years immediately preceding the appointment, and who are qualified by training or experience in forensic evaluations of sex offenders. The court may appoint, in lieu of one physician, a psychologist who is licensed to practice psychology in Louisiana, who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years immediately preceding the appointment, and who is qualified by training or experience in forensic evaluations of sex offenders. A list of qualified physicians and psychologists shall be provided to the court by the Department of Health and Hospitals.

(27) "Sexually violent predator" means a person who has been convicted of a sex offense as defined in Paragraph (24) of this Section and who has a mental abnormality or anti-social personality disorder that makes the person likely to engage in predatory sexually violent offenses as determined by the sentencing court upon receipt and review of relevant information including the recommendation of the sexual predator commission as defined in Paragraph (26) of this Section.

(28) "Social networking web site" means an Internet web site that:

(a) Allows users to create web pages or profiles about themselves that are available publicly or available to other users; or

(b) Offers a mechanism for communication among users, such as a forum, chat room, electronic e-mail, or instant messaging.

(29) "Student at an institution of postsecondary education" means a person who is enrolled in and attends, on a full-time or part-time basis, any course of academic or vocational instruction conducted at an institution of postsecondary education.

(30) (a) "Worker" or "employee" means a person who engages in or who knows or reasonably should know that he will engage in any type of occupation, employment, work, or volunteer service on a full-time or part-time basis, with or without compensation, within this state for more than seven consecutive days, or an aggregate of thirty days or more in a calendar year.

(b) The term includes but is not limited to:

(i) A person who is self-employed.

(ii) An employee or independent contractor.

(iii) A paid or unpaid intern, extern, aide, assistant, or volunteer.

LA. REV. STAT. ANN. § 15:542 (2010). Registration of sex offenders and child predators.

A. The following persons shall be required to register and provide notification as a sex offender or child predator in accordance with the provisions of this Chapter:

(1) Any adult residing in this state who has pled guilty to, has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of, or any conspiracy to commit either of the following:

(a) A sex offense as defined in R.S. 15:541, with the exception of those convicted of felony carnal knowledge of a juvenile as provided in Subsection F of this Section;

(b) A criminal offense against a victim who is a minor as defined in R.S. 15:541;

(2) Any juvenile who has pled guilty or has been convicted of a sex offense or second degree kidnapping as provided for in Children's Code Article 305 or 857, with the exception of simple rape; and

(3) Any juvenile, who has attained the age of fourteen years at the time of commission of the offense, who has been adjudicated delinquent based upon the perpetration, attempted perpetration, or conspiracy to commit any of the following offenses:

(a) Aggravated rape (R.S. 14:42).

(b) Forcible rape (R.S. 14:42.1).

(c) Second degree sexual battery (R.S. 14:43.2).

(d) Aggravated kidnapping of a child who has not attained the age of thirteen years (R.S. 14:44).

(e) Second degree kidnapping of a child who has not attained the age of thirteen years (R.S.

14:44.1).

(f) Aggravated incest involving circumstances defined as an "aggravated offense" (R.S. 14:78.1).

(g) Aggravated crime against nature (R.S. 14:89.1).

B. (1) The persons listed in Subsection A of this Section shall register with the sheriff of the parish of the person's residence, or residences, if there is more than one, and with the chief of police if the address of any of the person's residences is located in an incorporated area which has a police department. If the offender resides in a parish with a population in excess of four hundred fifty thousand, he shall register with the police department of his municipality of residence.

(2) The offender shall also register with the sheriff of the parish or parishes where the offender is an employee and with the sheriff of the parish or parishes where the offender attends school. If the offender is employed or attends school in a parish with a population in excess of four hundred fifty thousand, then he shall register with the police department of the municipality where he is employed or attends school. The offender shall also register in the parish of conviction for the initial registration only.

C. (1) The offender shall register and provide all of the following information to the appropriate law enforcement agencies listed in Subsection B of this Section in accordance with the time period provided for in Paragraph (2) of this Subsection:

(a) Name and any aliases used by the offender.

(b) Physical address or addresses of residence.

(c) Name and physical address of place of employment. If the offender does not have a fixed place of employment, the offender shall provide information with as much specificity as possible regarding the places where he works, including but not limited to travel routes used by the offender.

(d) Name and physical address of the school in which he is a student.

(e) Two forms of proof of residence for each residential address provided, including but not limited to a driver's license, bill for utility service, and bill for telephone service. If those forms of proof of residence are not available, the offender may provide an affidavit of an adult resident living at the same address. The affidavit shall certify that the affiant understands his obligation to provide written notice pursuant to R.S. 15:542.1.4 to the appropriate law enforcement agency with whom the offender last registered when the offender no longer resides at the residence provided in the affidavit.

(f) The crime for which he was convicted and the date and place of such conviction, and if known by the offender, the court in which the conviction was obtained, the docket number of the case, the specific statute under which he was convicted, and the sentence imposed.

(g) A current photograph.

(h) Fingerprints, palm prints, and a DNA sample.

(i) Telephone numbers, including fixed location phone and mobile phone numbers assigned to the offender or associated with any residence address of the offender.

(j) A description of every vehicle registered to or operated by the offender, including license plate number and a copy of the offender's driver's license or identification card.

(k) Social security number and date of birth.

(l) A description of the physical characteristics of the offender, including but not limited to sex, race, hair color, eye color, height, age, weight, scars, tattoos, or other identifying marks on the body of the offender.

(m) Every e-mail address, online screen name, or other online identifiers used by the offender to communicate on the Internet. Required notice must be given before any online identifier is used to communicate on the Internet.

(n) Temporary lodging information regarding any place where the offender plans to stay for seven or more days.

(o) Travel and immigration documents, including but not limited to passports and documents establishing immigration status.

(2) Every offender required to register in accordance with this Section shall appear in person and provide the information required by Paragraph (1) of this Subsection to the appropriate law enforcement agencies within three business days of establishing residence in Louisiana, or if a current resident, within three business days after conviction or adjudication if not immediately incarcerated or taken into custody after conviction or adjudication. If incarcerated immediately after conviction or placed in a secure facility immediately after adjudication, the information required by Paragraph (1) of this Subsection shall be provided to the secretary of the Department of Public Safety and Corrections, or his designee, or the deputy secretary for youth services, or his designee, whichever has custody of the offender, within ten days prior to release from confinement. Once released from confinement, every offender shall appear in person within three business days to register with the appropriate law enforcement agencies pursuant to the provisions of this Section.

(3) Knowingly providing false information to any law enforcement officer, office, or agency required to receive registration information pursuant to the provisions of this Chapter shall constitute a failure to register pursuant to R.S. 15:542.1.4(A)(1).

D. The offender shall pay to the appropriate law enforcement agencies with whom he is required to register an annual registration fee of sixty dollars to defray the costs of maintaining the record of the offender. The payment of such a fee shall be made in accordance with any rule regarding indigency adopted by the judges of the judicial district court in the jurisdiction or as determined by criteria established by the Department of Public Safety and Corrections. The offender shall pay such fee upon the initial registration and on the anniversary thereof. Failure by the offender to pay the fee within thirty days of initial registration shall constitute a failure to register and shall subject the offender to prosecution under the provisions of R.S. 15:542.1.4(A)(3). The offender shall not be prevented from registering in accordance with this Section for failure to pay the annual registration fee.

E. Upon receipt of the registration information as required by the provisions of this Section, the

law enforcement agency shall immediately forward such information to the bureau electronically.

F. (1) Except as provided in Paragraphs (2) and (3) of this Subsection, the sex offender registration and notification requirements required by this Chapter are mandatory and shall not be waived or suspended by any court. Any order waiving or suspending sex offender registration and notification requirements shall be null, void, and of no effect. Any order waiving or suspending registration and notification requirements shall not be construed to invalidate an otherwise valid conviction.

(2) Upon joint motion by the district attorney and the petitioner, the court of conviction may waive sex offender registration and notification requirements imposed by the provisions of this Chapter for a person convicted of felony carnal knowledge of a juvenile (R.S. 14:80) on, before, or after January 1, 2008, when the victim is at least thirteen years of age and the offender was not more than four years older than the victim at the time of the commission of the offense. Relief shall not be granted unless the motion is accompanied by supporting documentary proof of the age of the victim and the age of the perpetrator at the time of commission of the offense.

(3) (a) Any person who was convicted of carnal knowledge of a juvenile (R.S. 14:80) prior to August 15, 2001, may petition the court of conviction to be relieved of the sex offender registration and notification requirements of this Chapter if the offense for which the offender was convicted would be defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the offender been convicted on or after August 15, 2001.

(b) The following procedures shall apply to the provisions of this Paragraph:

(i) The petition shall be accompanied with supporting documentation to establish that the age of the perpetrator and the victim at the time the offense was committed are within the parameters set forth in R.S. 14:80.1.

(ii) The district attorney shall be served with a copy of the petition.

(iii) The court shall order a contradictory hearing to determine whether the offender is entitled to be relieved of the registration and notification requirements pursuant to the provisions of this Paragraph.

(c) The provisions of this Paragraph shall not apply to any person who was convicted of more than one sex offense as defined in R.S. 15:541.

LA. REV. STAT. ANN. § 15:560.1 (2010). Definitions.

For the purposes of this Chapter:

(1) "Child sexual predator" means a person who has been convicted of a sex offense as defined in R.S. 15:541 and who is likely to engage in additional sex offenses against children, because he has a mental abnormality or condition which can be verified by a physician or psychologist, or because he has a history of committing crimes, wrongs, or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children, as determined by the court upon receipt and review of relevant information including the recommendation by the sex offender assessment panel as provided for by this Chapter.

(2) "Court" means the judicial district court where the offender was sentenced.

(3) "Judicial determination" means a decision by the court that an offender is or continues to be a child sexual predator or a sexually violent predator as provided for by this Chapter.

(4) "Mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or apply to the definitions found in R.S. 14:10 or 14 in reference to criminal intent or insanity.

(5) "Sexually violent predator" means an offender who has been convicted of a sex offense as defined in R.S. 15:541 and who has a mental abnormality or antisocial personality disorder that makes the offender likely to engage in predatory sexually violent offenses as determined by the court upon receipt and review of relevant information including the recommendation of the sex offender assessment panel as provided for by this Chapter.

MAINE

ME. REV. STAT. ANN. TIT. 17-A, § 282 (2009). Sexual exploitation of minor.

1. A person is guilty of sexual exploitation of a minor if:

A. Knowing or intending that the conduct will be photographed, the person intentionally or knowingly employs, solicits, entices, persuades, uses or compels another person, not that person's spouse, who is in fact a minor, to engage in sexually explicit conduct. Violation of this paragraph is a Class B crime;

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime;

C. The person violates paragraph A and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime;

D. Being a parent, legal guardian or other person having care or custody of another person who is in fact a minor, that person knowingly or intentionally permits that minor to engage in sexually explicit conduct, knowing or intending that the conduct will be photographed. Violation of this paragraph is a Class B crime;

E. The person violates paragraph D and, at the time of the offense, the person has one or more prior convictions under this section or

for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime; or

F. The person violates paragraph D and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime.

2. The following mandatory minimum terms of imprisonment apply to sexual exploitation of a minor.

A. A court shall impose upon a person convicted under subsection 1, paragraph A or D a sentencing alternative involving a term of imprisonment of at least 5 years.

B. A court shall impose upon a person convicted under subsection 1, paragraph B or E a sentencing alternative involving a term of imprisonment of at least 10 years.

The court may not suspend a minimum term of imprisonment imposed under this section unless it sets forth in detail, in writing, the reasons for suspending the sentence. The court shall consider the nature and circumstances of the crime, the physical and mental well-being of the minor and the history and character of the defendant and may only suspend the minimum term if the court is of the opinion that the exceptional features of the case justify the imposition of another sentence. Section 9-A governs the use of prior convictions when determining a sentence.

ME. REV. STAT. ANN. TIT. 17-A, § 1252 (2009). Imprisonment for crimes other than murder.

1. In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to imprisonment and required to pay the fine authorized therein. Except as provided in subsection 7, the place of imprisonment must be as follows.

A. For a Class D or Class E crime the court must specify a county jail as the place of imprisonment.

B. For a Class A, Class B or Class C crime the court must:

1) Specify a county jail as the place of imprisonment if the term of imprisonment is 9 months or less; or

2) Commit the person to the Department of Corrections if the term of imprisonment is more than 9 months.

C. Repealed. Laws 1995, c. 425, § 2.

2. The court shall set the term of imprisonment as follows:

A. In the case of a Class A crime, the court shall set a definite period not to exceed 30 years;

B. In the case of a Class B crime, the court shall set a definite period not to exceed 10 years;

C. In the case of a Class C crime, the court shall set a definite period not to exceed 5 years;

D. In the case of a Class D crime, the court shall set a definite period of less than one year; or

E. In the case of a Class E crime, the court shall set a definite period not to exceed 6 months.

2-A. REPEALED. Laws 1977, c. 510, § 76.

3. The court may add to the sentence of imprisonment a restitution order as is provided for in chapter 49, section 1204, subsection 2-A, paragraph B. In such cases, it shall be the responsibility of the Department of Corrections to determine whether the order has been complied with and consideration shall be given in the department's administrative decisions concerning the imprisoned person as to whether the order has been complied with.

3-A. At the request of or with the consent of a convicted person, a sentence of imprisonment under this chapter in a county jail or a sentence of probation involving imprisonment in a county jail under chapter 49 may be ordered to be served intermittently.

4. If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon then the sentencing class for such crime is one class higher than it would otherwise be. In the case of a Class A crime committed with the use of a dangerous weapon, such use should be given serious consideration by the court in exercising its sentencing discretion. This subsection does not apply to a violation or an attempted violation of section 208, to any other offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise increased because the actor or an accomplice to that actor's or accomplice's knowledge is armed with a firearm or other dangerous weapon.

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, the defendant had 2 or more prior convictions under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, for violations under chapter 11, the dates of prior convictions may have occurred at any time. This subsection does not apply to section 210-A if the prior convictions have already served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or any other offense in which prior convictions have already served to enhance the sentencing class.

4-B. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

A. As used in this section, "repeat sexual assault offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

1) Gross sexual assault, formerly denominated as gross sexual misconduct;

2) Rape;

3) Attempted murder accompanied by sexual assault;

4) Murder accompanied by sexual assault; or

5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of another jurisdiction.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

B. "Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in another jurisdiction is satisfied if it was definitionally an element of the crime or was pleaded and proved beyond a reasonable doubt at trial by the State or another jurisdiction.

4-C. If the State pleads and proves that a Class A crime of gross sexual assault was committed by a person who had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, that prior conviction must be given serious consideration by the court in exercising its sentencing discretion.

4-D. If the State pleads and proves that a crime under section 282 was committed against a person who had not attained 12 years of age, the court, in exercising its sentencing discretion, shall give the age of the victim serious consideration.

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite term of imprisonment for any term of years. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least 20 years.

5. Notwithstanding any other provision of this code, except as provided in this subsection, if the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against a person, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class for the crime is Class A, the minimum term of imprisonment

is 4 years; when the sentencing class for the crime is Class B, the minimum term of imprisonment is 2 years; and when the sentencing class for the crime is Class C, the minimum term of imprisonment is one year. For purposes of this subsection, the applicable sentencing class is determined in accordance with subsection 4. This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.

5-A. Notwithstanding any other provision of this Code, for a person convicted of violating section 1105-A, 1105-B, 1105-C or 1105-D:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and, with the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when the sentencing class is Class C, the minimum term of imprisonment is one year;

B. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in paragraph A, if:

1) The court finds by substantial evidence that:

a) Imposition of a minimum unsuspended term of imprisonment under paragraph A will result in substantial injustice to the defendant. In making this determination, the court shall consider, among other considerations, whether the defendant did not know and reasonably should not have known that the victim was less than 18 years of age;

b) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not have an adverse effect on public safety; and

c) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not appreciably impair the effect of paragraph A in deterring others from violating section 1105-A, 1105-B, 1105-C or 1105-D; and

2) The court finds that:

a) Deleted. Laws 2003, c. 232, § 1.

b) The defendant is an appropriate candidate for an intensive supervision program, but would be ineligible to participate under a sentence imposed under paragraph A; or

c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense

indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and

C. If the court imposes a sentence under paragraph B, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 9 months; when the sentencing is Class B, the minimum term of imprisonment is 6 months; and, with the exception of trafficking or furnishing marijuana under section 1105-A or 1105-C, when the sentencing class is Class C, the minimum term of imprisonment is 3 months.

5-B. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a child who had not in fact attained the age of 6 years at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the age of the victim in other circumstances when relevant.

5-C. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a woman that the convicted person knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the fact that the victim was pregnant in other circumstances when relevant.

5-D. In using a sentencing alternative involving a term of imprisonment for a person convicted of a Class C or higher crime, the victim of which was at the time of the commission of the crime in fact being stalked by that person, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact caused by the stalking in determining the maximum period of incarceration in the 2nd step in the sentencing process.

6. REPEALED. Laws 1989, c. 693, § 6.

7. If a sentence to a term of imprisonment in a county jail is consecutive to or is to be followed by a sentence to a term of imprisonment in the custody of the Department of Corrections, the court imposing either sentence may order that both be served in the custody of the Department of Corrections. If a court imposes consecutive terms of imprisonment for Class D or Class E crimes and the aggregate length of the terms imposed is one year or more, the court may order that they be served in the custody of the Department of Corrections.

8. REPEALED.

9. Subsections in this section that make the sentencing class for a crime one class higher than it would otherwise be when pled and proved may be applied successively if the subsections to be applied successively contain different class enhancement factors.

ME. REV. STAT. ANN. TIT. 17-A, § 1256 (2009). Multiple sentences of imprisonment.

1. Other provisions of this section notwithstanding, when a person subject to an undischarged term of imprisonment is convicted of a crime committed while in execution of any term of imprisonment or of an attempt to commit a crime while in execution of any term of imprisonment, the sentence is not concurrent with any undischarged term of imprisonment. The court may order that any undischarged term of imprisonment be tolled and service of the nonconcurrent sentence commence immediately and the court shall so order if any undischarged term of imprisonment is a split sentence. No portion of the nonconcurrent sentence may be suspended. All sentences that the convicted person receives as a result of the crimes mentioned in this subsection must be nonconcurrent with all other sentences.

1-A. Subsection 1 applies to prisoners on intensive supervision or supervised community confinement pursuant to Title 34-A, section 3036-A.

2. In all other cases, the court shall state in the sentence of imprisonment whether a sentence shall be served concurrently with or consecutively to any other sentence previously imposed or to another sentence imposed on the same date. The sentences shall be concurrent unless, in considering the following factors, the court decides to impose sentences consecutively:

A. That the convictions are for offenses based on different conduct or arising from different criminal episodes;

B. That the defendant was under a previously imposed suspended or unsuspended sentence and was on probation, under incarceration or on a release program at the time the person committed a subsequent offense;

C. That the defendant had been released on bail when that person committed a subsequent offense, either pending trial of a previously committed offense or pending the appeal of previous conviction; or

D. That the seriousness of the criminal conduct involved in either a single criminal episode or in multiple criminal episodes or the seriousness of the criminal record of the convicted person, or both,

require a sentence of imprisonment in excess of the maximum available for the most serious offense.

3. A defendant may not be sentenced to consecutive terms for crimes arising out of the same criminal episode when:

A. One crime is an included crime of the other;

B. One crime consists only of a conspiracy, attempt, solicitation or other form of preparation to commit, or facilitation of, the other;

C. The crimes differ only in that one is defined to prohibit a designated kind of conduct generally, and the other to prohibit a specific instance of that conduct; or

D. Inconsistent findings of fact are required to establish the commission of the crimes.

4. If the court decides to impose consecutive sentences, it shall state its reasons for doing so on the record or in the sentences.

5. If a person has been placed on probation pursuant to a previously imposed sentence and the court determines that the previously imposed sentence and a new sentence shall be served consecutively, the court shall revoke probation pursuant to section 1206, subsections 7 and 7-A. The court may order that the sentence which had been suspended to be served at the same institution as that which is specified by the new sentence.

6. If it is discovered subsequent to the imposition of a sentence of imprisonment that the sentencing court was unaware of a previously imposed sentence of imprisonment which is not fully discharged, the court shall resentence the defendant and shall specify whether the sentences are to be served concurrently or consecutively. The court shall not resentence the defendant if the sentences are consecutive as a matter of law.

7. When a person who has been previously sentenced in another jurisdiction has not commenced or completed that sentence, the court, subject to subsection 1, may, with consideration of the factors stated in subsection 2, sentence the person to a term of imprisonment which shall be treated as a concurrent sentence from the date of sentencing although the person is incarcerated in an institution of the other jurisdiction. No concurrent sentence pursuant to this subsection may be imposed unless the person being sentenced consents or unless the person being sentenced executes, at the time of sentencing, a written waiver of extradition for his return to this State, upon completion of the sentence of the other jurisdiction, if any portion of this State's sentence remains unserved. In the absence of an order pursuant to this subsection requiring concurrent sentences, any sentence of imprisonment in this State shall commence as provided in section 1253, subsection 1, and shall run consecutively to the sentence of the other jurisdiction.

8. No court may impose a sentence of imprisonment, not wholly suspended, to be served consecutively to any split sentence, or to any sentence including supervised release under chapter 50, previously imposed or imposed on the same date, if the net result, even with the options made available by subsections 5 and 9 and section 1202, subsection 4, would be to have the person released from physical confinement to be on probation or supervised release for the first sentence and thereafter be required to serve an unsuspended term of imprisonment on the 2nd sentence.

9. Any justice imposing a sentence of imprisonment to be served consecutively to any other previously imposed sentence that the person has not yet commenced, in order to comply with subsection 8, may rearrange the order in which the sentences are to be served. Any judge may also do so if that judge has jurisdiction over each of the sentences involved.

ME. REV. STAT. ANN. TIT. 17-A, § 1301 (2009). Amounts authorized.

1. REPEALED. Laws 1989, c. 872, § 3.

1-A. A natural person who has been convicted of a Class A, Class B, Class C, Class D or Class E crime may be sentenced to pay a fine, unless the law that the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person must be sentenced to the imprisonment and required to pay the fine authorized in that law. Subject to these sentences and to section 1302, the fine may not exceed:

A. $ 50,000 for a Class A crime;

B. $ 20,000 for a Class B crime;

C. $ 5,000 for a Class C crime;

D. $ 2,000 for a Class D crime;

E. $ 1,000 for a Class E crime; and

F. Regardless of the classification of the crime, any higher amount that does not exceed twice the pecuniary gain derived from the crime by the defendant.

2. As used in this section, "pecuniary gain" means the amount of money or the value of property at the time of the commission of the crime derived by the defendant from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed. When the court imposes a fine based on the amount of gain, the court shall make a finding as to the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding, the court may conduct, in connection with its imposition of sentence, a hearing on this issue.

3. If the defendant convicted of a crime is an organization and the law that the organization is convicted of violating expressly provides that the fine it authorizes may not be suspended, the organization must be sentenced to pay the fine authorized in that law. Otherwise, the maximum allowable fine that such a defendant may be sentenced to pay is:

A. Any amount for murder;

B. $ 100,000 for a Class A crime;

C. $ 40,000 for a Class B crime;

D. $ 20,000 for a Class C crime;

E. $ 10,000 for a Class D crime or a Class E crime; and

F. Any higher amount that does not exceed twice the pecuniary gain derived from the crime by the convicted organization.

4. Whenever a statute makes the possession of a particular item, whether animate or inanimate, a criminal offense, the statute may expressly provide that the fine depends upon the quantity of the item possessed by the defendant. In such case, the fine is as provided for in the statute and is not subject to the maximum limits placed on fines by subsections 1-A and 3.

5. Notwithstanding any other provision of this section, any person convicted of a crime under section 1103, 1105-A, 1105-B, 1105-C, 1105-D, 1106 or 1107-A may be sentenced to pay a fine of an amount equal to the value at the time of the offense of the scheduled drug or drugs upon which the conviction is based.

When the court imposes a fine under this subsection, the court shall make a finding as to the value of the scheduled drug or drugs. If the record does not contain sufficient evidence to support a finding, the court may conduct, in connection with its imposition of a sentence, a hearing on this issue.

6. In addition to any other authorized sentencing alternative, the court shall impose a minimum fine of $ 400, none of which may be suspended, for a person convicted of a crime under section 1103; 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; 1107-A; 1108; 1109; 1110; 1111; 1111-A, subsection 4, paragraph C or D; 1116; 1117; or 1118.

ME. REV. STAT. ANN. TIT. 17-A, § 1323 (2009). Mandatory consideration of restitution.

1. INQUIRY AS TO VICTIM'S FINANCIAL LOSS. The court shall, whenever practicable, inquire of a prosecutor, law enforcement officer or victim with respect to the extent of the victim's financial loss, and shall order restitution when appropriate. The order for restitution shall designate the amount of restitution to be paid and the person or persons to whom the restitution will be paid.

2. REASONS FOR NOT IMPOSING RESTITUTION. In any case where the court determines that restitution should not be imposed in accordance with the criteria set forth in section 1325, the court shall state in open court or in writing the reasons for not imposing restitution.

3. RESTITUTION REQUIRED. In any prosecution for a crime committed prior to the effective date of this chapter, or any amendment to this chapter, the court may, with the consent of the defendant, require the defendant to make restitution in accordance with this chapter as amended.

ME. REV. STAT. ANN. TIT. 34-A, § 11202 (2009). Application.

Unless excepted under section 11202-A, this chapter applies to:

1. MAINE. A person sentenced in this State on or after January 1, 1982 for a sex offense or a sexually violent offense as an adult or as a juvenile sentenced as an adult; and

2. OTHER JURISDICTIONS. A person sentenced in another jurisdiction as an adult or as a juvenile sentenced as an adult:

A. At any time of an offense that requires registration in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws or that would have required registration had the person remained there;

B. On or after January 1, 1982, of an offense that contains the essential elements of a sex offense or sexually violent offense; or

C. At any time for a military, tribal or federal offense requiring registration pursuant to:

1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

ME. REV. STAT. ANN. TIT. 34-A, § 11203 (2009). Definitions.

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. BUREAU. "Bureau" means the State Bureau of Identification.

1-A. CONDITIONAL RELEASE. "Conditional release" means supervised release of a registrant or an offender from institutional confinement for placement on probation, parole, intensive supervision, supervised release for sex offenders, supervised community confinement, home release monitoring or release under Title 15, section 104-A or Title 17-A, chapter 54-G.

1-B. DISCHARGE. "Discharge" means unconditional release and discharge of a registrant from institutional confinement upon the expiration of a sentence or upon discharge under Title 15, section 104-A.

1-C. ANOTHER STATE. "Another state" means each of the several states except Maine, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Northern Mariana Islands.

2. DOMICILE. "Domicile" means the place where a person has that person's established, fixed, permanent or ordinary dwelling place or legal residence to which, whenever the person is absent, the person has the intention of returning. A person may have more than one residence but only

one domicile.

3. FBI. "FBI" means the Federal Bureau of Investigation.

3-A. JURISDICTION. "Jurisdiction" means the Federal Government, including the military, this State or another state or tribe.

4. LAW ENFORCEMENT AGENCY HAVING JURISDICTION. "Law enforcement agency having jurisdiction" means the chief of police in the municipality where a registrant or an offender expects to be or is domiciled. If the municipality does not have a chief of police, "law enforcement agency having jurisdiction" means the sheriff of the county where the municipality is located. "Law enforcement agency having jurisdiction" also means the sheriff of the county in an unorganized territory.

4-A. RISK ASSESSMENT INSTRUMENT. "Risk assessment instrument" means an instrument created and modified as necessary by reviewing and analyzing precursors to a sex offense, victim populations of a registrant or an offender, living conditions and environment of a registrant or an offender and other factors predisposing a person to become a registrant or an offender, for the ongoing purpose of identifying risk factors.

4-B. SENTENCE. "Sentence," in addition to any punishment alternatives, includes an involuntary commitment under Title 15, section 103, or similar statute from another jurisdiction, following a verdict of not criminally responsible by reason of mental disease or defect or similar verdict in another jurisdiction.

4-C. REGISTRANT. "Registrant" means a 10-year registrant or a lifetime registrant or, when appropriate, both a 10-year registrant and a lifetime registrant.

4-D. RESIDENCE. "Residence" means that place or those places, other than a domicile, in which a person may spend time living, residing or dwelling. Proof that an offender has lived in the State for 14 days continuously or an aggregate of 30 days within a period of one year gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person has established a residence for the purposes of registration requirements imposed by this chapter.

4-E. OFFENDER. "Offender" means a person to whom this chapter applies pursuant to section 11202.

5. TEN-YEAR REGISTRANT. "Ten-year registrant" means a person who has complied with the initial duty to register under this chapter as an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a sex offense.

6. SEX OFFENSE. "Sex offense" means a conviction for one of the following offenses or for an attempt or solicitation of one of the following offenses if the victim was less than 18 years of age at the time of the criminal conduct:

A. Repealed. Laws 2005, c. 423, § 4.

B. A violation under former Title 17, section 2922; former Title 17, section 2923; former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1, paragraph A, E,

F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph B or D if the crime was not elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, G, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284; Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor is a parent of the victim; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855;

C. A violation in another jurisdiction that includes the essential elements of an offense listed in paragraph B; or

D. A conviction for a military, tribal or federal offense requiring registration pursuant to:

1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

7. SEXUALLY VIOLENT OFFENSE. "Sexually violent offense" means:

A. A conviction for one of the offenses or for an attempt to commit one of the offenses under former Title 17-A, section 252; under Title 17-A, section 253, subsection 1; Title 17-A, section 253, subsection 2, paragraph A, B, C or D; former Title 17-A, section 255, subsection 1, paragraph C or H; former Title 17-A, section 255, subsection 1, paragraph B or D, if the crime was elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph D, E, E-1, F, F-1, H, O or P;

B. A conviction for an offense or for an attempt to commit an offense of the law in another jurisdiction that includes the essential elements of an offense listed in paragraph A; or

C. A conviction for a military, tribal or federal offense requiring registration pursuant to:

1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

8. LIFETIME REGISTRANT. "Lifetime registrant" means a person who has complied with the initial duty to register under this chapter as an adult convicted and sentenced or a juvenile convicted and sentenced as an adult of a:

A. Sexually violent offense; or

B. Sex offense when the person has another conviction for or an attempt to commit an offense that includes the essential elements of a sex offense or sexually violent offense. For purposes of this paragraph, "another conviction" means:

1) For persons convicted and sentenced before September 17, 2005, a conviction for an offense for which sentence was imposed prior to the occurrence of the new offense; and

2) For persons convicted and sentenced on or after September 17, 2005, a conviction that occurred at any time. Convictions that occur on the same day may be counted as other offenses for the purposes of classifying a person as a lifetime registrant if:

a) There is more than one victim; or

b) The convictions are for offenses based on different conduct or arising from different criminal episodes.

9. TRIBE. "Tribe" means the Passamaquoddy Tribe or the Penobscot Nation.

MARYLAND

MD. CODE ANN., CRIM. LAW § 3-303 (2010). Rape in the first degree.

(a) Prohibited. -- A person may not:

(1) engage in vaginal intercourse with another by force, or the threat of force, without the consent of the other; and

(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

(b) Violation of § 3-503(a)(2) of this title. -- A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

(c) Age considerations. -- A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(d) Penalties. --

(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates subsection (a) or (b) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-305 of this subtitle.

(4) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(e) Required notice. -- If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

MD. CODE ANN., CRIM. LAW § 3-304 (2010). Rape in the second degree.

(a) Prohibited. -- A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should

know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) Age considerations. -- A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) Penalty. --

(1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) A court may not suspend any part of the mandatory minimum sentence of 5 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) Required notice. -- If the State intends to seek a sentence of imprisonment for not less than 5 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

Effective October 1, 2010:
(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than 15 years and not exceeding LIFE.

(ii) A court may not suspend any part of the mandatory minimum sentence of 15 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than 15 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

MD. CODE ANN., CRIM. LAW § 3-305 (2010). Sexual offense in the first degree.

(a) Prohibited. -- A person may not:

(1) engage in a sexual act with another by force, or the threat of force, without the consent of the other; and

(2) (i) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

(ii) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

(iii) threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping;

(iv) commit the crime while aided and abetted by another; or

(v) commit the crime in connection with a burglary in the first, second, or third degree.

(b) Violation of § 3-503(a)(2) of this title. -- A person may not violate subsection (a) of this section while also violating § 3-503(a)(2) of this title involving a victim who is a child under the age of 16 years.

(c) Age considerations. -- A person 18 years of age or older may not violate subsection (a) of this section involving a victim who is a child under the age of 13 years.

(d) Penalty. --

(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life.

(2) A person who violates subsection (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

(3) A person who violates subsection (a) or (b) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3-303 of this subtitle.

(4) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (c) of this section is guilty of the felony of sexual offense in the first degree and on conviction is subject to imprisonment for not less than 25 years and not exceeding life without the possibility of parole.

(ii) A court may not suspend any part of the mandatory minimum sentence of 25 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (e) of this section, the mandatory minimum sentence shall not apply.

(e) Required notice. -- If the State intends to seek a sentence of imprisonment for life without the possibility of parole under subsection (d)(2), (3), or (4) of this section, or imprisonment for not less than 25 years under subsection (d)(4) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

MD. CODE ANN., CRIM. LAW § 3-306 (2010). Sexual offense in the second degree.

(a) Prohibited. -- A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) Age considerations. -- A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) Penalty. --

(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) A court may not suspend any part of the mandatory minimum sentence of 5 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) Required notice. -- If the State intends to seek a sentence of imprisonment for not less than 5 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

Effective October 1, 2010:
(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person years of age or older who violates subsection (b) of this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment for not less than 15 years and not exceeding LIFE.

(ii) A court may not suspend any part of the mandatory minimum sentence of 15 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than 15 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

MD. CODE ANN., CRIM. LAW § 3-307 (2010). Sexual offense in the third degree.

(a) Prohibited. -- A person may not:

(1) (i) engage in sexual contact with another without the consent of the other; and

(ii) 1. employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon;

2. suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime;

3. threaten, or place the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping; or

4. commit the crime while aided and abetted by another;

(2) engage in sexual contact with another if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual;

(3) engage in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim;

(4) engage in a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 21 years old; or

(5) engage in vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 21 years old.

(b) Penalty. -- A person who violates this section is guilty of the felony of sexual offense in the third degree and on conviction is subject to imprisonment not exceeding 10 years.

MD. CODE ANN., CRIM. LAW § 3-308 (2010). Sexual offense in the fourth degree.

(a) "Person in a position of authority" defined. -- In this section, "person in a position of authority":

(1) means a person who:

(i) is at least 21 years old;

(ii) is employed as a full-time permanent employee by a public or private preschool, elementary school, or secondary school; and

(iii) because of the person's position or occupation, exercises supervision over a minor who attends the school; and

(2) includes a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school.

(b) Prohibited. -- A person may not engage in:

(1) sexual contact with another without the consent of the other;

(2) except as provided in § 3-307(a)(4) of this subtitle, a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 4 years older than the victim; or

(3) except as provided in § 3-307(a)(5) of this subtitle, vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 4 years older than the victim.

(c) Sexual abuse of a minor student by a person in a position of authority. --

(1) Except as provided in § 3-307(a)(4) of this subtitle or subsection (b)(2) of this section, a person in a position of authority may not engage in a sexual act or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a student enrolled at a school where the person in a position of authority is employed.

(2) Except as provided in § 3-307(a)(5) of this subtitle or subsection (b)(3) of this section, a person in a position of authority may not engage in vaginal intercourse with a minor who, at the time of the vaginal intercourse, is a student enrolled at a school where the person in a position of authority is employed.

(d) Penalty. --

(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the misdemeanor of sexual offense in the fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $ 1,000 or both.

(2) (i) On conviction of a violation of this section, a person who has been convicted on a prior occasion not arising from the same incident of a violation of §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602 of this title is subject to imprisonment not exceeding 3 years or a fine not exceeding $ 1,000 or both.

(ii) If the State intends to proceed against a person under subparagraph (i) of this paragraph, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

MD. CODE ANN., CRIM. Law § 3-309 (2010). Attempted rape in the first degree.

(a) Prohibited. -- A person may not attempt to commit rape in the first degree.

(b) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding life.

MD. CODE ANN., CRIM. LAW § 3-310 (2010). Attempted rape in the second degree.

(a) Prohibited. -- A person may not attempt to commit rape in the second degree.

(b) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years.

MD. CODE ANN., CRIM. LAW § 3-311 (2010). Attempted sexual offense in the first degree.

(a) Prohibited. -- A person may not attempt to commit a sexual offense in the first degree.

(b) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding life.

MD. CODE ANN., CRIM. LAW § 3-312 (2010). Attempted sexual offense in the second degree.

(a) Prohibited. -- A person may not attempt to commit a sexual offense in the second degree.

(b) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years.

MD. CODE ANN., CRIM. LAW § 3-313 (2010). Prior conviction – Sentencing.

(a) In general. -- On conviction of a violation of § 3-304, § 3-306, § 3-307, § 3-310, or § 3-312 of this subtitle, a person who has been convicted on a prior occasion not arising from the same incident of any violation of §§ 3-303 through 3-306 of this subtitle is subject to imprisonment not exceeding life.

(b) Compliance with Maryland Rules. -- If the State intends to proceed against a person under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

MD. CODE ANN., CRIM. LAW § 3-314 (2010). Sexual conduct between correctional or Department of Juvenile Services employee and inmate or confined child.

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) (i) "Correctional employee" means a:

1. correctional officer, as defined in § 8-201 of the Correctional Services Article; or

2. managing official or deputy managing official of a correctional facility.

(ii) "Correctional employee" includes a sheriff, warden, or other official who is appointed or employed to supervise a correctional facility.

(3) (i) "Inmate" has the meaning stated in § 1-101 of this article.

(ii) "Inmate" includes an individual confined in a community adult rehabilitation center.

(b) Prohibited -- Correctional employee with inmate. --

(1) This subsection applies to:

(i) a correctional employee;

(ii) any other employee of the Department of Public Safety and Correctional Services or a correctional facility;

(iii) an employee of a contractor providing goods or services to the Department of Public Safety and Correctional Services or a correctional facility; and

(iv) any other individual working in a correctional facility, whether on a paid or volunteer basis.

(2) A person described in paragraph (1) of this subsection may not engage in sexual contact, vaginal intercourse, or a sexual act with an inmate.

(c) Prohibited -- Department of Juvenile Services employee with confined child. -- A person may not engage in sexual contact, vaginal intercourse, or a sexual act with an individual confined in a child care institution licensed by the Department, a detention center for juveniles, or a facility for juveniles listed in § 9-226(b) of the Human Services Article.

(d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $ 3,000 or both.

(e) Sentencing. -- A sentence imposed for violation of this section may be separate from and consecutive to or concurrent with a sentence for another crime under §§ 3-303 through 3-312 of this subtitle.

MD. CODE ANN., CRIM. LAW § 3-315 (2010). Continuing course of conduct with child.

(a) Prohibited. -- A person may not engage in a continuing course of conduct which includes three or more acts that would constitute violations of § 3-303, § 3-304, § 3-305, § 3-306, or § 3-307 of this subtitle over a period of 90 days or more, with a victim who is under the age of 14 years at any time during the course of conduct.

(b) Penalty. --

(1) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 30 years.

(2) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence under § 3-602 of this title.

(c) Determination. -- In determining whether the required number of acts occurred in violation of this section, the trier of fact:

(1) must determine only that the required number of acts occurred; and

(2) need not determine which acts constitute the required number of acts.

(d) Merger. --

(1) A person may not be charged with a violation of § 3-303, § 3-304, § 3-305, § 3-306, or § 3-307 of this subtitle involving the same victim in the same proceeding as a violation of this section unless the other violation charged occurred outside the time period charged under this section.

(2) A person may not be charged with a violation of § 3-303, § 3-304, § 3-305, § 3-306, or § 3-307 of this subtitle involving the same victim unless the violation charged occurred outside the time period charged under this section.

MD. CODE ANN., CRIM. LAW § 3-324 (2010). Sexual solicitation of minor.

(a) "Solicit" defined. -- In this section, "solicit" means to command, authorize, urge, entice, request, or advise a person by any means, including:

(1) in person;

(2) through an agent or agency;

(3) over the telephone;

(4) through any print medium;

(5) by mail;

(6) by computer or Internet; or

(7) by any other electronic means.

(b) Prohibited. -- A person may not, with the intent to commit a violation of § 3-304, § 3-306, or § 3-307 of this subtitle or § 11-304, § 11-305, or § 11-306 of this article, knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under § 3-304, § 3-306, or § 3-307 of this subtitle or § 11-304, § 11-305, or § 11-306 of this article.

(c) Jurisdiction. -- A violation of this section is considered to be committed in the State for purposes of determining jurisdiction if the solicitation:

(1) originated in the State; or

(2) is received in the State.

(d) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $ 25,000 or both.

MD. CODE ANN., CRIM. LAW § 3-503 (2010). Child kidnapping.

(a) Prohibited. --

(1) A person may not, without color of right:

(i) forcibly abduct, take, or carry away a child under the age of 12 years from:

1. the home or usual place of abode of the child; or

2. the custody and control of the child's parent or legal guardian;

(ii) without the consent of the child's parent or legal guardian, persuade or entice a child under the age of 12 years from:

1. the child's home or usual place of abode; or

2. the custody and control of the child's parent or legal guardian; or

(iii) with the intent of depriving the child's parent or legal guardian, or any person lawfully possessing the child, of the custody, care, and control of the child, knowingly secrete or harbor a child under the age of 12 years.

(2) In addition to the prohibitions provided under paragraph (1) of this subsection, a person may not, by force or fraud, kidnap, steal, take, or carry away a child under the age of 16 years.

(b) Penalty. --

(1) A person who violates subsection (a)(1) of this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Except as provided under subparagraph (ii) of this paragraph, a person, other than a parent of the child, who violates subsection (a)(2) of this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 30 years.

(ii) 1. If a person convicted under subsection (a)(2) of this section is convicted in the same proceeding of rape or a first degree sexual offense under Subtitle 3 of this title, the person is guilty of a felony and on conviction is subject to imprisonment not exceeding life without the possibility of parole.

2. If the State intends to seek a sentence of imprisonment for life without the possibility of parole under sub-subparagraph 1 of this subparagraph, the State shall notify the person in writing of the State's intent at least 30 days before trial.

MD. CODE ANN., CRIM. LAW § 3-601 (2010). Child abuse.

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Abuse" means physical injury sustained by a minor as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the minor's health or welfare is harmed or threatened by the treatment or act.

(3) "Family member" means a relative of a minor by blood, adoption, or marriage.

(4) "Household member" means a person who lives with or is a regular presence in a home of a minor at the time of the alleged abuse.

(5) "Severe physical injury" means:

(i) brain injury or bleeding within the skull;

(ii) starvation; or

(iii) physical injury that:

1. creates a substantial risk of death; or

2. causes permanent or protracted serious:

A. disfigurement;

B. loss of the function of any bodily member or organ; or

C. impairment of the function of any bodily member or organ.

(b) First-degree child abuse. --

(1) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause abuse to the minor that:

(i) results in the death of the minor; or

(ii) causes severe physical injury to the minor.

(2) Except as provided in subsection (c) of this section, a person who violates paragraph (1) of this subsection is guilty of the felony of child abuse in the first degree and on conviction is subject to:

(i) imprisonment not exceeding 25 years; or

(ii) if the violation results in the death of the victim, imprisonment not exceeding 30 years.

(c) Repeated offense. -- A person who violates this section after being convicted of a previous violation of this section is guilty of a felony and on conviction is subject to:

(1) imprisonment not exceeding 25 years; or

(2) if the violation results in the death of the victim, imprisonment not exceeding 30 years.

(d) Second-degree child abuse. --

(1) (i) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause abuse to the minor.

(ii) A household member or family member may not cause abuse to a minor.

(2) Except as provided in subsection (c) of this section, a person who violates paragraph (1) of this subsection is guilty of the felony of child abuse in the second degree and on conviction is subject to imprisonment not exceeding 15 years.

(e) Sentencing. -- A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation of this section.

MD. CODE ANN., CRIM. LAW § 3-602 (2010). Sexual abuse of a minor.

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Family member" has the meaning stated in § 3-601 of this subtitle.

(3) "Household member" has the meaning stated in § 3-601 of this subtitle.

(4) (i) "Sexual abuse" means an act that involves sexual molestation or exploitation of a minor, whether physical injuries are sustained or not.

(ii) "Sexual abuse" includes:

1. incest;

2. rape;

3. sexual offense in any degree;

4. sodomy; and

5. unnatural or perverted sexual practices.

(b) Prohibited. --

(1) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause sexual abuse to the minor.

(2) A household member or family member may not cause sexual abuse to a minor.

(c) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 25 years.

(d) Sentencing. -- A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for:

(1) any crime based on the act establishing the violation of this section; or

(2) a violation of § 3-601 of this subtitle involving an act of abuse separate from sexual abuse under this section.

MD. CODE ANN., CRIM. LAW § 3-603 (2010). Sale of a minor.

(a) Prohibited. -- A person may not sell, barter, or trade, or offer to sell, barter, or trade, a minor for money, property, or anything else of value.

(b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $ 10,000 or both for each violation.

(c) Statute of limitations and in banc review. -- A person who violates this section is subject to § 5-106(b) of the Courts Article.

MD. CODE ANN., CRIM. LAW § 11-207 (2010). Child pornography.

(a) Prohibited. -- A person may not:

(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(4) knowingly promote, distribute, or possess with the intent to distribute any matter, visual representation, or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct; or

(5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.

(b) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding $ 25,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding 20 years or a fine not exceeding $ 50,000 or both.

(c) Evidence. --

(1) (i) This paragraph applies only if the minor's identity is unknown or the minor is outside the jurisdiction of the State.

(ii) In an action brought under this section, the State is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sadomasochistic abuse or sexual conduct.

(2) The trier of fact may determine whether an individual who is depicted in an obscene matter, or any visual representation or performance as the subject in sadomasochistic abuse or sexual conduct, was a minor by:

(i) observation of the matter depicting the individual;

(ii) oral testimony by a witness to the production of the matter, representation, or performance;

(iii) expert medical testimony; or

(iv) any other method authorized by an applicable provision of law or rule of evidence.

Effective October 1, 2010:
(a) A person may not:

(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(4) knowingly promote, [A> ADVERTISE, <A] [D> PRESENT, <D] [A> SOLICIT, <A] distribute, or possess with the intent to distribute any matter, [D> PURPORTED MATTER, <D] visual representation, or performance [A> : <A]

[A> (I) <A] that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct; or

[A> (II) IN A MANNER THAT REFLECTS THE BELIEF, OR THAT IS INTENDED TO CAUSE ANOTHER TO BELIEVE, THAT THE MATTER, <A] [D> PURPORTED MATTER, <D] [A> VISUAL REPRESENTATION, OR PERFORMANCE DEPICTS A MINOR ENGAGED AS A SUBJECT OF SADOMASOCHISTIC ABUSE OR SEXUAL CONDUCT; OR <A]

(5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.

(b) A person who violates this section is guilty of a felony and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding $ 25,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding years or a fine not exceeding $ 50,000 or both.

(c) (1) (i) This paragraph applies only if the minor's identity is unknown or the minor is outside the jurisdiction of the State.

(ii) In an action brought under this section, the State is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sadomasochistic abuse or sexual conduct.

(2) The trier of fact may determine whether an individual who is depicted in an obscene matter, or any visual representation or performance as the subject in sadomasochistic abuse or sexual conduct, was a minor by:

(i) observation of the matter depicting the individual;

(ii) oral testimony by a witness to the production of the matter, representation, or performance;

(iii) expert medical testimony; or

(iv) any other method authorized by an applicable provision of law or rule of evidence.

MD. CODE ANN., CRIM. LAW § 11-208 (2010). Possession of visual representation of child under 16 engaged in certain sexual acts.

(a) Prohibited. -- A person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child under the age of 16 years:

(1) engaged as a subject of sadomasochistic abuse;

(2) engaged in sexual conduct; or

(3) in a state of sexual excitement.

(b) Penalty. --

(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $ 2,500 or both.

(2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $ 10,000 or both.

(c) Exemption. -- Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged:

(1) as a subject of sadomasochistic abuse; or

(2) in sexual conduct and in a state of sexual excitement.

(d) Affirmative defense. -- It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:

(1) took reasonable steps to destroy each visual representation; or

(2) reported the matter to a law enforcement agency.

MD. CODE ANN., CRIM. LAW § 11-209 (2010). Hiring minor for prohibited purpose.

(a) Prohibited. -- A person may not hire, employ, or use an individual, if the person knows, or possesses facts under which the person should reasonably know, that the individual is a minor, to do or assist in doing an act described in § 11-203 of this subtitle.

(b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $ 1,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $ 5,000 or both.

MD. CODE ANN., CRIM. LAW § 11-305 (2010). Abduction of child under 16.

(a) Prohibited. -- For purposes of prostitution or committing a crime under Title 3, Subtitle 3 of this article, a person may not:

(1) persuade or entice or aid in the persuasion or enticement of an individual under the age of 16 years from the individual's home or from the custody of the individual's parent or guardian; or

(2) knowingly secrete or harbor or aid in the secreting or harboring of an individual under the age of 16 years who has been persuaded or enticed in the manner described in item (1) of this subsection.

(b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $ 5,000 or both.

(c) Statute of limitations and in banc review. -- A person who violates this section is subject to § 5-106(b) of the Courts Article.

MD. CODE ANN., CRIM. LAW § 11-701 (2010). Definitions.

(a) In general. -- In this subtitle the following words have the meanings indicated.

(b) Board. -- "Board" means the Sexual Offender Advisory Board.

(c) Child sexual offender. -- "Child sexual offender" means a person who:

(1) has been convicted of violating § 3-602 of the Criminal Law Article;

(2) has been convicted of violating any of the provisions of the rape or sexual offense statutes under §§ 3-303 through 3-307 of the Criminal Law Article for a crime involving a child under the age of 15 years;

(3) has been convicted of violating the fourth degree sexual offense statute under § 3-308 of the Criminal Law Article for a crime involving a child under the age of 15 years and has been ordered by the court to register under this subtitle;

(4) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) and (2) of this subsection; or

(5) (i) has been adjudicated delinquent for an act involving a victim under the age of 15 years that would constitute a violation of § 3-303, § 3-304, § 3-305, or § 3-306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11-704(c) of this subtitle.

(d) Commission. -- "Commission" means the Maryland Parole Commission.

(e) Employment. -- "Employment" means an occupation, job, or vocation that is full time or part time for a period exceeding 14 days or for an aggregate period exceeding 30 days during a calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(f) Extended parole supervision offender. -- "Extended parole supervision offender" means a person who:

(1) is a sexually violent predator;

(2) has been convicted of a violation of § 3-303, § 3-304, § 3-305, § 3-306(a)(1) or (2), or § 3-307(a)(1) or (2) of the Criminal Law Article;

(3) has been convicted of a violation of § 3-309, § 3-310, or § 3-311 of the Criminal Law Article or an attempt to commit a violation of § 3-306(a)(1) or (2) of the Criminal Law Article;

(4) has been convicted of a violation of § 3-602 of the Criminal Law Article for commission of a sexual act involving penetration of a child under the age of 12 years; or

(5) has been convicted more than once of a crime as a child sexual offender, an offender, or a sexually violent offender.

(g) Local law enforcement unit. -- "Local law enforcement unit" means the law enforcement unit in a county that has been designated by resolution of the county governing body as the primary law enforcement unit in the county.

(h) Offender. -- "Offender" means a person who is ordered by a court to register under this subtitle and who:

(1) has been convicted of violating § 3-503 of the Criminal Law Article;

(2) has been convicted of violating § 3-502 of the Criminal Law Article or the fourth degree sexual offense statute under § 3-308 of the Criminal Law Article, if the victim is under the age of 18 years;

(3) has been convicted of the common law crime of false imprisonment, if the victim is under the age of 18 years and the person is not the victim's parent;

(4) has been convicted of a crime that involves soliciting a person under the age of 18 years to engage in sexual conduct;

(5) has been convicted of violating the child pornography statute under § 11-207 of the Criminal Law Article;

(6) has been convicted of violating any of the prostitution and related crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended prostitute or victim is under the age of 18 years;

(7) has been convicted of a crime that involves conduct that by its nature is a sexual offense against a person under the age of 18 years;

(8) has been convicted of an attempt to commit a crime listed in items (1) through (7) of this subsection; or

(9) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) through (8) of this subsection.

(i) Release. --

(1) Except as otherwise provided in this subsection, "release" means any type of release from the custody of a supervising authority.

(2) "Release" means:

(i) release on parole;

(ii) mandatory supervision release;

(iii) release from a correctional facility with no required period of supervision;

(iv) work release;

(v) placement on home detention; and

(vi) the first instance of entry into the community that is part of a supervising authority's graduated release program.

(3) "Release" does not include:

(i) an escape; or

(ii) leave that is granted on an emergency basis.

(j) Sexually violent offender. -- "Sexually violent offender" means a person who:

(1) has been convicted of a sexually violent offense;

(2) has been convicted of an attempt to commit a sexually violent offense; or

(3) (i) has been adjudicated delinquent for an act involving a victim 15 years of age or older that would constitute a violation of § 3-303, § 3-304, § 3-305, or § 3-306 of the Criminal Law Article if committed by an adult; and

(ii) meets the requirements for registration under § 11-704(c) of this subtitle.

(k) Sexually violent offense. -- "Sexually violent offense" means:

(1) a violation of §§ 3-303 through 3-307 or §§ 3-309 through 3-312 of the Criminal Law Article;

(2) assault with intent to commit rape in the first or second degree or a sexual offense in the first or second degree as prohibited on or before September 30, 1996, under former Article 27, § 12 of the Code; or

(3) a crime committed in another state or in a federal, military, or Native American tribal jurisdiction that, if committed in this State, would constitute one of the crimes listed in item (1) or (2) of this subsection.

(l) Sexually violent predator. -- "Sexually violent predator" means:

(1) a person who:

(i) is convicted of a sexually violent offense; and

(ii) has been determined in accordance with this subtitle to be at risk of committing another sexually violent offense; or

(2) a person who is or was required to register every 90 days for life under the laws of another state or a federal, military, or Native American tribal jurisdiction.

(m) Supervising authority. -- "Supervising authority" means:

(1) the Secretary, if the registrant is in the custody of a correctional facility operated by the Department;

(2) the administrator of a local correctional facility, if the registrant, including a participant in a home detention program, is in the custody of the local correctional facility;

(3) the court that granted the probation or suspended sentence, except as provided in item (12)

of this subsection, if the registrant is granted probation before judgment, probation after judgment, or a suspended sentence;

(4) the Director of the Patuxent Institution, if the registrant is in the custody of the Patuxent Institution;

(5) the Secretary of Health and Mental Hygiene, if the registrant is in the custody of a facility operated by the Department of Health and Mental Hygiene;

(6) the court in which the registrant was convicted, if the registrant's sentence does not include a term of imprisonment or if the sentence is modified to time served;

(7) the Secretary, if the registrant is in the State under terms and conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

(8) the Secretary, if the registrant moves to this State and was convicted in another state of a crime that would require the registrant to register if the crime was committed in this State;

(9) the Secretary, if the registrant moves to this State from another state where the registrant was required to register;

(10) the Secretary, if the registrant is convicted in a federal, military, or Native American tribal court and is not under supervision by another supervising authority;

(11) the Secretary, if the registrant is not a resident of this State and has been convicted in another state or by a federal, military, or Native American tribal court;

(12) the Director of Parole and Probation, if the registrant is under the supervision of the Division of Parole and Probation; or

(13) the Secretary of Juvenile Services, if the registrant was a minor at the time the act was committed for which registration is required.

(n) Transient. -- "Transient" means a nonresident registrant who enters a county of this State with the intent to be in the State or is in the State for a period exceeding 14 days or for an aggregate period exceeding 30 days during a calendar year for a purpose other than employment or to attend an educational institution.

MD. CODE ANN., CRIM. LAW § 11-704 (2010). Registration required.

(a) In general. -- Subject to subsection (c) of this section, a person shall register with the person's supervising authority if the person is:

(1) a child sexual offender;

(2) an offender;

(3) a sexually violent offender;

(4) a sexually violent predator;

(5) a child sexual offender who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before October 1, 1995;

(6) an offender, sexually violent offender, or sexually violent predator who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before July 1, 1997; or

(7) a child sexual offender, offender, sexually violent offender, or sexually violent predator who is required to register in another state, who is not a resident of this State, and who enters this State:

(i) to carry on employment;

(ii) to attend a public or private educational institution, including a secondary school, trade or professional institution, or institution of higher education, as a full-time or part-time student; or

(iii) as a transient.

(b) No longer subject to registration. -- Notwithstanding any other provision of law, a person is no longer subject to registration under this subtitle if:

(1) the underlying conviction requiring registration is reversed, vacated, or set aside; or

(2) the registrant is pardoned for the underlying conviction.

(c) Registration by person who was minor at time of act. --

(1) A person described under § 11-701(c)(5)(i) of this subtitle, or a person described under § 11-701(j)(3)(i) of this subtitle, shall register with the person's supervising authority if:

(i) the person was a minor who was at least 13 years old at the time the delinquent act was committed;

(ii) the State's Attorney or the Department of Juvenile Services requests that the person be required to register;

(iii) 90 days prior to the time the juvenile court's jurisdiction over the person terminates under § 3-8A-07 of the Courts Article, the court, after a hearing, determines under a clear and convincing evidence standard that the person is at significant risk of committing a sexually violent offense or an offense for which registration as a child sexual offender is required; and

(iv) the person is at least 18 years old.

(2) If the person has committed a delinquent act that would cause the court to make a determination regarding registration under paragraph (1) of this subsection:

(i) the State's Attorney shall serve written notice to the person or the person's counsel at least

30 days before a hearing to determine if the person is required to register under this section; and

(ii) the Department of Juvenile Services shall:

1. provide the court with any information necessary to make the determination; and

2. conduct any follow-up the court requires.

(3) The form of petitions and all other pleadings under this subsection and, except as otherwise provided under Title 3 of the Courts and Judicial Proceedings Article, the procedures to be followed by the court under this subsection shall be specified in the Maryland Rules.

(4) The court may order an evaluation of the person in making the determination under paragraph (1) of this subsection.

MD. CODE ANN., CRIM. LAW § 14-101 (2010). Mandatory sentences for crimes of violence.

(a) "Crime of violence" defined. -- In this section, "crime of violence" means:

(1) abduction;

(2) arson in the first degree;

(3) kidnapping;

(4) manslaughter, except involuntary manslaughter;

(5) mayhem;

(6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;

(7) murder;

(8) rape;

(9) robbery under § 3-402 or § 3-403 of this article;

(10) carjacking;

(11) armed carjacking;

(12) sexual offense in the first degree;

(13) sexual offense in the second degree;

(14) use of a handgun in the commission of a felony or other crime of violence;

(15) child abuse in the first degree under § 3-601 of this article;

(16) sexual abuse of a minor under § 3-602 of this article if:

(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and

(ii) the offense involved:

1. vaginal intercourse, as defined in § 3-301 of this article;

2. a sexual act, as defined in § 3-301 of this article;

3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or

4. the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;

(17) an attempt to commit any of the crimes described in items (1) through (16) of this subsection;

(18) continuing course of conduct with a child under § 3-315 of this article;

(19) assault in the first degree;

(20) assault with intent to murder;

(21) assault with intent to rape;

(22) assault with intent to rob;

(23) assault with intent to commit a sexual offense in the first degree; and

(24) assault with intent to commit a sexual offense in the second degree.

(b) Scope of section. -- This section does not apply if a person is sentenced to death.

(c) Fourth conviction of crime of violence. --

(1) Except as provided in subsection (g) of this section, on conviction for a fourth time of a crime of violence, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence shall be sentenced to life imprisonment without the possibility of parole.

(2) Notwithstanding any other law, the provisions of this subsection are mandatory.

(d) Third conviction of crime of violence. --

(1) Except as provided in subsection (g) of this section, on conviction for a third time of a crime of violence, a person shall be sentenced to imprisonment for the term allowed by law but not less than 25 years, if the person:

(i) has been convicted of a crime of violence on two prior separate occasions:

1. in which the second or succeeding crime is committed after there has been a charging document filed for the preceding occasion; and

2. for which the convictions do not arise from a single incident; and

(ii) has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.

(2) The court may not suspend all or part of the mandatory 25-year sentence required under this subsection.

(3) A person sentenced under this subsection is not eligible for parole except in accordance with the provisions of § 4-305 of the Correctional Services Article.

(e) Second conviction of crime of violence. --

(1) On conviction for a second time of a crime of violence committed on or after October 1, 1994, a person shall be sentenced to imprisonment for the term allowed by law, but not less than 10 years, if the person:

(i) has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994; and

(ii) served a term of confinement in a correctional facility for that conviction.

(2) The court may not suspend all or part of the mandatory 10-year sentence required under this subsection.

(f) Compliance with Maryland Rules. -- If the State intends to proceed against a person as a subsequent offender under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

(g) Eligibility for parole after age 65. --

(1) A person sentenced under this section may petition for and be granted parole if the person:

(i) is at least 65 years old; and

(ii) has served at least 15 years of the sentence imposed under this section.

(2) The Maryland Parole Commission shall adopt regulations to implement this subsection.

MD. CODE ANN., CRIM. LAW § 14-102 (2010). Sentencing for crimes with minimum and maximum penalties.

(a) In general. -- Subject to subsection (b) of this section, if a law sets a maximum and a minimum penalty for a crime, the court may impose instead of the minimum penalty a lesser penalty of the same character.

(b) Exceptions. -- This section does not affect:

(1) a maximum penalty fixed by law; or

(2) the punishment for any crime for which the statute provides one and only one penalty.

MASSACHUSETTS

MASS. ANN. LAWS CH. 6, § 178C (2010). Definitions.

As used in sections 178C to 178P, inclusive, the following words shall have the following meanings:--

"Agency", an agency, department, board, commission or entity within the executive or judicial branch, excluding the committee for public counsel services, which has custody of, supervision of or responsibility for a sex offender as defined in accordance with this chapter, including an individual participating in a program of any such agency, whether such program is conducted under a contract with a private entity or otherwise. Each agency shall be responsible for the identification of such individuals within its custody, supervision or responsibility. Notwithstanding any general or special law to the contrary, each such agency shall be certified to receive criminal offender record information maintained by the criminal history systems board for the purpose of identifying such individuals.

"Employment", includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether compensated or uncompensated.

"Institution of higher learning", a post secondary institution.

"Mental abnormality", a congenital or acquired condition of a person that affects the emotional or volitional capacity of such person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes such person a menace to the health and safety of other persons.

"Predatory", an act directed at a stranger or person with whom a relationship has been established, promoted or utilized for the primary purpose of victimization.

"Secondary addresses", the addresses of all places where a sex offender lives, abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not a sex offender's primary address; or a place where a sex offender routinely lives, abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not a sex offender's permanent address, including any out-of-state address.

"Sentencing court", the court that sentenced a sex offender for the most recent sexually violent

offense or sex offense or the superior court if such sentencing occurred in another jurisdiction or the sex offender registry board to the extent permitted by federal law and established by the board's regulations.

"Sex offender", a person who resides, has secondary addresses, works or attends an institution of higher learning in the commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the department of youth services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under section 14 of chapter 123A, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said chapter 123A, whichever last occurs, on or after August 1, 1981.

"Sex offender registry", the collected information and data that is received by the criminal history systems board pursuant to sections 178C to 178P, inclusive, as such information and data is modified or amended by the sex offender registry board or a court of competent jurisdiction pursuant to said sections 178C to 178P, inclusive.

"Sex offense", an indecent assault and battery on a child under 14 under section 13B of chapter 265; indecent assault and battery on a mentally retarded person under section 13F of said chapter 265; indecent assault and battery on a person age 14 or over under section 13H of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; kidnapping of a child under section 26 of said chapter 265; enticing a child under the age of 16 for the purposes of committing a crime under section 26C of said chapter 265; enticing away a person for prostitution or sexual intercourse under section 2 of chapter 272; drugging persons for sexual intercourse under section 3 of said chapter 272; inducing a minor into prostitution under section 4A of said chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter 272; second and subsequent adjudication or conviction for open and gross lewdness and lascivious behavior under section 16 of said chapter 272, but excluding a first or single adjudication as a delinquent juvenile before August 1, 1992; incestuous marriage or intercourse under section 17 of said chapter 272; disseminating to a minor matter harmful to a minor under section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said chapter 272; possession of child pornography under section 29C of said chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.

"Sex offense involving a child", an indecent assault and battery on a child under 14 under section 13B of chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; kidnapping of a child under the age of 16 under section 26 of said chapter 265; enticing a child under the age of 16 for the purposes of committing a crime under section 26C of said chapter 265; inducing a minor into prostitution under section 4A of chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter 272; disseminating to a minor matter harmful to a minor under section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said

chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.

"Sexually violent offense", indecent assault and battery on a child under 14 under section 13B of chapter 265; indecent assault and battery on a mentally retarded person under section 13F of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; drugging persons for sexual intercourse under section 3 of chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the law of another state, the United States or a military, territorial or Indian tribal authority, or any other offense that the sex offender registry board determines to be a sexually violent offense pursuant to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, 42 U.S.C. section 14071.

"Sexually violent predator", a person who has been convicted of a sexually violent offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sexually violent offense, or a person released from incarceration, parole, probation supervision or commitment under chapter 123A or custody with the department of youth services for such a conviction or adjudication, whichever last occurs, on or after August 1, 1981, and who suffers from a mental abnormality or personality disorder that makes such person likely to engage in predatory sexually violent offenses.

MASS. ANN. LAWS CH. 265, § 13B (2010). Indecent Assault and Battery on Child Under Fourteen.

Whoever commits an indecent assault and battery on a child under the age of 14 shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for not more than 21/2 years. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

In a prosecution under this section, a child under the age of 14 years shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted.

MASS. ANN. LAWS CH. 265, § 13B1/2 (2010). Indecent Assault and Battery on Child Under Fourteen – Aggravating Factors.

Whoever commits an indecent assault and battery on a child under the age of 14 and:

(a) the indecent assault and battery was committed during the commission or attempted commission of the following offenses:- (1) armed burglary as set forth in section 14 of chapter

266; (2) unarmed burglary as set forth in section 15 of said chapter 266; (3) breaking and entering as set forth in section 16 of said chapter 266; (4) entering without breaking as set forth in section 17 of said chapter 266; (5) breaking and entering into a dwelling house as set forth in section 18 of said chapter 266; (6) kidnapping as set forth in section 26 of chapter 265; (7) armed robbery as set forth in section 17 of said chapter 265; (8) unarmed robbery as set forth in section 19 of said chapter 265; (9) assault and battery with a dangerous weapon or assault with a dangerous weapon, as set forth in sections 15A and 15B of said chapter 265; (10) home invasion as set forth in section 18C of said chapter 265; or (11) posing or exhibiting child in state of nudity or sexual conduct as set forth in section 29A of chapter 272; or

(b) at the time of commission of said indecent assault and battery, the defendant was a mandated reporter as is defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In a prosecution under this section, a child under the age of 14 years shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted.

MASS. ANN. LAWS CH. 265, § 13B3/4 (2010). Indecent Assault and Battery on Child Under Fourteen – Previous Youthful Offender.

Whoever commits an indecent assault and battery on a child under the age of 14 and has been previously convicted of or adjudicated delinquent or as a youthful offender for: indecent assault and battery on a child under 14 as set forth in section 13B; aggravated indecent assault and battery on a child under 14 as set forth in section 13B1/2; indecent assault and battery on a person 14 or older as set forth in section 13H; assault of a child with intent to commit rape as set forth in section 24B; rape of a child with force as set forth in section 22A; aggravated rape of a child with force as set forth in section 22B; rape and abuse of a child as set forth in section 23; aggravated rape and abuse of a child as set forth in section 23A; rape as set forth in section 22 or; a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years. The sentence imposed on such person shall not be reduced to less than 15 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 15 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In any prosecution commenced pursuant to this section, introduction into evidence of a prior adjudication or conviction or a prior finding of sufficient facts by either certified attested copies of original court papers, or certified attested copies of the defendant's biographical and informational data from records of the department of probation, any jail or house of correction or the department of correction shall be prima facie evidence that the defendant before the court had been convicted previously by a court of the commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and admissible, after the commonwealth has established the defendant's guilt on the primary offense, as evidence in any court of the

commonwealth to prove the defendant's commission of any prior conviction described therein. The commonwealth shall not be required to introduce any additional corroborating evidence or live witness testimony to establish the validity of such prior conviction.

MASS. ANN. LAWS CH. 265, § 13J (2010). Indecent Assault and Battery Upon Child Causing Bodily Injury; Penalty.

(a) For the purposes of this section, the following words shall, unless the context indicates otherwise, have the following meanings:--

"Bodily injury", substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as the result of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a child's health or welfare.

"Child", any person under fourteen years of age.

"Person having care and custody", a parent, guardian, employee of a home or institution or any other person with equivalent supervision or care of a child, whether the supervision is temporary or permanent.

"Substantial bodily injury", bodily injury which creates a permanent disfigurement, protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.

(b) Whoever commits an assault and battery upon a child and by such assault and battery causes bodily injury shall be punished by imprisonment in the state prison for not more than five years or imprisonment in the house of correction for not more than two and one-half years.

Whoever commits an assault and battery upon a child and by such assault and battery causes substantial bodily injury shall be punished by imprisonment in the state prison for not more than fifteen years or imprisonment in the house of correction for not more than two and one-half years.

Whoever, having care and custody of a child, wantonly or recklessly permits bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes bodily injury, shall be punished by imprisonment for not more than two and one-half years in the house of correction.

Whoever, having care and custody of a child, wantonly or recklessly permits substantial bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes substantial bodily injury, shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment in a jail or house of correction for not more than two and one-half years.

MASS. ANN. LAWS CH. 265, § 13L (2010). Reckless Endangerment of Children.

For the purposes of this section, the following words shall have the following meanings:--

"Child", any person under 18 years of age.

"Serious bodily injury", bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death.

"Sexual abuse", an indecent assault and battery on a child under 14 under section 13B of chapter 265; indecent assault and battery on a person age 14 or over under section 13H of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; and assault of a child with intent to commit rape under section 24B of said chapter 265.

Whoever wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act shall be punished by imprisonment in the house of correction for not more than 21/2 years.

For the purposes of this section, such wanton or reckless behavior occurs when a person is aware of and consciously disregards a substantial and unjustifiable risk that his acts, or omissions where there is a duty to act, would result in serious bodily injury or sexual abuse to a child. The risk must be of such nature and degree that disregard of the risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

MASS. ANN. LAWS CH. 265, § 22A (2010). Rape of Child.

Whoever has sexual intercourse or unnatural sexual intercourse with a child under 16, and compels such child to submit by force and against his will or compels such child to submit by threat of bodily injury, shall be punished by imprisonment in the state prison for life or for any term of years. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

MASS. ANN. LAWS CH. 265, § 22B (2010). Rape of Child – Aggravating Factors.

Whoever has sexual intercourse or unnatural sexual intercourse with a child under 16, and compels such child to submit by force and against his will or compels such child to submit by threat of bodily injury and:

(a) the sexual intercourse or unnatural sexual intercourse is committed during the commission or attempted commission of any of the following offenses: (1) armed burglary as set forth in section 14 of chapter 266; (2) unarmed burglary as set forth in section 15 of said chapter 266; (3) breaking and entering as set forth in section 16 of said chapter 266; (4) entering without breaking as set forth in section 17 of said chapter 266; (5) breaking and entering into a dwelling house as set forth in section 18 of said chapter 266; (6) kidnapping as set forth in section 26 of chapter 265; (7) armed robbery as set forth in section 17 of said chapter 265; (8) unarmed robbery as set forth in section 19 of said chapter 265; (9) assault and battery with a dangerous weapon or assault with a dangerous weapon as set forth in sections 15A and 15B of said chapter 265; (10) home

invasion as set forth in section 18C of said chapter 265; or (11) posing or exhibiting child in state of nudity or sexual conduct as set forth in section 29A of chapter 272;

(b) the sexual intercourse or unnatural sexual intercourse results in, or is committed by means of an act or acts resulting in, substantial bodily injury as defined in section 13J;

(c) the sexual intercourse or unnatural sexual intercourse is committed while the victim is tied, bound or gagged;

(d) the sexual intercourse or unnatural sexual intercourse is committed after the defendant administered, or caused to be administered, alcohol or a controlled substance by injection, inhalation, ingestion, or any other means to the victim without the victim's consent;

(e) the sexual intercourse or unnatural sexual intercourse is committed by a joint enterprise; or

(f) the sexual intercourse or unnatural sexual intercourse was committed in a manner in which the victim could contract a sexually transmitted disease or infection of which the defendant knew or should have known he was a carrier, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years. The sentence imposed on such person shall not be reduced to less than 15 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 15 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

MASS. ANN. LAWS CH. 265, § 22C (2010). Rape of Child – Previous Youthful Offender.

Whoever has sexual intercourse or unnatural sexual intercourse with a child under 16, and compels such child to submit by force and against his will or compels such child to submit by threat of bodily injury, and has been previously convicted of or adjudicated delinquent or as a youthful offender for: indecent assault and battery on a child under 14 as set forth in section 13B; aggravated indecent assault and battery on a child under 14 as set forth in section 13B1/2; indecent assault and battery on a person 14 or older as set forth in section 13H; assault of a child with intent to commit rape as set forth in section 24B; rape of a child with force as set forth in section 22A; aggravated rape of a child with force as set forth in section 22B; rape and abuse of a child as set forth in section 23; aggravated rape and abuse of a child as set forth in section 23A; rape as set forth in section 22; or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 20 years. The sentence imposed on such person shall not be reduced to less than 20 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release or furlough or receive any deduction from his sentence for good conduct until he shall have served 20 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In any prosecution commenced pursuant to this section, introduction into evidence of a prior adjudication or conviction or a prior finding of sufficient facts by either certified attested copies of original court papers, or certified attested copies of the defendant's biographical and informational data from records of the department of probation, any jail or house of correction or

the department of correction, shall be prima facie evidence that the defendant before the court has been convicted previously by a court of the commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and admissible, after the commonwealth has established the defendant's guilt on the primary offense, as evidence in any court of the commonwealth to prove the defendant's commission of any prior conviction described therein. The commonwealth shall not be required to introduce any additional corroborating evidence or live witness testimony to establish the validity of such prior conviction.

MASS. ANN. LAWS CH. 265, § 23 (2010). Rape and Abuse of Child.

Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age, shall be punished by imprisonment in the state prison for life or for any term of years or, except as otherwise provided, for any term in a jail or house of correction. A prosecution commenced under this section shall neither be continued without a finding nor placed on file.

MASS. ANN. LAWS CH. 265, § 23A (2010). Rape and Abuse of Child – Aggravating Factors.

Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age and:

(a) there exists more than a 5 year age difference between the defendant and the victim and the victim is under 12 years of age;

(b) there exists more than a 10 year age difference between the defendant and the victim where the victim is between the age of 12 and 16 years of age; or

(c) at the time of such intercourse, was a mandated reporter as defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

MASS. ANN. LAWS CH. 265, § 23B (2010). Rape and Abuse of Child – Previous Youthful Offender.

Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age and has been previously convicted of or adjudicated delinquent or as a youthful offender for: indecent assault and battery on a child under 14 under section 13B; aggravated indecent assault and battery on a child under 14 under section 13B1/2; indecent assault and battery on a person 14 or older under section 13H; assault of a child with intent to commit rape under section 24B; rape of a child with force under section 22A; aggravated rape of a child with force under section 22B; rape and abuse of a child under section 23; aggravated rape

and abuse of a child under section 23A; rape under section 22; or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years. The sentence imposed on such person shall not be reduced to less than 15 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 15 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In any prosecution commenced pursuant to this section, introduction into evidence of a prior adjudication or conviction or a prior finding of sufficient facts by either certified attested copies of original court papers, or certified attested copies of the defendant's biographical and informational data from records of the department of probation, any jail or house of correction or the department of correction, shall be prima facie evidence that the defendant before the court has been convicted previously by a court of the commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and admissible, after the commonwealth has established the defendant's guilt on the primary offense, as evidence in any court of the commonwealth to prove the defendant's commission of any prior conviction described therein. The commonwealth shall not be required to introduce any additional corroborating evidence or live witness testimony to establish the validity of such prior conviction.

MASS. ANN. LAWS CH. 265, § 24B (2010). Assault on Child under Sixteen with Intent to Commit Rape.

Whoever assaults a child under sixteen with intent to commit a rape, as defined in section thirty-nine of chapter two hundred and seventy-seven, shall be punished by imprisonment in the state prison for life or for any term of years; and whoever over the age of eighteen commits a subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years but not less than five years.

Whoever commits any offense described in this section while being armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for life or for any term of years, but not less than ten years. Whoever over the age of 18 commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years.

MASS. ANN. LAWS CH. 265, § 26 (2010). Kidnapping.

Whoever, without lawful authority, forcibly or secretly confines or imprisons another person within this commonwealth against his will, or forcibly carries or sends such person out of this commonwealth, or forcibly seizes and confines or inveigles or kidnaps another person, with intent either to cause him to be secretly confined or imprisoned in this commonwealth against his will, or to cause him to be sent out of this commonwealth against his will or in any way held to service against his will, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars and imprisonment in jail for not more than two years. Whoever commits any offence described in this section with the intent to extort money or other valuable thing thereby shall be punished by imprisonment in the state prison for life or for any term of years.

Whoever commits any offense described in this section while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than ten years or in the house of correction for not more than two and one-half years. The provisions of the preceding sentence shall not apply to the parent of a child under 18 years of age who takes custody of such child. Whoever commits such offense described in this section while being armed with a firearm, rifle, shotgun, machine gun or assault weapon with the intent to extort money or other valuable thing thereby shall be punished by imprisonment in the state prison for life or for any term of years but not less than 20 years.

Whoever commits any offense described in this section while armed with a dangerous weapon and inflicts serious bodily injury thereby upon another person or who sexually assaults such person shall be punished by imprisonment in the state prison for not less than 25 years. For purposes of this paragraph the term "serious bodily injury" shall mean bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ or substantial risk of death. For purposes of this paragraph, the term "sexual assault" shall mean the commission of any act set forth in sections 13B, 13F, 13H, 22, 22A, 23, 24 or 24B.

Whoever, without lawful authority, forcibly or secretly confines or imprisons a child under the age of 16 within the commonwealth against his will or forcibly carries or sends such person out of the commonwealth or forcibly seizes and confines or inveigles or kidnaps a child under the age of 16 with the intent either to cause him to be secretly confined or imprisoned in the commonwealth against his will or to cause him to be sent out of the commonwealth against his will or in any way held to service against his will, shall be punished by imprisonment in the state prison for not more than 15 years. The provisions of the preceding sentence shall not apply to the parent of a child under 16 years of age who takes custody of such child.

MASS. ANN. LAWS CH. 265, § 26A (2010). Custodial Interference by Relatives.

Whoever, being a relative of a child less than eighteen years old, without lawful authority, holds or intends to hold such a child permanently or for a protracted period, or takes or entices such a child from his lawful custodian, or takes or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution shall be punished by imprisonment in the house of correction for not more than one year or by a fine of up to one thousand dollars, or both. Whoever commits any offense described in this section by taking or holding said child outside the commonwealth or under circumstances which expose the person taken or enticed from lawful custody to a risk which endangers his safety shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the state prison for not more than five years, or by both such fine and imprisonment.

MASS. ANN. LAWS CH. 265, § 26C (2010). Enticement of Children.

(a) As used in this section, the term "entice" shall mean to lure, induce, persuade, tempt, incite, solicit, coax or invite.

(b) Any one who entices a child under the age of 16, or someone he believes to be a child under the age of 16, to enter, exit or remain within any vehicle, dwelling, building, or other outdoor space with the intent that he or another person will violate section 13B, 13F, 13H, 22, 22A, 23, 24 or 24B of chapter 265, section 4A, 16, 28, 29, 29A, 29B, 29C, 35A, 53 or 53A of chapter 272, or any offense that has as an element the use or attempted use of force, shall be punished by imprisonment in the state prison for not more than 5 years, or in the house of correction for not more than 21/2 years, or by both imprisonment and a fine of not more than $5,000.

MASS. ANN. LAWS CH. 265, § 44 (2010). Assault and Battery on Child Under Eighteen to Coerce Child to Join in Conspiracy in Violation of Chapter 274 § 7; Street Gangs.

Whoever commits an assault and battery on a child under the age of eighteen for the purpose of causing or coercing such child to join or participate in a criminal conspiracy in violation of section seven of chapter two hundred and seventy-four, including but not limited to a criminal street gang or other organization of three or more persons which has a common name, identifying sign or symbol and whose members individually or collectively engage in criminal activity, shall, for the first offense, be punished by imprisonment in the state prison for not less than three nor more than five years or by imprisonment in the house of correction for not more than two and one-half years; and for a second or subsequent offense by imprisonment in the state prison for not less than five nor more than ten years.

MASS. ANN. LAWS CH. 272, § 1 (2010). Abduction of an Unmarried Person under Age Sixteen for the Purpose of Marriage.

Whoever fraudulently and deceitfully entices or takes away an unmarried person under sixteen from the house of such person's parents or elsewhere, without the consent of the parent or guardian, if any, under whose care and custody such person is living, for the purpose of effecting a clandestine marriage of such person without the consent of such parent or guardian, shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars, or both.

MASS. ANN. LAWS CH. 272, § 2 (2010). Abduction of Persons for the Purpose of Prostitution or Unlawful Sexual Intercourse.

Whoever fraudulently and deceitfully entices or takes away a person from the house of his parent or guardian or elsewhere, for the purpose of prostitution or for the purpose of unlawful sexual intercourse, and whoever aids and assists in such abduction for such purpose, shall be punished by imprisonment in the state prison for not more than three years or in jail for not more than one year or by a fine of not more than one thousand dollars, or by both such fine and imprisonment in jail.

MASS. ANN. LAWS CH. 272, § 4 (2010). Enticing to Unlawful Intercourse.

Whoever induces any person under 18 years of age of chaste life to have unlawful sexual intercourse shall be punished by imprisonment in the state prison for not more than three years or in a jail or house of correction for not more than two and one-half years or by a fine of not more than $1,000 or by both such fine and imprisonment.

MASS. ANN. LAWS CH. 272, § 22 (2010). Concealment by Parent of Death of Child Born Out of Wedlock.

A parent who conceals the death of the issue of such parent, which if born alive would be a child born out of wedlock, so that it cannot be ascertained whether it was born alive or, if born alive, whether it was murdered, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year.

MASS. ANN. LAWS CH. 272, § 29A (2010). Child Pornography; Enticement, Solicitation, Employment, Etc. of Children.

(a) Whoever, either with knowledge that a person is a child under eighteen years of age or while in possession of such facts that he should have reason to know that such person is a child under eighteen years of age, and with lascivious intent, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to pose or be exhibited in a state of nudity, for the purpose of representation or reproduction in any visual material, shall be punished by imprisonment in the state prison for a term of not less than ten nor more than twenty years, or by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and imprisonment.

(b) Whoever, either with knowledge that a person is a child under eighteen years of age or while in possession of such facts that he should have reason to know that such person is a child under eighteen years of age, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child to participate or engage in any act that depicts, describes, or represents sexual conduct for the purpose of representation or reproduction in any visual material, or to engage in any live performance involving sexual conduct, shall be punished by imprisonment in the state prison for a term of not less than ten nor more than twenty years, or by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and imprisonment.

(c) In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

(d) For the purposes of this section, the determination whether the person in any visual material prohibited hereunder is under eighteen years of age may be made by the personal testimony of such person, by the testimony of a person who produced, processed, published, printed or manufactured such visual material that the child therein was known to him to be under eighteen years of age, or by expert medical testimony as to the age of the person based upon the person's physical appearance, by inspection of the visual material, or by any other method authorized by any general or special law or by any applicable rule of evidence.

MASS. ANN. LAWS CH. 272, § 29B (2010). Child Pornography; Dissemination of Material Depicting Sexual Conduct by Children.

(a) Whoever, with lascivious intent, disseminates any visual material that contains a representation or reproduction of any posture or exhibition in a state of nudity involving the use of a child who is under eighteen years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or has in his possession any such visual material knowing the contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

(b) Whoever with lascivious intent disseminates any visual material that contains a representation or reproduction of any act that depicts, describes, or represents sexual conduct participated or engaged in by a child who is under eighteen years of age, knowing the contents of such visual material or having sufficient facts in his possession to have knowledge of the contents thereof, or whoever has in his possession any such visual material knowing the contents or having sufficient facts in his possession to have knowledge of the contents thereof, with the intent to disseminate the same, shall be punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any economic gain derived from said dissemination, whichever is greater, or by both such fine and imprisonment.

(c) For the purposes of this section, the determination whether the child in any visual material prohibited hereunder is under eighteen years of age may be made by the personal testimony of such child, by the testimony of a person who produced, processed, published, printed or manufactured such visual material that the child therein was known to him to be under eighteen years of age, by testimony of a person who observed the visual material, or by expert medical testimony as to the age of the child based upon the child's physical appearance, by inspection of the visual material, or by any other method authorized by any general or special law or by any applicable rule of evidence.

(d) In a prosecution under this section, a minor shall be deemed incapable of consenting to any conduct of the defendant for which said defendant is being prosecuted.

(e) Pursuant to this section, proof that dissemination of any visual material that contains a representation or reproduction of sexual conduct or of any posture or exhibition in a state of nudity involving the use of a child who is under eighteen years of age was for a bona fide scientific, medical, or educational purpose for a bona fide school, museum, or library may be considered as evidence of a lack of lascivious intent.

MASS. ANN. LAWS CH. 272, § 29C (2010). Child Pornography; Purchase or Possession of Material Depicting Sexual Conduct by Children.

Whoever knowingly purchases or possesses a negative, slide, book, magazine, film, videotape, photograph or other similar visual reproduction, or depiction by computer, of any child whom the person knows or reasonably should know to be under the age of 18 years of age and such child is:

(i) actually or by simulation engaged in any act of sexual intercourse with any person or animal;

(ii) actually or by simulation engaged in any act of sexual contact involving the sex organs of the child and the mouth, anus or sex organs of the child and the sex organs of another person or animal;

(iii) actually or by simulation engaged in any act of masturbation;

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal;

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context;

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed genitals, pubic area, buttocks or, if such person is female, a fully or partially developed breast of the child; with knowledge of the nature or content thereof shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by a fine of not less than $1,000 nor more than $10,000, or by both such fine and imprisonment for the first offense, not less than five years in a state prison or by a fine of not less than $5,000 nor more than $20,000, or by both such fine and imprisonment for the second offense, not less than 10 years in a state prison or by a fine of not less than $10,000 nor more than $30,000, or by both such fine and imprisonment for the third and subsequent offenses.

A prosecution commenced under this section shall not be continued without a finding nor placed on file.

The provisions of this section shall not apply to a law enforcement officer, licensed physician, licensed psychologist, attorney or officer of the court who is in possession of such materials in the lawful performance of his official duty. Nor shall the provisions of this section apply to an employee of a bona fide enterprise, the purpose of which enterprise is to filter or otherwise restrict access to such materials, who possesses examples of computer depictions of such material for the purposes of furthering the legitimate goals of such enterprise.

MASS. ANN. LAWS CH. 273, § 1 (2010). Abandonment and Failure to Support Spouse or Child; Noncompliance with Support Order; Penalty.

A spouse or parent shall be guilty of a felony and shall be subject to the penalties set forth in section fifteen A if:

(1) he abandons his spouse or minor child without making reasonable provisions for the support of his spouse or minor child or both of them; or

(2) he leaves the commonwealth and goes into another state without making reasonable provisions for the support of his spouse or minor child or both of them; or

(3) he enters the commonwealth from another state without making reasonable provisions for the support of his spouse or minor child, or both of them, domiciled in another state; or

(4) wilfully and while having the financial ability or earning capacity to have complied, he fails to comply with an order or judgment for support which has been entered pursuant to chapter one hundred and nineteen, two hundred and seven, two hundred and eight, two hundred and nine, two hundred and nine C or two hundred and seventy-three, or received, entered or registered pursuant to chapter two hundred and nine D, or entered pursuant to similar laws of other states. No civil proceeding in any court shall be held to be a bar to a prosecution hereunder but the court shall not enter any order pursuant to section fifteen A which would directly or indirectly result in a decrease in the amount paid for current support pursuant to an order or judgment on behalf of the child or spouse to who, or on whose behalf, support is owed.

In a prosecution hereunder a decree or judgment of a probate court in a proceeding in which the defendant or spouse appeared or was personally served with process, establishing the right of his spouse to live apart or the freedom of such spouse to convey and deal with property, or the right to the custody of the children, shall be admissible and shall be prima facie evidence of such right.

MICHIGAN

MICH. COMP. LAWS § 28.722 (2010). Definitions.

Sec. 2. As used in this act:

(a) "Convicted" means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(ii) Either of the following:

(A)Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004.

(B)Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, on or after October 1, 2004 if the individual's status of youthful trainee is revoked and an adjudication of guilt is entered.

(iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

(iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country.

(b) "Department" means the department of state police.

(c) "Institution of higher education" means 1 or more of the following:

(i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(d) "Local law enforcement agency" means the police department of a municipality.

(e) "Listed offense" means any of the following:

(i) A violation of section 145a, 145b, or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.145b, and 750.145c.

(ii) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(iii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if that individual was previously convicted of violating section 335a of that act.

(iv) A third or subsequent violation of any combination of the following:

(A)Section 167(1)(f) of the Michigan penal code, 1931 PA 328, MCL 750.167.

(B)Section 335a(2)(a) of the Michigan penal code, 1931 PA 328, MCL 750.335a.

(C)A local ordinance of a municipality substantially corresponding to a section described in sub-subparagraph (A) or (B).

(v) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(vi) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

(vii) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(viii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if a victim is an individual less than 18 years of age.

(ix) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.

(x) A violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(xi) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.

(xii) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(xiii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to(xii).

(xiv) An offense substantially similar to an offense described in subparagraphs (i) to(xiii) under a law of the United States, any state, or any country or under tribal or military law.

(f) "Municipality" means a city, village, or township of this state.

(g) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.

(h) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including, but not limited to, a secondary school, trade school, professional institution, or institution of higher education.

MICH. COMP. LAWS § 28.723 (2010). Individuals required to be registered.

Sec. 3. (1) Subject to subsection (2), the following individuals who are domiciled or temporarily reside in this state for 14 or more consecutive days, who work with or without compensation or are students in this state for 14 or more consecutive days, or who are domiciled, reside, or work with or without compensation or are students in this state for 30 or more total days in a calendar

year are required to be registered under this act:

(a) An individual who is convicted of a listed offense after October 1, 1995.

(b) An individual convicted of a listed offense on or before October 1, 1995 if on October 1, 1995 he or she is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or under the jurisdiction of the juvenile division of the probate court or the department of social services for that offense or is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the juvenile division of the probate court or family division of circuit court, or committed to the department of social services or family independence agency after October 1, 1995 for that offense.

(c) An individual convicted of an offense described in section 2(d)(xiii) on or before October 1, 1995 if on October 1, 1995 he or she is on probation or parole that has been transferred to this state for that offense or his or her probation or parole is transferred to this state after October 1, 1995 for that offense.

(d) An individual from another state who is required to register or otherwise be identified as a sex or child offender or predator under a comparable statute of that state.

(2) An individual convicted of an offense added on September 1, 1999 to the definition of listed offense is not required to be registered solely because of that listed offense unless 1 of the following applies:

(a) The individual is convicted of that listed offense on or after September 1, 1999.

(b) On September 1, 1999, the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, under the jurisdiction of the family division of circuit court, or committed to the family independence agency for that offense or the individual is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the family division of circuit court, or committed to the family independence agency on or after September 1, 1999 for that offense.

(c) On September 1, 1999, the individual is on probation or parole for that offense which has been transferred to this state or the individual's probation or parole for that offense is transferred to this state after September 1, 1999.

(d) On September 1, 1999, in another state or country the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections or a similar type of state agency, under the jurisdiction of a court that handles matters similar to those handled by the family division of circuit court in this state, or committed to an agency with the same authority as the family independence agency for that offense.

MICH. COMP. LAWS § 750.13 (2010). Enticing away female under sixteen; felony, penalty.

Sec. 13. Enticing away female under 16 years for purpose of marriage, etc.-Any person who shall take or entice away any female under the age of 16 years, from her father, mother, guardian, or other person having the legal charge of her person, without their consent, either for the purpose of prostitution, concubinage, sexual intercourse or marriage, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

MICH. COMP. LAWS § 750.90G (2010). "Infant protection act" as short title of section; legislative findings; prohibited acts; violation as felony; penalty; exceptions; definitions.

Sec. 90g. (1) This section shall be known and may be cited as the "infant protection act".

(2) The legislature finds all of the following:

(a) That the constitution and laws of this nation and this state hold that a live infant completely expelled from his or her mother's body is recognized as a person with constitutional and legal rights and protection.

(b) That a live infant partially outside his or her mother is neither a fetus nor potential life, but is a person.

(c) That the United States supreme court decisions defining a right to terminate pregnancy do not extend to the killing of a live infant that has begun to emerge from his or her mother's body.

(d) That the state has a compelling interest in protecting the life of a live infant by determining that a live infant is a person deserving of legal protection at any point after any part of the live infant exists outside of the mother's body.

(3) Except as provided in subsections (4) and (5), a person who intentionally performs a procedure or takes any action upon a live infant with the intent to cause the death of the live infant is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $50,000.00, or both.

(4) It is not a violation of subsection (3) if a physician takes measures at any point after a live infant is partially outside of the mother's body, that in the physician's reasonable medical judgment are necessary to save the life of the mother and if every reasonable precaution is also taken to save the live infant's life.

(5) Subsection (3) does not apply to an action taken by the mother. However, this subsection does not exempt the mother from any other provision of law.

(6) As used in this section:

(a) "Live infant" means a human fetus at any point after any part of the fetus is known to exist outside of the mother's body and has 1 or more of the following:

(i) A detectable heartbeat.

(ii) Evidence of spontaneous movement.

(iii) Evidence of breathing.

(b) "Outside of the mother's body" means beyond the outer abdominal wall or beyond the plane of the vaginal introitus.

(c) "Part of the fetus" means any portion of the body of a human fetus that has not been severed from the fetus, but not including the umbilical cord or placenta.

(d) "Physician" means an individual licensed to engage in the practice of allopathic medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

MICH. COMP. LAWS § 750.92 (2010). Attempt to commit crime.

Sec. 92. Attempt to commit crime-Any person who shall attempt to commit an offense prohibited by law, and in such attempt shall do any act towards the commission of such offense, but shall fail in the perpetration, or shall be intercepted or prevented in the execution of the same, when no express provision is made by law for the punishment of such attempt, shall be punished as follows:

1. If the offense attempted to be committed is such as is punishable with death, the person convicted of such attempt shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years;

2. If the offense so attempted to be committed is punishable by imprisonment in the state prison for life, or for 5 years or more, the person convicted of such attempt shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or in the county jail not more than 1 year;

3. If the offense so attempted to be committed is punishable by imprisonment in the state prison for a term less than 5 years, or imprisonment in the county jail or by fine, the offender convicted of such attempt shall be guilty of a misdemeanor, punishable by imprisonment in the state prison or reformatory not more than 2 years or in any county jail not more than 1 year or by a fine not to exceed 1,000 dollars; but in no case shall the imprisonment exceed 1/2 of the greatest punishment which might have been inflicted if the offense so attempted had been committed.

MICH. COMP. LAWS § 750.135 (2010). Children; exposing with intent to injure or abandon; surrender of child to emergency service provider; applicability of subsection (1); definitions.

Sec. 135. (1) Except as provided in subsection (3), a father or mother of a child under the age of 6 years, or another individual, who exposes the child in any street, field, house, or other place, with intent to injure or wholly to abandon the child, is guilty of a felony, punishable by imprisonment for not more than 10 years.

(2) Except for a situation involving actual or suspected child abuse or child neglect, it is an affirmative defense to a prosecution under subsection (1) that the child was not more than 72 hours old and was surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20. A criminal investigation shall not be initiated solely on the basis of a newborn being surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20.

(3) Subsection (1) does not apply to a mother of a newborn who is surrendered under the born alive infant protection act. Subsection (1) applies to an attending physician who delivers a live newborn as a result of an attempted abortion and fails to comply with the requirements of the born alive infant protection act.

(4) As used in this section:

(a) "Emergency service provider" means a uniformed employee or contractor of a fire department, hospital, or police station when that individual is inside the premises and on duty.

(b) "Fire department" means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(c) "Hospital" means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(d) "Police station" means a police station as that term is defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

MICH. COMP. LAWS § 750.135A (2010). Leaving child unattended in vehicle; prohibition; violation; definitions.

Sec. 135a. (1) A person who is responsible for the care or welfare of a child shall not leave that child unattended in a vehicle for a period of time that poses an unreasonable risk of harm or injury to the child or under circumstances that pose an unreasonable risk of harm or injury to the child.

(2) A person who violates this section is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (d), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) If the violation results in physical harm other than serious physical harm to the child, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(c) If the violation results in serious physical harm to the child, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(d) If the violation results in the death of the child, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(3) As used in this section:

(a) "Child" means an individual less than 6 years of age.

(b) "Physical harm" and "serious physical harm" mean those terms as defined in section 136b.

(c) "Unattended" means alone or without the supervision of an individual 13 years of age or older who is not legally incapacitated.

(d) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

MICH. COMP. LAWS § 750.136B (2010). Definitions; child abuse.

Sec. 136b. (1) As used in this section:

(a) "Child" means a person who is less than 18 years of age and is not emancipated by operation of law as provided in section 4 of 1968 PA 293, MCL 722.4.

(b) "Cruel" means brutal, inhuman, sadistic, or that which torments.

(c) "Omission" means a willful failure to provide food, clothing, or shelter necessary for a child's welfare or willful abandonment of a child.

(d) "Person" means a child's parent or guardian or any other person who cares for, has custody of, or has authority over a child regardless of the length of time that a child is cared for, in the custody of, or subject to the authority of that person.

(e) "Physical harm" means any injury to a child's physical condition.

(f) "Serious physical harm" means any physical injury to a child that seriously impairs the child's health or physical well-being, including, but not limited to, brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.

(g) "Serious mental harm" means an injury to a child's mental condition or welfare that is not necessarily permanent but results in visibly demonstrable manifestations of a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(2) A person is guilty of child abuse in the first degree if the person knowingly or intentionally causes serious physical or serious mental harm to a child. Child abuse in the first degree is a felony punishable by imprisonment for not more than 15 years.

(3) A person is guilty of child abuse in the second degree if any of the following apply:

(a) The person's omission causes serious physical harm or serious mental harm to a child or if the person's reckless act causes serious physical harm or serious mental harm to a child.

(b) The person knowingly or intentionally commits an act likely to cause serious physical or mental harm to a child regardless of whether harm results.

(c) The person knowingly or intentionally commits an act that is cruel to a child regardless of whether harm results.

(4) Child abuse in the second degree is a felony punishable by imprisonment for not more than 4 years.

(5) A person is guilty of child abuse in the third degree if any of the following apply:

(a) The person knowingly or intentionally causes physical harm to a child.

(b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, and the act results in physical harm to a child.

(6) Child abuse in the third degree is a felony punishable by imprisonment for not more than 2 years.

(7) A person is guilty of child abuse in the fourth degree if any of the following apply:

(a) The person's omission or reckless act causes physical harm to a child.

(b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, regardless of whether physical harm results.

(8) Child abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year.

(9) This section does not prohibit a parent or guardian, or other person permitted by law or authorized by the parent or guardian, from taking steps to reasonably discipline a child, including the use of reasonable force.

(10) It is an affirmative defense to a prosecution under this section that the defendant's conduct involving the child was a reasonable response to an act of domestic violence in light of all the facts and circumstances known to the defendant at that time. The defendant has the burden of establishing the affirmative defense by a preponderance of the evidence. As used in this subsection, "domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

MICH. COMP. LAWS § 750.136C (2010). Transfer or acquisition of legal or physical custody of individual; violation as felony; penalty.

Sec. 136c. (1) A person shall not transfer or attempt to transfer the legal or physical custody of an individual to another person for money or other valuable consideration, except as otherwise permitted by law.

(2) A person shall not acquire or attempt to acquire the legal or physical custody of an individual for payment of money or other valuable consideration to another person, except as otherwise permitted by law.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $100,000.00, or both.

MICH. COMP. LAWS § 750.138 (2010). Children; legal custody; interference.

Sec. 138. A person who in any manner interferes or attempts to interfere with the custody of any child who has been adjudged to be dependent, neglected, or delinquent pursuant to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, after the making of an order

of commitment to a state institution or otherwise, in accordance with that act and pending the actual admission and reception of the child as an inmate of the institution, school, or home to which commitment is made; and any person who entices the neglected, dependent, or delinquent child from and out of the custody of the person or persons entitled thereto under the order of the court or who shall in any way interfere or attempt to interfere with the custody; and a person who entices or procures the child committed as aforesaid to leave and depart from any hospital or other place where the child was placed pursuant to the order of the court for the purpose of receiving medical treatment pending admission into the state institution, school, home, or other institution or place to which commitment may have been made, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

MICH. COMP. LAWS § 750.140 (2010). Children; exhibition; employ; apprentice.

Sec. 140. Any person having the care, custody, or control of any child under 16 years of age, who shall exhibit, use, or employ, or who shall apprentice, give away, let out, or otherwise dispose of the child to any person in or for the vocation, service, or occupation of rope or wire walking, gymnast, contortionist, rider, or acrobat, dancing, or begging in any place whatsoever, or for any obscene, indecent, or immoral purpose, exhibition, or practice whatsoever, or for any exhibition injurious to the health or dangerous to the life or limb of the child, or who shall cause, procure, or encourage the child to engage therein, and any person who shall take, receive, hire, employ, use, exhibit, or have in custody any child for any of the purposes mentioned in this section, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

MICH. COMP. LAWS § 750.145 (2010). Minor; contributing to neglect or delinquency.

Sec. 145. Contributing to neglect or delinquency of children-Any person who shall by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court, as defined in section 2 of chapter 12a of Act No. 288 of the Public Acts of 1939, as added by Act No. 54 of the Public Acts of the First Extra Session of 1944, and any amendments thereto, whether or not such child shall in fact be adjudicated a ward of the probate court, shall be guilty of a misdemeanor.

MICH. COMP. LAWS § 750.145A (2010). Accosting, enticing or soliciting child for immoral purpose.

Sec. 145a. A person who accosts, entices, or solicits a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age with the intent to induce or force that child or individual to commit an immoral act, to submit to an act of sexual intercourse or an act of gross indecency, or to any other act of depravity or delinquency, or who encourages a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16

years of age to engage in any of those acts is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

MICH. COMP. LAWS § 750.145B (2010). Accosting, enticing or soliciting child for immoral purpose; prior conviction; penalty.

Sec. 145b. (1) A person convicted of violating section 145a who has 1 or more prior convictions is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both.

(2) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(3) As used in this section, "prior conviction" means a violation of section 145a or a violation of a law of another state substantially corresponding to section 145a.

MICH. COMP. LAWS § 750.145C (2010). Definitions; child sexually abusive activity or material; penalties; possession of child sexually abusive material; expert testimony; defenses; acts of commercial film or photographic print processor; report to law enforcement agency by computer technician; applicability and uniformity of section; enactment or enforcement of ordinances, rules, or regulations prohibited.

Sec. 145c. (1) As used in this section:

(a) "Appears to include a child" means that the depiction appears to include, or conveys the impression that it includes, a person who is less than 18 years of age, and the depiction meets either of the following conditions:

(i) It was created using a depiction of any part of an actual person under the age of 18.

(ii) It was not created using a depiction of any part of an actual person under the age of 18, but all of the following apply to that depiction:

(A)The average individual, applying contemporary community standards, would find the depiction, taken as a whole, appeals to the prurient interest.

(B)The reasonable person would find the depiction, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(C)The depiction depicts or describes a listed sexual act in a patently offensive way.

(b) "Child" means a person who is less than 18 years of age, subject to the affirmative defense created in subsection (6) regarding persons emancipated by operation of law.

(c) "Commercial film or photographic print processor" means a person or his or her employee who, for compensation, develops exposed photographic film into movie films, negatives, slides, or prints; makes prints from negatives or slides; or duplicates movie films or videotapes.

(d) "Computer technician" means a person who installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.

(e) "Contemporary community standards" means the customary limits of candor and decency in this state at or near the time of the alleged violation of this section.

(f) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved. Erotic fondling does not include physical contact, even if affectionate, that is not for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(g) "Erotic nudity" means the lascivious exhibition of the genital, pubic, or rectal area of any person. As used in this subdivision, "lascivious" means wanton, lewd, and lustful and tending to produce voluptuous or lewd emotions.

(h) "Listed sexual act" means sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.

(i) "Masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, either by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(j) "Passive sexual involvement" means an act, real or simulated, that exposes another person to or draws another person's attention to an act of sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity because of viewing any of these acts or because of the proximity of the act to that person, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(k) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion.

(l) "Child sexually abusive activity" means a child engaging in a listed sexual act.

(m) "Child sexually abusive material" means any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording.

(n) "Sadomasochistic abuse" means either of the following:

(i) Flagellation or torture, real or simulated, for the purpose of real or simulated sexual stimulation or gratification, by or upon a person.

(ii) The condition, real or simulated, of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(o) "Sexual excitement" means the condition, real or simulated, of human male or female genitals in a state of real or simulated overt sexual stimulation or arousal.

(p) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

(2) A person who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or a person who arranges for, produces, makes, or finances, or a person who attempts or prepares or conspires to arrange for, produce, make, or finance any child sexually abusive activity or child sexually abusive material is guilty of a felony, punishable by imprisonment for not more than 20 years, or a fine of not more than $100,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child.

(3) A person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity is guilty of a felony, punishable by imprisonment for not more than 7 years, or a fine of not more than $50,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to the persons described in section 7 of 1984 PA 343, MCL 752.367.

(4) A person who knowingly possesses any child sexually abusive material is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $10,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to any of the following:

(a) A person described in section 7 of 1984 PA 343, MCL 752.367, a commercial film or photographic print processor acting pursuant to subsection (8) , or a computer technician acting pursuant to subsection (9) .

(b) A police officer acting within the scope of his or her duties as a police officer.

(c) An employee or contract agent of the department of social services acting within the scope of his or her duties as an employee or contract agent.

(d) A judicial officer or judicial employee acting within the scope of his or her duties as a judicial officer or judicial employee.

(e) A party or witness in a criminal or civil proceeding acting within the scope of that criminal or civil proceeding.

(f) A physician, psychologist, limited license psychologist, professional counselor, or registered nurse licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, acting within the scope of practice for which he or she is licensed.

(g) A social worker registered in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, acting within the scope of practice for which he or she is registered.

(5) Expert testimony as to the age of the child used in a child sexually abusive material or a child sexually abusive activity is admissible as evidence in court and may be a legitimate basis for determining age, if age is not otherwise proven.

(6) It is an affirmative defense to a prosecution under this section that the alleged child is a person who is emancipated by operation of law under section 4(2) of 1968 PA 293, MCL 722.4, as proven by a preponderance of the evidence.

(7) If a defendant in a prosecution under this section proposes to offer in his or her defense evidence to establish that a depiction that appears to include a child was not, in fact, created using a depiction of any part of an actual person under the age of 18, the defendant shall at the time of the arraignment on the information or within 15 days after arraignment but not less than 10 days before the trial of the case, or at such other time as the court directs, file and serve upon the prosecuting attorney of record a notice in writing of his or her intention to offer that defense. The notice shall contain, as particularly as is known to the defendant or the defendant's attorney, the names of witnesses to be called in behalf of the defendant to establish that defense. The defendant's notice shall include specific information as to the facts that establish that the depiction was not, in fact, created using a depiction of any part of an actual person under the age of 18. Failure to file a timely notice in conformance with this subsection precludes a defendant from offering this defense.

(8) If a commercial film or photographic print processor reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of a film, photograph, movie film, videotape, negative, or slide depicting a person that the processor has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of the film, photograph, movie film, videotape, negative, or slide to a law enforcement agency having jurisdiction ; or keeps the film, photograph, movie film, videotape, negative, or slide according to the law enforcement agency's instructions, both of the following shall apply:

(a) The identity of the processor shall be confidential, subject to disclosure only with his or her consent or by judicial process.

(b) If the processor acted in good faith, he or she shall be immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(9) If a computer technician reports to a law enforcement agency having jurisdiction his or her knowledge or observation, within the scope of his or her professional capacity or employment, of an electronic visual image, computer-generated image or picture or sound recording depicting a person that the computer technician has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of that image, picture, or sound recording to the law enforcement agency; or keeps the image, picture, or sound recording according to the law enforcement agency's instructions, both of the following shall apply:

(a) The identity of the computer technician shall be confidential, subject to disclosure only with his or her consent or by judicial process.

(b) If the computer technician acted in good faith, he or she shall be immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(10) This section applies uniformly throughout the state and all political subdivisions and municipalities in the state.

(11) A local municipality or political subdivision shall not enact ordinances, nor enforce existing ordinances, rules, or regulations governing child sexually abusive activity or child sexually abusive material as defined by this section.

MICH. COMP. LAWS § 750.145D (2010). Use of internet or computer system; prohibited communication; violation; penalty; order to reimburse state or local governmental unit; definitions.

Sec. 145d. (1) A person shall not use the internet or a computer, computer program, computer network, or computer system to communicate with any person for the purpose of doing any of the following:

(a) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a, 145c, 157c, 349, 350, 520b, 520c, 520d, 520e, or 520g, or section 5 of 1978 PA 33, MCL 722.675, in which the victim or intended victim is a minor or is believed by that person to be a minor.

(b) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 411h or 411i.

(c) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under chapter XXXIII or section 327, 327a, 328, or 411a(2).

(2) A person who violates this section is guilty of a crime as follows:

(a) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of less than 1 year, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both.

(b) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 1 year or more but less than 2 years, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $5,000.00, or both.

(c) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 2 years or more but less than 4 years, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(d) If the underlying crime is a felony with a maximum term of imprisonment of 4 years or more but less than 10 years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(e) If the underlying crime is a felony punishable by a maximum term of imprisonment of 10 years or more but less than 15 years, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(f) If the underlying crime is a felony punishable by a maximum term of imprisonment of 15 years or more or for life, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(3) The court may order that a term of imprisonment imposed under this section be served consecutively to any term of imprisonment imposed for conviction of the underlying offense.

(4) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section, including the underlying offense.

(5) This section applies regardless of whether the person is convicted of committing, attempting to commit, conspiring to commit, or soliciting another person to commit the underlying offense.

(6) A violation or attempted violation of this section occurs if the communication originates in this state, is intended to terminate in this state, or is intended to terminate with a person who is in this state.

(7) A violation or attempted violation of this section may be prosecuted in any jurisdiction in which the communication originated or terminated.

(8) The court may order a person convicted of violating this section to reimburse this state or a local unit of government of this state for expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(9) As used in this section:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations

including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

(b) "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(f) "Internet" means that term as defined in section 230 of title II of the communications act of 1934, chapter 652, 110 Stat. 137, 47 U.S.C. 230.

(g) "Minor" means an individual who is less than 18 years of age.

MICH. COMP. LAWS § 750.161 (2010). Desertion, abandonment, or refusal or neglect to provide shelter, food, care, and clothing; felony; penalty; bond; probation; failure to comply with conditions in bond; forfeiture of bond; disposition of sums received; continuing offense; proof.

Sec. 161. (1) A person who deserts and abandons his or her spouse or deserts and abandons his or her children under 17 years of age, without providing necessary and proper shelter, food, care, and clothing for them, and a person who being of sufficient ability fails, neglects, or refuses to provide necessary and proper shelter, food, care, and clothing for his or her spouse or his or her children under 17 years of age, is guilty of a felony, punishable by imprisonment in a state correctional facility for not less than 1 year and not more than 3 years, or by imprisonment in the county jail for not less than 3 months and not more than 1 year.

(2) If at any time before sentence the defendant enters into bond to the people of the state of Michigan in such penal sum for such term and with such surety or sureties as may be fixed by the court, conditioned that he or she will furnish his or her spouse and children with necessary and proper shelter, food, care, and clothing, or will pay to the clerk of the court, or other designated person, such sums of money at such times as the court shall order to be used to provide food, shelter, and clothing for his or her spouse and children, or either of them, then the court may make an order placing the defendant in charge of a probation officer. The court may require that the defendant shall from time to time report to the probation officer as provided by law. The court may extend the period of probation from time to time or the court may defer sentence in the cause, but no term of any bond or any probation period shall exceed the maximum term of imprisonment as provided for in this section.

(3) Upon failure of the defendant to comply with any of the conditions contained in the bond, the defendant may be ordered to appear before the court and show cause why sentence should not be imposed, whereupon the court may pass sentence, or for good cause shown may modify the order and further defer sentence as may be just and proper. Whenever the whereabouts of the

defendant is unknown, the court may summarily issue a bench warrant for the arrest of the defendant.

(4) The court, upon default by the defendant to comply with the conditions of the bond and the orders of the court, shall notify the prosecuting attorney, who shall immediately file a petition in the court in which the cause is pending to declare the bond forfeited. A copy of the petition and a notice of hearing on the petition shall be served upon the surety or sureties, if any, named in the bond at least 4 days before the hearing of the petition. Upon holding a hearing on the petition, the court may declare the bond forfeited. When so ordered, the prosecuting attorney shall immediately institute the necessary action to collect the principal sum of the bond. If a cash bond has been filed, the cash bond shall be declared forfeited by the court.

(5) All sums received from bonds being forfeited shall be paid to the clerk of the court, who shall hold and disburse the money for the use of those entitled to the money in accordance with the orders of the court for their necessary food, care, shelter, and clothing.

(6) Desertion, abandonment, or refusal or neglect to provide necessary and proper shelter, food, care, and clothing as provided in this section shall be considered to be a continuing offense and may be so set out in any complaint or information. Proof of the offense charged at any time during the period alleged in the complaint or information shall be considered proof of a violation of this section.

MICH. COMP. LAWS § 750.165 (2010). Refusing to support wife or children as required by court order; violation as felony; penalty; exception; cash bond; suspension of sentence; bond; "state disbursement unit" or "SDU" defined.

Sec. 165. (1) If the court orders an individual to pay support for the individual's former or current spouse, or for a child of the individual, and the individual does not pay the support in the amount or at the time stated in the order, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than $2,000.00, or both.

(2) This section does not apply unless the individual ordered to pay support appeared in, or received notice by personal service of, the action in which the support order was issued.

(3) Unless the individual deposits a cash bond of not less than $500.00 or 25% of the arrearage, whichever is greater, upon arrest for a violation of this section, the individual shall remain in custody until the arraignment. If the individual remains in custody, the court shall address the amount of the cash bond at the arraignment and at the preliminary examination and, except for good cause shown on the record, shall order the bond to be continued at not less than $500.00 or 25% of the arrearage, whichever is greater. At the court's discretion, the court may set the cash bond at an amount not more than 100% of the arrearage and add to that amount the amount of the costs that the court may require under section 31(3) of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631. The court shall specify that the cash bond amount be entered into the L.E.I.N. If a bench warrant under section 31 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.631, is outstanding for an individual when the individual is arrested for a violation of this section, the court shall notify the court handling the civil support case under the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, that the bench warrant may be recalled.

(4) The court may suspend the sentence of an individual convicted under this section if the individual files with the court a bond in the amount and with the sureties the court requires. At a minimum, the bond must be conditioned on the individual's compliance with the support order. If the court suspends a sentence under this subsection and the individual does not comply with the support order or another condition on the bond, the court may order the individual to appear and

show cause why the court should not impose the sentence and enforce the bond. After the hearing, the court may enforce the bond or impose the sentence, or both, or may permit the filing of a new bond and again suspend the sentence. The court shall order a support amount enforced under this section to be paid to the clerk or friend of the court or to the state disbursement unit.

(5) As used in this section, "state disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

MICH. COMP. LAWS § 750.349 (2010). Kidnapping; "restrain" defined; violation as felony; penalty; other violation arising from same transaction.

Sec. 349.

(1) A person commits the crime of kidnapping if he or she knowingly restrains another person with the intent to do 1 or more of the following:

(a) Hold that person for ransom or reward.

(b) Use that person as a shield or hostage.

(c) Engage in criminal sexual penetration or criminal sexual contact with that person.

(d) Take that person outside of this state.

(e) Hold that person in involuntary servitude.

(2) As used in this section, "restrain" means to restrict a person's movements or to confine the person so as to interfere with that person's liberty without that person's consent or without legal authority. The restraint does not have to exist for any particular length of time and may be related or incidental to the commission of other criminal acts.

(3) A person who commits the crime of kidnapping is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $50,000.00, or both.

(4) This section does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law arising from the same transaction as the violation of this section.

MICH. COMP. LAWS § 750.350 (2010). Leading, taking, carrying away, decoying, or enticing away child under 14; intent; violation as felony; penalty; adoptive or natural parent.

Sec. 350. (1) A person shall not maliciously, forcibly, or fraudulently lead, take, carry away, decoy, or entice away, any child under the age of 14 years, with the intent to detain or conceal the child from the child's parent or legal guardian, or from the person or persons who have adopted the child, or from any other person having the lawful charge of the child. A person who violates this section is guilty of a felony, punishable by imprisonment for life or any term of years.

(2) An adoptive or natural parent of the child shall not be charged with and convicted for a violation of this section.

MICH. COMP. LAWS § 750.350A (2010). Taking or retaining child by adoptive or natural parent; intent; violation as felony; penalty; restitution for financial expense; effect of pleading or being found guilty; probation; discharge and dismissal; nonpublic record; defense.

Sec. 350a. (1) An adoptive or natural parent of a child shall not take that child, or retain that child for more than 24 hours, with the intent to detain or conceal the child from any other parent or legal guardian of the child who has custody or parenting time rights pursuant to a lawful court order at the time of the taking or retention, or from the person or persons who have adopted the child, or from any other person having lawful charge of the child at the time of the taking or retention.

(2) A parent who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 1 year and 1 day, or a fine of not more than $2,000.00, or both.

(3) A parent who violates this section, upon conviction, in addition to any other punishment, may be ordered to make restitution to the other parent, legal guardian, the person or persons who have adopted the child, or any other person having lawful charge of the child for any financial expense incurred as a result of attempting to locate and having the child returned.

(4) When a parent who has not been convicted previously of a violation of section 349, 350, or this section, or under any statute of the United States or of any state related to kidnapping, pleads guilty to, or is found guilty of, a violation of this section, the court, without entering a judgment of guilt and with the consent of the accused parent, may defer further proceedings and place the accused parent on probation with lawful terms and conditions. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall discharge from probation and dismiss the proceedings against the parent. Discharge and dismissal under this subsection shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including any additional penalties imposed for second or subsequent convictions. The department of state police shall retain a nonpublic record of an arrest and discharge and dismissal under this section. This record shall be furnished to either or both of the following:

(a) To a court or police agency upon request for the purpose of showing that a defendant in a criminal action has already availed himself or herself of this subsection.

(b) To a court, police agency, or prosecutor upon request for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(5) It is a complete defense under this section if a parent proves that his or her actions were taken for the purpose of protecting the child from an immediate and actual threat of physical or mental harm, abuse, or neglect.

MICH. COMP. LAWS § 750.451 (2010). Violation of §§ 750.448, 750.449, 750.449a, 750.450, or 750.462; prior convictions; penalty; definition.

Sec. 451. (1) Except as otherwise provided in this section, a person convicted of violating section 448, 449, 449a, 450, or 462 is guilty of a misdemeanor punishable by imprisonment for not more

than 93 days or a fine of not more than $500.00, or both.

(2) A person 16 years of age or older who is convicted of violating section 448, 449, 449a, 450, or 462 and who has 1 prior conviction is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) A person convicted of violating section 448, 449, 449a, 450, or 462 and who has 2 or more prior convictions is guilty of a felony punishable by imprisonment for not more than 2 years, or a fine of not more than $2,000.00, or both.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) As used in this section, "prior conviction" means a violation of section 448, 449, 449a, 450, or 462 or a violation of a law of another state or of a political subdivision of this state or another state substantially corresponding to section 448, 449, 449a, 450, or 462.

MICH. COMP. LAWS § 750.462G (2010). Use of minor for child sexually abusive activity; prohibition; violation as felony; penalty.

Sec. 462g. A person shall not knowingly recruit, entice, harbor, transport, provide, or obtain by any means, or attempt to recruit, entice, harbor, provide, or obtain by any means, a minor knowing that the minor will be used for child sexually abusive activity. A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years.

MICH. COMP. LAWS § 750.462I (2010). Kidnapping, criminal sexual conduct, or attempt to kill; penalty.

Sec. 462i. If a violation of this chapter involves kidnapping or an attempt to kidnap, criminal sexual conduct or an attempt to commit criminal sexual conduct, or an attempt to kill, the defendant shall be imprisoned for life or any term of years.

MICH. COMP. LAWS § 750.520B (2010). Criminal sexual conduct in the first degree; felony; consecutive terms.

Sec. 520b. (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(i) The actor is a member of the same household as the victim.

(ii) The actor is related to the victim by blood or affinity to the fourth degree.

(iii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(iv) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school , school district, or intermediate school district in which that other person is enrolled.

(v) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(c) Sexual penetration occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(ii) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes, but is not limited to, any of the circumstances listed in subdivision (f).

(e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes, but is not limited to, any of the following circumstances:

(i) When the actor overcomes the victim through the actual application of physical force or physical violence.

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.

(iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable.

(v) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(i) The actor is related to the victim by blood or affinity to the fourth degree.

(ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(2) Criminal sexual conduct in the first degree is a felony punishable as follows:

(a) Except as provided in subdivisions (b) and (c), by imprisonment for life or for any term of years.

(b) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age by imprisonment for life or any term of years, but not less than 25 years.

(c) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age, by imprisonment for life without the possibility of parole if the person was previously convicted of a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age or a violation of law of the United States, another state or political subdivision substantially corresponding to a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age.

(d) In addition to any other penalty imposed under subdivision (a) or (b), the court shall sentence the defendant to lifetime electronic monitoring under section 520n.

(3) The court may order a term of imprisonment imposed under this section to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.

MICH. COMP. LAWS § 750.520C (2010). Criminal sexual conduct in the second degree; felony.

Sec. 520c. (1) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(i) The actor is a member of the same household as the victim.

(ii) The actor is related by blood or affinity to the fourth degree to the victim.

(iii) The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.

(iv) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school , school district, or intermediate school district in which that other person is enrolled.

(v) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(c) Sexual contact occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(ii) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f).

(e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f).

(g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(i) The actor is related to the victim by blood or affinity to the fourth degree.

(ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(i) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections.

(j) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g, who knows that the other person is under the jurisdiction of the department of corrections.

(k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or the department of corrections who knows that the other person is under the county's jurisdiction.

(l) The actor knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to which the victim was committed.

(2) Criminal sexual conduct in the second degree is a felony punishable as follows:

(a) By imprisonment for not more than 15 years.

(b) In addition to the penalty specified in subdivision (a), the court shall sentence the defendant to lifetime electronic monitoring under section 520n if the violation involved sexual contact committed by an individual 17 years of age or older against an individual less than 13 years of age.

MICH. COMP. LAWS § 750.520D (2010). Criminal sexual conduct in the third degree; felony.

Sec. 520d. (1) A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age and under 16 years of age.

(b) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(i) to (v).

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:

(i) The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school , school district, or intermediate school district . This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(f) That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:

(i) The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than 15 years.

MICH. COMP. LAWS § 750.520E (2010). Criminal sexual conduct in the fourth degree; misdemeanor.

Sec. 520e. (1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person.

(b) Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:

(i) When the actor overcomes the victim through the actual application of physical force or physical violence.

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat.

(iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in this subparagraph, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(v) When the actor achieves the sexual contact through concealment or by the element of surprise.

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is his or her client or patient and not his or her spouse. The consent of the victim is not a defense to a prosecution under this subdivision. A prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent.

(f) That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:

(i) The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school , school district, or intermediate school district . This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(g) That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:

(i) The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(2) Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $500.00, or both.

MICH. COMP. LAWS § 750.520F (2010). Second or subsequent offense; penalty.

Sec. 520f. (1) If a person is convicted of a second or subsequent offense under section 520b, 520c, or 520d, the sentence imposed under those sections for the second or subsequent offense shall provide for a mandatory minimum sentence of at least 5 years.

(2) For purposes of this section, an offense is considered a second or subsequent offense if, prior to conviction of the second or subsequent offense, the actor has at any time been convicted under section 520b, 520c, or 520d or under any similar statute of the United States or any state for

a criminal sexual offense including rape, carnal knowledge, indecent liberties, gross indecency, or an attempt to commit such an offense.

MICH. COMP. LAWS § 750.520G (2010). Assault with intent to commit criminal sexual conduct; felony.

Sec. 520g. (1) Assault with intent to commit criminal sexual conduct involving sexual penetration shall be a felony punishable by imprisonment for not more than 10 years.

(2) Assault with intent to commit criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 5 years.

MICH. COMP. LAWS § 750.520N (2010). Lifetime electronic monitoring.

Sec. 520n. (1) A person convicted under section 520b or 520c for criminal sexual conduct committed by an individual 17 years old or older against an individual less than 13 years of age shall be sentenced to lifetime electronic monitoring as provided under section 85 of the corrections code of 1953, 1953 PA 232, MCL 791.285.

(2) A person who has been sentenced under this chapter to lifetime electronic monitoring under section 85 of the corrections code of 1953, 1953 PA 232, MCL 791.285, who does any of the following is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both:

(a) Intentionally removes, defaces, alters, destroys, or fails to maintain the electronic monitoring device in working order.

(b) Fails to notify the department of corrections that the electronic monitoring device is damaged.

(c) Fails to reimburse the department of corrections or its agent for the cost of the monitoring.

(3) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(4) A term of imprisonment imposed for a violation of this section may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

MICH. COMP. LAWS § 752.365 (2010). Obscenity; elements; misdemeanor; penalty; second or subsequent offense as a felony.

Sec. 5. (1) A person is guilty of obscenity when, knowing the content and character of the material, the person disseminates, or possesses with intent to disseminate, any obscene material.

(2) Obscenity is a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $100,000.00, or both.

(3) A person convicted of a second or subsequent offense under this section is guilty of a felony and may be imprisoned for not more than 2 years, and shall be fined not less than $50,000.00 or more than $5,000,000.00. For purposes of this section, an offense is considered a second or subsequent offense if the defendant has previously been convicted under this section or under any similar statute of the United States or of any state.

MICH. COMP. LAWS § 769.1J (2010). Court ordered fine, costs, or assessments; minimum amounts; definitions.

Sec. 1j. (1) Beginning October 1, 2003, if the court orders a person convicted of an offense to pay any combination of a fine, costs, or applicable assessments, the court shall order that the person pay costs of not less than the following amount, as applicable:

(a) $68.00 , if the defendant is convicted of a felony.

(b) $53.00 , if the defendant is convicted of a serious misdemeanor or a specified misdemeanor.

(c) $48.00 , if the defendant is convicted of a misdemeanor not described in subdivision (b).

(2) Of the costs ordered to be paid by a person convicted of an offense, the clerk shall pay to the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181, the applicable amount specified as a minimum cost under subsection (1).

(3) Payment of the minimum state cost is a condition of probation under chapter XI of this act.

(4) If a defendant who is ordered to pay a minimum state cost under subsection (1) posts a cash bond or bail deposit in connection with the case, the court shall order that the minimum state cost be collected out of the bond or deposit as provided in section 15 of chapter V of this act or section 6 or 7 of 1966 PA 257, MCL 780.66 and 780.67.

(5) If a defendant who is ordered to pay a minimum state cost under this section is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal prosecution, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV. A fine imposed for a felony, misdemeanor, or ordinance violation shall not be waived unless costs, other than the minimum cost ordered under subsection (2), are waived.

(6) On the last day of each month, the clerk of the court shall transmit the minimum state cost or portions of minimum state cost collected under this section to the department of treasury for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(7) As used in this section:

(a) "Felony" means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(b) "Minimum state cost" means the applicable minimum cost to be ordered for a conviction under subsection (1).

(c) "Serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

(d) "Specified misdemeanor" means that term as defined in section 1 of 1989 PA 196, MCL 780.901.

MICH. COMP. LAWS § 769.10 (2010). Punishment for subsequent felony; sentence imposed for term of years considered indeterminate sentence; use of conviction to enhance sentence prohibited.

Sec. 10. (1) If a person has been convicted of a felony or an attempt to commit a felony, whether the conviction occurred in this state or would have been for a felony or attempt to commit a felony in this state if obtained in this state, and that person commits a subsequent felony within this state, the person shall be punished upon conviction of the subsequent felony and sentencing under section 13 of this chapter as follows:

(a) If the subsequent felony is punishable upon a first conviction by imprisonment for a term less than life, the court, except as otherwise provided in this section or section 1 of chapter XI, may place the person on probation or sentence the person to imprisonment for a maximum term that is not more than 1- 1/2 times the longest term prescribed for a first conviction of that offense or for a lesser term.

(b) If the subsequent felony is punishable upon a first conviction by imprisonment for life, the court, except as otherwise provided in this section or section 1 of chapter XI, may place the person on probation or sentence the person to imprisonment for life or for a lesser term.

(c) If the subsequent felony is a major controlled substance offense, the person shall be punished as provided by part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461.

(2) If the court pursuant to this section imposes a sentence of imprisonment for any term of years, the court shall fix the length of both the minimum and maximum sentence within any specified limits in terms of years or a fraction of a year and the sentence so imposed shall be considered an indeterminate sentence. The court shall not fix a maximum sentence that is less than the maximum term for a first conviction.

(3) A conviction shall not be used to enhance a sentence under this section if that conviction is used to enhance a sentence under a statute that prohibits use of the conviction for further enhancement under this section.

MICH. COMP. LAWS § 769.11 (2010). Punishment for subsequent felony following conviction of 2 or more felonies; sentence for term of years considered indeterminate sentence; use of conviction to enhance sentence prohibited.

Sec. 11. (1) If a person has been convicted of any combination of 2 or more felonies or attempts to commit felonies, whether the convictions occurred in this state or would have been for felonies or attempts to commit felonies in this state if obtained in this state, and that person commits a subsequent felony within this state, the person shall be punished upon conviction of the subsequent felony and sentencing under section 13 of this chapter as follows:

(a) If the subsequent felony is punishable upon a first conviction by imprisonment for a term less than life, the court, except as otherwise provided in this section or section 1 of chapter XI, may sentence the person to imprisonment for a maximum term that is not more than twice the longest term prescribed by law for a first conviction of that offense or for a lesser term.

(b) If the subsequent felony is punishable upon a first conviction by imprisonment for life, the court, except as otherwise provided in this section or section 1 of chapter XI, may sentence the person to imprisonment for life or for a lesser term.

(c) If the subsequent felony is a major controlled substance offense, the person shall be punished as provided by part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461.

(2) If the court pursuant to this section imposes a sentence of imprisonment for any term of years, the court shall fix the length of both the minimum and maximum sentence within any specified limits in terms of years or a fraction of a year, and the sentence so imposed shall be considered an indeterminate sentence. The court shall not fix a maximum sentence that is less than the maximum term for a first conviction.

(3) A conviction shall not be used to enhance a sentence under this section if that conviction is used to enhance a sentence under a statute that prohibits use of the conviction for further enhancement under this section.

MICH. COMP. LAWS § 777.11B (2010). Applicability of chapter to certain felonies; MCL 28.214 to 28.754.

Sec. 11b. This chapter applies to the following felonies enumerated in chapter 28 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
28.214	Pub trst	F	Unauthorized disclosure of information from LEIN--subsequent offense	4
28.293(1)	Pub ord	E	False information when applying for state ID	5
28.293(2)	Pub ord	D	False information when applying for state ID--second offense	7
28.293(3)	Pub ord	C	False information when applying for state ID--third or subsequent offense	15
28.295(1)(a)	Pub ord	D	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for 10 years or more	10
28.295(1)(b)	Pub ord	E	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by more than 6 months	5
28.295(2)	Pub ord	E	Selling counterfeited or forged state ID card or possessing counterfeited or forged state ID card with intent to deliver to another person or possessing 2 or more counterfeited or forged state ID cards	5
28.295(5)	Property	H	Using stolen state ID card to commit felony	Variable

28.295a(1) Pub ord H False representation to obtain or misuse personal information 4
28.295a(2) Pub ord G False representation to obtain or misuse personal information--second offense 7
28.295a(3) Pub ord C False representation to obtain or misuse personal information--third or subsequent offense 15
28.308 Pub saf E False certification or statement in application for enhanced driver license or enhanced official state personal identification card 5
28.422 Pub saf F Pistols--license application forgery 4
28.422a(4) Pub saf F False statement on pistol sales record 4
28.425b(3) Pub saf F False statement on concealed pistol permit application 4
28.425j(2) Pub saf F Unlawful granting or presenting of pistol training certificate 4
28.425o(5)(c) Pub saf F Carrying concealed pistol in prohibited place--third or subsequent offense 4
28.435(14)(c) Pub saf G Firearm sale without trigger lock, gun case, or storage container--third or subsequent offense 2
28.516(2) Pub saf F False statement on concealed firearm certificate application 4
28.729(1)(a) Pub ord F Failure to register as a sex offender, first offense 4
28.729(1)(b) Pub ord D Failure to register as a sex offender, second offense 7
28.729(1)(c) Pub ord D Failure to register as a sex offender, third or subsequent offense 10
28.729(2)(c) Pub ord F Failure to update sex

			offender registration information - third or subsequent offense	4
28.734(2)(b)	Pub trst	G	Student safety zone violation involving work or loitering--second or subsequent offense	2
28.735(2)(b)	Pub trst	G	Student safety zone violation involving residency-second or subsequent violation	2
28.754	Pub ord	F	False report of a child abduction	4

MICH. COMP. LAWS § 777.14B (2010). Applicability of chapter to certain felonies; §§ 408.1035(5) to 409.122(3).

Sec. 14b. This chapter applies to the following felonies enumerated in chapters 408 to 420 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
408.1035(5)	Person	H	MIOSHA violation causing employee death	1
	Person	G	MIOSHA violation causing employee death -- subsequent offense	3
408.1035a(5)	Person	H	MIOSHA violation causing employee death	1
	Person	G	MIOSHA violation causing employee death -- subsequent offense	3
409.122(2)	Person	G	Employment of children during certain hours -- second offense	2
	Person	E	Employment of children during certain hours -- third or subsequent offense	10
409.122(3)	Person	D	Employment of children in child sexually abusive activity	20

MICH. COMP. LAWS § 777.15G (2010). Chapters 721 to 730 of Michigan Compiled Laws; felonies to which chapters applicable.

Sec. 15g. This chapter applies to the following felonies enumerated in chapters 721 to 730 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
722.115e(2)(a)	Pub saf	G	Failure to report arraignment for criminal charges-child care centers, day care centers, and employees	2
722.115f(8)(a)	Pub saf	G	Failure to report arraignment on criminal charges-family child care homes and group child care homes	2
722.115h(b)	Pub ord	F	False report initiating special investigation	Variable
722.115i(2)(a)	Pub saf	G	Failure to report arraignment on criminal charges-foster family homes and foster family group homes	2
722.633(5)(b)	Person	F	Intentional false report of child abuse constituting a felony	Variable
722.675	Pub ord	E	Distributing obscene matter to children	2
722.857	Person	E	Surrogate parenting contracts involving minors, mentally retarded, etc.	5
722.859(3)	Person	E	Surrogate parenting contracts for compensation	5

MICH. COMP. LAWS § 777.16A (2010). §§ 750.11 to 750.32; felonies to which chapter applicable.

Sec. 16a. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.11	Person	A	Taking a woman and compelling her to marry	Life
750.12	Person	H	Taking a woman with intent to compel her to marry	10
750.13	Person	D	Enticing female under 16 for immoral purposes	10
750.14	Person	C	Abortion resulting in death of female	15
	Person	G	Abortion	4
750.16(1)	Person	G	Adulterate, misbrand, remove, or substitute a drug or medicine	2
750.16(2)	Person	F	Adulterate, misbrand, remove, or substitute a drug or medicine	

			causing personal injury	4
750.16(3)	Person	E	Adulterate, misbrand, remove, or substitute a drug or medicine resulting in serious impairment of body function	5
750.16(4)	Person	C	Adulterate, misbrand, remove, or substitute a drug or medicine resulting in death	15
750.18(3)	Person	G	Mix, color, stain, or powder a drug or medicine with an ingredient or material so as to injuriously affect its quality or potency	2
750.18(4)	Person	F	Mix, color, stain, or powder a drug or medicine with an ingredient or material so as to injuriously affect its quality or potency resulting in personal injury	4
750.18(5)	Person	E	Mix, color, stain, or powder a drug or medicine with an ingredient or material so as to injuriously affect its quality or potency resulting in serious impairment of body function	5
750.18(6)	Person	C	Mix, color, stain, or powder a drug or medicine with an ingredient or material so as to injuriously affect its quality or potency resulting in death	15
750.30	Pub ord	H	Adultery	4
750.32	Pub ord	H	Cohabitation of divorced parties	4

MICH. COMP. LAWS § 777.16D (2010). MCL 750.81 to 750.91; felonies to which chapter applicable.

Sec. 16d. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.81(4)	Person	G	Domestic assault with prior convictions	2
750.81a(3)	Person	G	Aggravated domestic assault with prior convictions	2
750.81d(1)	Person	G	Assaulting, resisting, or	

			obstructing certain persons	2
750.81d(2)	Person	F	Assaulting, resisting, or obstructing certain persons causing injury	4
750.81d(3)	Person	C	Assaulting, resisting, or obstructing certain persons causing serious impairment	15
750.81d(4)	Person	B	Assaulting, resisting, or obstructing certain persons causing death	20
750.82(1)	Person	F	Felonious assault	4
750.82(2)	Person	F	Felonious assault--weapon-free school zone	4
750.83	Person	A	Assault with intent to murder	Life
750.84	Person	D	Assault with intent to do great bodily harm less than murder	10
750.85	Person	A	Torture	Life
750.86	Person	D	Assault with intent to maim	10
750.87	Person	D	Assault with intent to commit a felony	10
750.88	Person	C	Assault with intent to commit unarmed robbery	15
750.89	Person	A	Assault with intent to commit armed robbery	Life
750.90	Person	D	Sexual intercourse under pretext of medical treatment	10
750.90a	Person	A	Assault against a pregnant individual causing miscarriage, stillbirth, or death to embryo or fetus with intent or recklessness	Life
750.90b(a)	Person	C	Assault against a pregnant individual resulting in miscarriage, stillbirth, or death to embryo or fetus	15
750.90b(b)	Person	D	Assault against a pregnant individual resulting in great bodily harm to embryo or fetus	10
750.90c(a)	Person	C	Gross negligence against a pregnant individual resulting in miscarriage, stillbirth, or death to embryo or fetus	15
750.90c(b)	Person	E	Gross negligence against a pregnant individual resulting in great bodily harm to embryo or fetus	5
750.90d(a)	Person	C	Operating a vehicle under the influence or while impaired causing miscarriage,	

			stillbirth, or death to embryo or fetus	15
750.90d(b)	Person	E	Operating a vehicle under the influence or while impaired causing serious or aggravated injury to embryo or fetus	5
750.90e	Person	G	Careless or reckless driving causing miscarriage, stillbirth, or death to embryo or fetus	2
750.90g(3)	Person	A	Performance of procedure on live infant with intent to cause death	Life
750.91	Person	A	Attempted murder	Life

MICH. COMP. LAWS § 777.16G (2010). MCL 750.135 to 750.147b; felonies to which chapter applicable; violation of MCL 750.145d.

Sec. 16g. (1) This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.135	Person	D	Exposing children with intent to injure or abandon	10
750.135a(2)(c)	Person	D	Leaving child unattended in vehicle resulting in serious physical harm	10
750.135a(2)(d)	Person	B	Leaving child unattended in vehicle resulting in death	15
750.136b(2)	Person	B	Child abuse -- first degree	15
750.136b(4)	Person	F	Child abuse -- second degree	4
750.136b(6)	Person	G	Child abuse -- third degree	2
750.136c	Person	B	Buying or selling an individual	20
750.145a	Person	F	Soliciting child to commit an immoral act	4
750.145b	Person	D	Accosting children for immoral purposes with prior conviction	10
750.145c(2)	Person	B	Child sexually abusive activity or materials - active involvement	20
750.145c(3)	Person	D	Child sexually abusive activity or materials - distributing, promoting, or financing	7
750.145c(4)	Person	F	Child sexually abusive activities or materials - possession	4

750.145d(2)(b)	Variable	G	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 1 year but less than 2 years	4
750.145d(2)(c)	Variable	F	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 2 years but less than 4 years	4
750.145d(2)(d)	Variable	D	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 4 years but less than 10 years	10
750.145d(2)(e)	Variable	C	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 10 years but less than 15 years	15
750.145d(2)(f)	Variable	B	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 15 years or for life	20
750.145n(1)	Person	C	Vulnerable adult abuse - first degree	15
750.145n(2)	Person	F	Vulnerable adult abuse - second degree	4
750.145n(3)	Person	G	Vulnerable adult abuse - third degree	2
750.145o	Person	E	Death of vulnerable adult caused by unlicensed caretaker	5
750.145p(1)	Person	G	Vulnerable adult - commingling funds, obstructing investigation, or filing false information	2
750.145p(2)	Person	G	Retaliation or discrimination by caregiver against vulnerable adult	2
750.145p(5)	Person	E	Vulnerable adult - caregiver violations - subsequent offense	5
750.147b	Person	G	Ethnic intimidation	2

(2) For a violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

MICH. COMP. LAWS § 777.16Q (2010). MCL 750.332 to 750.350a; felonies to which chapter applicable.

Sec. 16q. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.332	Property	H	Entering horse in race under false name	4
750.335a(2)(b)	Person	G	Aggravated indecent exposure	2
750.335a(2)(c)	Person	A	Indecent exposure by sexually delinquent person	Life
750.338	Pub ord	G	Gross indecency between males	5
	Pub ord	A	Gross indecency between males involving sexually delinquent person	Life
750.338a	Pub ord	G	Gross indecency between females	5
	Pub ord	A	Gross indecency between females involving sexually delinquent person	Life
750.338b	Pub ord	G	Gross indecency between males and females	5
	Pub ord	A	Gross indecency between males and females involving sexually delinquent person	Life
750.349	Person	A	Kidnapping	Life
750.349a	Person	A	Prisoner taking a hostage	Life
750.349b	Person	C	Unlawful imprisonment	15
750.350	Person	A	Kidnapping -- child enticement	Life
750.350a	Person	H	Kidnapping -- custodial interference	1

MICH. COMP. LAWS § 777.16W (2010). MCL 750.451 to 750.465a(1)(c); felonies to which chapter applicable.

Sec. 16w. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.451	Pub ord	G	Prostitution -- various offenses -- third or subsequent offense	2
750.452	Pub ord	E	Keeping a house of prostitution	5
750.455	Pub ord	G	Pandering	20
750.456	Person	B	Placing spouse into prostitution	20

750.457 Pub ord G Accepting earnings of a prostitute 20
750.458 Person B Prostitution -- detaining female for debt 20
750.459 Person B Transporting a female for prostitution 20
750.462b(1) Person D Human trafficking - forced labor through physical harm 10
750.462b(2) Person C Human trafficking - forced labor through physical harm causing injury 15
750.462b(3) Person A Human trafficking - forced labor through physical harm causing death Life
750.462c(1) Person D Human trafficking - forced labor through physical restraint 10
750.462c(2) Person C Human trafficking - forced labor through physical restraint causing injury 15
750.462c(3) Person A Human trafficking - forced labor through physical restraint causing death Life
750.462d(1) Person D Human trafficking - forced labor through abuse of legal process 10
750.462d(2) Person C Human trafficking - forced labor through abuse of legal process causing injury 15
750.462d(3) Person A Human trafficking - forced labor through abuse of legal process causing death Life
750.462e(1) Person D Human trafficking - forced labor through destruction of ID document 10
750.462e(2) Person C Human trafficking - forced labor through destruction of ID document causing injury 15
750.462e(3) Person A Human trafficking - forced labor through destruction of ID document causing death Life
750.462f(1) Person D Human trafficking - forced labor through blackmail 10
750.462f(2) Person C Human trafficking - forced labor through blackmail causing injury 15
750.462f(3) Person A Human trafficking - forced labor through blackmail causing death Life
750.462g(1) Person B Human trafficking - obtain

			minor for child sexual abusive activity	20
750.462h(2)	Person	D	Human trafficking - recruit minor for forced labor	10
750.462h(3)	Person	C	Human trafficking - recruit minor for forced labor causing injury	15
750.462h(4)	Person	A	Human trafficking -recruit minor for forced labor causing death	Life
750.462i	Person	A	Human trafficking - compound felony	Life
750.465a(1)(b)	Property	G	Operating audiovisual recording device in a theatrical facility -- second offense	2
750.465a(1)(c)	Property	F	Operating audiovisual recording device in a theatrical facility -- third or subsequent offense	4

MICH. COMP. LAWS § 777.16Y (2010). MCL 750.520b(2) to 750.532; felonies to which chapter applicable.

Sec. 16y. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.520b(2)	Person	A	First degree criminal sexual conduct	Life
750.520c	Person	C	Second degree criminal sexual conduct	15
750.520d	Person	B	Third degree criminal sexual conduct	15
750.520e	Person	G	Fourth degree criminal sexual conduct	2
750.520g(1)	Person	D	Assault with intent to commit sexual penetration	10
750.520g(2)	Person	E	Assault with intent to commit sexual contact	5
750.520n	Pub saf	G	Electronic monitoring device violation	2
750.528	Pub saf	F	Destroying dwelling house or other property during riot or unlawful assembly	4
750.528a	Pub saf	F	Civil disorders - firearms/explosives	4

750.529	Person	A	Armed robbery	Life
750.529a	Person	A	Carjacking	Life
750.530	Person	C	Unarmed robbery	15
750.531	Person	C	Bank robbery/safebreaking	Life
750.532	Person	H	Seduction	5

MICH. COMP. LAWS § 777.19 (2010). Attempt to commit offense; applicability of chapter.

Sec. 19. (1) This chapter applies to an attempt to commit an offense enumerated in this part if the attempted violation is a felony. This chapter does not apply to an attempt to commit a class H offense enumerated in this part.

(2) For an attempt to commit an offense enumerated in this part, the offense category is the same as the attempted offense.

(3) For an attempt to commit an offense enumerated in this part, the offense class is as follows:

(a) Class E if the attempted offense is in class A, B, C, or D.

(b) Class H if the attempted offense is in class E, F, or G.

MICH. COMP. LAWS § 777.21 (2010). Minimum sentence range; determination.

Sec. 21. (1) Except as otherwise provided in this section, for an offense enumerated in part 2 of this chapter, determine the recommended minimum sentence range as follows:

(a) Find the offense category for the offense from part 2 of this chapter. From section 22 of this chapter, determine the offense variables to be scored for that offense category and score only those offense variables for the offender as provided in part 4 of this chapter. Total those points to determine the offender's offense variable level.

(b) Score all prior record variables for the offender as provided in part 5 of this chapter. Total those points to determine the offender's prior record variable level.

(c) Find the offense class for the offense from part 2 of this chapter. Using the sentencing grid for that offense class in part 6 of this chapter, determine the recommended minimum sentence range from the intersection of the offender's offense variable level and prior record variable level. The recommended minimum sentence within a sentencing grid is shown as a range of months or life.

(2) If the defendant was convicted of multiple offenses, subject to section 14 of chapter XI , score each offense as provided in this part.

(3) If the offender is being sentenced under section 10, 11, or 12 of chapter IX, determine the offense category, offense class, offense variable level, and prior record variable level based on the underlying offense. To determine the recommended minimum sentence range, increase the upper limit of the recommended minimum sentence range determined under part 6 for the underlying offense as follows:

(a) If the offender is being sentenced for a second felony, 25%.

(b) If the offender is being sentenced for a third felony, 50%.

(c) If the offender is being sentenced for a fourth or subsequent felony, 100%.

(4) If the offender is being sentenced for a violation described in section 18 of this chapter, both of the following apply:

(a) Determine the offense variable level by scoring the offense variables for the underlying offense and any additional offense variables for the offense category indicated in section 18 of this chapter.

(b) Determine the offense class based on the underlying offense. If there are multiple underlying felony offenses, the offense class is the same as that of the underlying felony offense with the highest crime class. If there are multiple underlying offenses but only 1 is a felony, the offense class is the same as that of the underlying felony offense. If no underlying offense is a felony, the offense class is G.

(5) If the offender is being sentenced for an attempted felony described in section 19 of this chapter, determine the offense variable level and prior record variable level based on the underlying attempted offense.

MICH. COMP. LAWS § 777.22 (2010). Offense variables; scoring.

Sec. 22. (1) For all crimes against a person, score offense variables 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 19, and 20. Score offense variables 5 and 6 for homicide, attempted homicide, conspiracy or solicitation to commit a homicide, or assault with intent to commit murder. Score offense variable 16 under this subsection for a violation or attempted violation of section 110a of the Michigan penal code, 1931 PA 328, MCL 750.110a. Score offense variables 17 and 18 if the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

(2) For all crimes against property, score offense variables 1, 2, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(3) For all crimes involving a controlled substance, score offense variables 1, 2, 3, 12, 13, 14, 15, 19, and 20.

(4) For all crimes against public order and all crimes against public trust, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(5) For all crimes against public safety, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20. Score offense variable 18 if the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

MICH. COMP. LAWS § 777.31 (2010). Aggravated use of weapon; definitions.

Sec. 31. (1) Offense variable 1 is aggravated use of a weapon. Score offense variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A firearm was discharged at or toward a human being or a victim was cut or stabbed with a knife or other cutting or stabbing weapon... 25 points

(b) The victim was subjected or exposed to a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device..... 20 points

(c) A firearm was pointed at or toward a

victim or the victim had a reasonable apprehension
of an immediate battery when threatened with a
knife or other cutting or stabbing weapon... 15 points
(d) The victim was touched by any other
type of weapon..... 10 points
(e) A weapon was displayed or implied.... 5 points
(f) No aggravated use of a weapon occurred... 0 points

(2) All of the following apply to scoring offense variable 1:
(a) Count each person who was placed in danger of injury or loss of life as a victim.
(b) In multiple offender cases, if 1 offender is assessed points for the presence or use of a weapon, all offenders shall be assessed the same number of points.
(c) Score 5 points if an offender used an object to suggest the presence of a weapon.
(d) Score 5 points if an offender used a chemical irritant, chemical irritant device, smoke device, or imitation harmful substance or device.
(e) Do not score 5 points if the conviction offense is a violation of section 82 or 529 of the Michigan penal code, 1931 PA 328, MCL 750.82 and 750.529.
(3) As used in this section :
(a) "Chemical irritant", "chemical irritant device", "harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", "harmful radioactive device", and "imitation harmful substance or device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.
(b) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

MICH. COMP. LAWS § 777.32 (2010). Lethal potential of weapon possessed or used.

Sec. 32. (1) Offense variable 2 is lethal potential of the weapon possessed or used . Score offense variable 2 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender possessed or used a harmful biological
substance, harmful biological device, harmful chemical
substance, harmful chemical device, harmful radioactive
material, or harmful radioactive device ..... 15 points
(b) The offender possessed or used an incendiary device,
an explosive device, or a fully automatic weapon ... 15 points
(c) The offender possessed or used a short-barreled rifle
or a short-barreled shotgun ..... 10 points
(d) The offender possessed or used a pistol, rifle, shotgun,
or knife or other cutting or stabbing weapon ... 5 points
(e) The offender possessed or used any other
potentially lethal weapon ..... 1 point
(f) The offender possessed or used no weapon ... 0 points

(2) In multiple offender cases, if 1 offender is assessed points for possessing a weapon, all offenders shall be assessed the same number of points.

(3) As used in this section:

(a) "Harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", and "harmful radioactive device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(b) "Fully automatic weapon" means a firearm employing gas pressure or force of rns to eject an empty cartridge from the firearm after a shot, and to load and fire the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.

(c) "Pistol", "rifle", or "shotgun" includes a revolver, semi-automatic pistol, rifle, shotgun, combination rifle and shotgun, or other firearm manufactured in or after 1898 that fires fixed ammunition, but does not include a fully automatic weapon or short-barreled shotgun or short-barreled rifle.

(d) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

MICH. COMP. LAWS § 777.33 (2010). Physical injury to victim.

Sec. 33. (1) Offense variable 3 is physical injury to a victim. Score offense variable 3 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A victim was killed..... 100 points
(b) A victim was killed..... 50 points
(c) Life threatening or permanent incapacitating injury occurred to a victim..... 25 points
(d) Bodily injury requiring medical treatment occurred to a victim..... 10 points
(e) Bodily injury not requiring medical treatment occurred to a victim..... 5 points
(f) No physical injury occurred to a victim.. 0 points

(2) All of the following apply to scoring offense variable 3:

(a) In multiple offender cases, if 1 offender is assessed points for death or physical injury, all offenders shall be assessed the same number of points.

(b) Score 100 points if death results from the commission of a crime and homicide is not the sentencing offense.

(c) Score 50 points if death results from the commission of a crime and the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive and any of the following apply:

(i) The offender was under the influence of or visibly impaired by the use of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(ii) The offender had an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2013, the offender had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(iii) The offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

(d) Do not score 5 points if bodily injury is an element of the sentencing offense.

(3) As used in this section, "requiring medical treatment" refers to the necessity for treatment and not the victim's success in obtaining treatment.

MICH. COMP. LAWS § 777.34 (2010). Psychological injury to victim.

Sec. 34. (1) Offense variable 4 is psychological injury to a victim. Score offense variable 4 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Serious psychological injury requiring professional treatment occurred to a victim... 10 points

(b) No serious psychological injury requiring professional treatment occurred to a victim... 0 points

(2) Score 10 points if the serious psychological injury may require professional treatment. In making this determination, the fact that treatment has not been sought is not conclusive.

MICH. COMP. LAWS § 777.35 (2010). Psychological injury to member of victim's family.

Sec. 35. (1) Offense variable 5 is psychological injury to a member of a victim's family. Score offense variable 5 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Serious psychological injury requiring professional treatment occurred to a victim's family..... 15 points

(b) No serious psychological injury requiring professional treatment occurred to a victim's family..... 0 points

(2) Score 15 points if the serious psychological injury to the victim's family may require professional treatment. In making this determination, the fact that treatment has not been sought is not conclusive.

MICH. COMP. LAWS § 777.36 (2010). Intent to kill or injure another individual.

Sec. 36. (1) Offense variable 6 is the offender's intent to kill or injure another individual. Score offense variable 6 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender had premeditated intent to kill or the killing was committed while committing or attempting to commit arson, criminal sexual conduct in the first or third degree, child abuse in the first degree, a major controlled substance offense, robbery, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion, or kidnapping or the killing was the murder of a peace officer or a corrections officer... 50 points

(b) The offender had unpremeditated intent to kill, the intent to do great bodily harm, or created a very high risk of death or great bodily harm knowing that death or great bodily harm was the probable result..... 25 points

(c) The offender had intent to injure or the killing was committed in an extreme emotional state caused by an adequate provocation and before a reasonable amount of time elapsed for the offender to calm or there was gross negligence amounting to an unreasonable disregard for life..... 10 points

(d) The offender had no intent to kill or injure. 0 points

(2) All of the following apply to scoring offense variable 6.

(a) The sentencing judge shall score this variable consistent with a jury verdict unless the judge has information that was not presented to the jury.

(b) Score 10 points if a killing is intentional within the definition of second degree murder or voluntary manslaughter, but the death occurred in a combative situation or in response to victimization of the offender by the decedent.

MICH. COMP. LAWS § 777.37 (2010). Aggravated physical abuse; "sadism" defined.

Sec. 37. (1) Offense variable 7 is aggravated physical abuse. Score offense variable 7 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A victim was treated with sadism, torture, or excessive brutality or conduct designed to substantially increase the fear and anxiety a victim suffered during the offense... 50 points

(b) No victim was treated with sadism, torture, or excessive brutality or conduct designed to substantially increase the fear and anxiety a victim suffered during the offense... 0 points

(2) Count each person who was placed in danger of injury or loss of life as a victim.

(3) As used in this section , "sadism" means conduct that subjects a victim to extreme or prolonged pain or humiliation and is inflicted to produce suffering or for the offender's gratification.

MICH. COMP. LAWS § 777.38 (2010). Victim asportation or captivity.

Sec. 38. (1) Offense variable 8 is victim asportation or captivity. Score offense variable 8 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A victim was asported to another place of greater danger or to a situation of greater danger or was held captive beyond the time necessary to commit the offense..... 15 points
(b) No victim was asported or held captive... 0 points

(2) All of the following apply to scoring offense variable 8:
(a) Count each person who was placed in danger of injury or loss of life as a victim.
(b) Score 0 points if the sentencing offense is kidnapping.

MICH. COMP. LAWS § 777.39 (2010). Offense variable 9; number of victims; scoring.

Sec. 39. (1) Offense variable 9 is number of victims. Score offense variable 9 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Multiple deaths occurred ..... 100 points
(b) There were 10 or more victims who were placed in danger of physical injury or death, or 20 or more victims who were placed in danger of property loss..... 25 points
(c) There were 2 to 9 victims who were placed in danger of physical injury or death, or 4 to 19 victims who were placed in danger of property loss..... 10 points
(d) There were fewer than 2 victims who were placed in danger of physical injury or death, or fewer than 4 victims who were placed in danger of property loss..... 0 points

(2) All of the following apply to scoring offense variable 9:
(a) Count each person who was placed in danger of physical injury or loss of life or property as a victim.
(b) Score 100 points only in homicide cases.

MICH. COMP. LAWS § 777.40 (2010). Exploitation of vulnerable victim.

Sec. 40. (1) Offense variable 10 is exploitation of a vulnerable victim. Score offense variable 10 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Predatory conduct was involved.... 15 points
(b) The offender exploited a victim's physical disability, mental disability, youth or agedness, or a domestic relationship, or the offender abused his or her authority status..... 10 points
(c) The offender exploited a victim by his or her difference in size or strength, or both, or exploited a victim who was intoxicated, under the influence of drugs, asleep, or unconscious..... 5 points
(d) The offender did not exploit a victim's vulnerability..... 0 points

(2) The mere existence of 1 or more factors described in subsection (1) does not automatically equate with victim vulnerability.
(3) As used in this section:
(a) "Predatory conduct" means preoffense conduct directed at a victim for the primary purpose of victimization.
(b) "Exploit" means to manipulate a victim for selfish or unethical purposes.
(c) "Vulnerability" means the readily apparent susceptibility of a victim to injury, physical restraint, persuasion, or temptation.
(d) "Abuse of authority status" means a victim was exploited out of fear or deference to an authority figure, including, but not limited to, a parent, physician, or teacher.

MICH. COMP. LAWS § 777.41 (2010). Criminal sexual penetration.

Sec. 41. (1) Offense variable 11 is criminal sexual penetration. Score offense variable 11 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Two or more criminal sexual penetrations occurred..... 50 points
(b) One criminal sexual penetration occurred.. 25 points
(c) No criminal sexual penetration occurred.. 0 points

(2) All of the following apply to scoring offense variable 11:
(a) Score all sexual penetrations of the victim by the offender arising out of the sentencing offense.
(b) Multiple sexual penetrations of the victim by the offender extending beyond the sentencing offense may be scored in offense variables 12 or 13.
(c) Do not score points for the 1 penetration that forms the basis of a first- or third-degree criminal sexual conduct offense.

MICH. COMP. LAWS § 777.42 (2010). Contemporaneous felonious criminal acts.

Sec. 42. (1) Offense variable 12 is contemporaneous felonious criminal acts. Score offense variable 12 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Three or more contemporaneous felonious criminal acts involving crimes against a person were committed..... 25 points
(b) Two contemporaneous felonious criminal acts involving crimes against a person were committed.. 10 points
(c) Three or more contemporaneous felonious criminal acts involving other crimes were committed... 10 points
(d) One contemporaneous felonious criminal act involving a crime against a person was committed.. 5 points
(e) Two contemporaneous felonious criminal acts involving other crimes were committed.... 5 points
(f) One contemporaneous felonious criminal act involving any other crime was committed... 1 point
(g) No contemporaneous felonious criminal acts were committed. ..... 0 points

(2) All of the following apply to scoring offense variable 12:
(a) A felonious criminal act is contemporaneous if both of the following circumstances exist:
(i) The act occurred within 24 hours of the sentencing offense.
(ii) The act has not and will not result in a separate conviction.
(b) A violation of section 227b of the Michigan penal code, 1931 PA 328, MCL 750.227b, should not be considered for scoring this variable.
(c) Do not score conduct scored in offense variable 11.

MICH. COMP. LAWS § 777.43 (2010). Continuing pattern of criminal behavior.

Sec. 43. (1) Offense variable 13 is continuing pattern of criminal behavior. Score offense variable 13 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offense was part of a pattern of felonious criminal activity involving 3 or more sexual penetrations against a person or persons less than 13 years of age ..... 50 points
(b) The offense was part of a pattern of felonious criminal activity directly related to causing, encouraging, recruiting, soliciting, or coercing membership in a gang or communicating a threat with intent to deter, punish, or retaliate against another for withdrawing from a gang..... 25 points

(c) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against a person..... 25 points
(d) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more crimes against a person or property or a violation of section 7401(2)(a)(i) to (iii) or section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403..... 10 points
(e) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more violations of section 7401(2)(a)(i) to (iii) or section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403..... 10 points
(f) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against property..... 5 points
(g) No pattern of felonious criminal activity existed..... 0 points

(2) All of the following apply to scoring offense variable 13:
(a) For determining the appropriate points under this variable, all crimes within a 5-year period, including the sentencing offense, shall be counted regardless of whether the offense resulted in a conviction.
(b) The presence or absence of multiple offenders, the age of the offenders, or the degree of sophistication of the organized criminal group is not as important as the fact of the group's existence, which may be reasonably inferred from the facts surrounding the sentencing offense.
(c) Except for offenses related to membership in an organized criminal group or that are gang-related , do not score conduct scored in offense variable 11 or 12.
(d) Score 50 points only if the sentencing offense is first degree criminal sexual conduct.
(e) Do not count more than 1 controlled substance offense arising out of the criminal episode for which the person is being sentenced.
(f) Do not count more than 1 crime involving the same controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or possession and delivery of the same amount of controlled substances.

MICH. COMP. LAWS § 777.44 (2010). Offender's role.

Sec. 44. (1) Offense variable 14 is the offender's role. Score offense variable 14 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender was a leader in a multiple offender situation..... 10 points
(b) The offender was not a leader in a multiple offender situation..... 0 points

(2) All of the following apply to scoring offense variable 14:
(a) The entire criminal transaction should be considered when scoring this variable.
(b) If 3 or more offenders were involved, more than 1 offender may be determined to have been a leader.

MICH. COMP. LAWS § 777.51 (2010). Prior high severity felony convictions.

Sec. 51. (1) Prior record variable 1 is prior high severity felony convictions. Score prior record variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 3 or more prior high severity felony convictions..... 75 points
(b) The offender has 2 prior high severity felony convictions..... 50 points
(c) The offender has 1 prior high severity felony conviction..... 25 points
(d) The offender has no prior high severity felony convictions..... 0 points

(2) As used in this section, "prior high severity felony conviction" means a conviction for any of the following, if the conviction was entered before the sentencing offense was committed:
(a) A crime listed in offense class M2, A, B, C, or D .
(b) A felony under a law of the United States or another state corresponding to a crime listed in offense class M2, A, B, C, or D .
(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.
(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

MICH. COMP. LAWS § 777.52 (2010). Prior low severity felony convictions.

Sec. 52. (1) Prior record variable 2 is prior low severity felony convictions. Score prior record variable 2 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 4 or more prior low severity felony convictions..... 30 points
(b) The offender has 3 prior low severity felony convictions..... 20 points
(c) The offender has 2 prior low severity felony convictions..... 10 points
(d) The offender has 1 prior low severity felony conviction..... 5 points

(e) The offender has no prior low severity felony convictions..... 0 points

(2) As used in this section, "prior low severity felony conviction" means a conviction for any of the following, if the conviction was entered before the sentencing offense was committed:

(a) A crime listed in offense class E, F, G, or H .

(b) A felony under a law of the United States or another state that corresponds to a crime listed in offense class E, F, G, or H .

(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

MICH. COMP. LAWS § 777.53 (2010). Prior high severity juvenile adjudications.

Sec. 53. (1) Prior record variable 3 is prior high severity juvenile adjudications. Score prior record variable 3 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 3 or more prior high severity juvenile adjudications..... 50 points

(b) The offender has 2 prior high severity juvenile adjudications..... 25 points

(c) The offender has 1 prior high severity juvenile adjudication..... 10 points

(d) The offender has no prior high severity juvenile adjudications..... 0 points

(2) As used in this section, "prior high severity juvenile adjudication" means a juvenile adjudication for conduct that would be any of the following if committed by an adult, if the order of disposition was entered before the sentencing offense was committed:

(a) A crime listed in offense class M2, A, B, C, or D .

(b) A felony under a law of the United States or another state corresponding to a crime listed in offense class M2, A, B, C, or D .

(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

MICH. COMP. LAWS § 777.54 (2010). Prior low severity juvenile adjudications.

Sec. 54. (1) Prior record variable 4 is prior low severity juvenile adjudications. Score prior record variable 4 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 6 or more prior low severity juvenile adjudications..... 20 points
(b) The offender has 5 prior low severity juvenile adjudications..... 15 points
(c) The offender has 3 or 4 prior low severity juvenile adjudications.... 10 points
(d) The offender has 2 prior low severity juvenile adjudications..... 5 points
(e) The offender has 1 prior low severity juvenile adjudication..... 2 points
(f) The offender has no prior low severity juvenile adjudications..... 0 points

(2) As used in this section, "prior low severity juvenile adjudication" means a juvenile adjudication for conduct that would be any of the following if committed by an adult, if the order of disposition was entered before the sentencing offense was committed:
(a) A crime listed in offense class E, F, G, or H .
(b) A felony under a law of the United States or another state corresponding to a crime listed in offense class E, F, G, or H .
(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.
(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

MICH. COMP. LAWS § 777.55 (2010). Prior misdemeanor convictions or prior misdemeanor juvenile adjudications.

Sec. 55. (1) Prior record variable 5 is prior misdemeanor convictions or prior misdemeanor juvenile adjudications. Score prior record variable 5 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 7 or more prior misdemeanor convictions or prior misdemeanor juvenile adjudications..... 20 points
(b) The offender has 5 or 6 prior misdemeanor convictions or prior misdemeanor juvenile adjudications..... 15 points
(c) The offender has 3 or 4 prior misdemeanor convictions or prior misdemeanor juvenile adjudications..... 10 points
(d) The offender has 2 prior misdemeanor convictions or prior misdemeanor juvenile

adjudications..... 5 points
(e) The offender has 1 prior misdemeanor
conviction or prior misdemeanor juvenile adjudication. 2 points
(f) The offender has no prior misdemeanor
convictions or prior misdemeanor juvenile
adjudications..... 0 points

(2) All of the following apply to scoring record variable 5:
(a) Except as provided in subdivision (b), count a prior misdemeanor conviction or prior misdemeanor juvenile adjudication only if it is an offense against a person or property, a controlled substance offense, or a weapon offense. Do not count a prior conviction used to enhance the sentencing offense to a felony.
(b) Count all prior misdemeanor convictions and prior misdemeanor juvenile adjudications for operating or attempting to operate a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while under the influence of or impaired by alcohol, a controlled substance, or a combination of alcohol and a controlled substance. Do not count a prior conviction used to enhance the sentencing offense to a felony.
(3) As used in this section:
(a) "Prior misdemeanor conviction" means a conviction for a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the conviction was entered before the sentencing offense was committed.
(b) "Prior misdemeanor juvenile adjudication" means a juvenile adjudication for conduct that if committed by an adult would be a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the order of disposition was entered before the sentencing offense was committed.

MICH. COMP. LAWS § 777.56 (2010). Relationship to criminal justice system.

Sec. 56. (1) Prior record variable 6 is relationship to the criminal justice system. Score prior record variable 6 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender is a prisoner of the department
of corrections or serving a sentence in jail... 20 points
(b) The offender is incarcerated in jail awaiting
adjudication or sentencing on a conviction or
probation violation..... 15 points
(c) The offender is on parole, probation, or
delayed sentence status or on bond awaiting
adjudication or sentencing for a felony.... 10 points
(d) The offender is on probation or delayed
sentence status or on bond awaiting adjudication or
sentencing for a misdemeanor..... 5 points
(e) The offender has no relationship to the
criminal justice system..... 0 points

(2) Score the appropriate points under this section if the offender is involved with the criminal justice system in another state or United States.

(3) As used in this section:

(a) "Delayed sentence status" includes, but is not limited to, an individual assigned or deferred under any of the following:

(i) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(ii) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(iii) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(iv) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(v) Sections 11 to 15 of chapter II.

(vi) Section 4a of chapter IX.

(b) "Prisoner of the department of corrections or serving a sentence in jail" includes an individual who is an escapee.

MICH. COMP. LAWS § 777.57 (2010). Subsequent or concurrent felony convictions.

Sec. 57. (1) Prior record variable 7 is subsequent or concurrent felony convictions. Score prior record variable 7 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 2 or more subsequent or concurrent convictions..... 20 points

(b) The offender has 1 subsequent or concurrent conviction..... 10 points

(c) The offender has no subsequent or concurrent convictions..... 0 points

(2) All of the following apply to scoring record variable 7:

(a) Score the appropriate point value if the offender was convicted of multiple felony counts or was convicted of a felony after the sentencing offense was committed.

(b) Do not score a felony firearm conviction in this variable.

(c) Do not score a concurrent felony conviction if a mandatory consecutive sentence or a consecutive sentence imposed under section 7401(3) of the public health code, 1978 PA 368, MCL 333.7401, will result from that conviction.

MICH. COMP. LAWS § 777.61 (2010). Minimum sentence ranges for class M2.

Sec. 61. The following are the minimum sentence ranges for class M2:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-49	90-150	144-240	162-270	180-300	225-375	270-450

points				or life	or life	or life
II 50-99 points	144-240	162-270	180-300 or life	225-375 or life	270-450 or life	315-525 or life
III 100+ Points	162-270 or life	180-300 or life	225-375 or life	270-450 or life	315-525 or life	365-600 or life

MICH. COMP. LAWS § 777.62 (2010). Minimum sentence ranges for class A.

Sec. 62. The following are the minimum sentence ranges for class A:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-19 points	21-35	27-45	42-70	51-85	81-135	108-180
II 20-39 points	27-45	42-70	51-85	81-135	108-180	126-210
III 40-59 points	42-70	51-85	81-135	108-180	126-210	135-225
IV 60-79 points	51-85	81-135	108-180	126-210	135-225	171-285
V 80-99 points	81-135	108-180	126-210	135-225 or life	171-285	225-375
VI 100+ points	108-180	126-210	135-225 or life	171-285 or life	225-375	270-450

MICH. COMP. LAWS § 777.63 (2010). Minimum sentence ranges for class B.

Sec. 63. The following are the minimum sentence ranges for class B:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-18	12-20	24-40	36-60	51-85	72-120
II 10-24 points	12-20	15-25	30-50	51-85	72-120	78-130
III 25-34 points	15-25	21-35	36-60	57-95	78-130	84-140
IV 35-49 points	21-35	24-40	45-75	72-120	84-140	87-145
V 50-74 points	24-40	36-60	51-85	78-130	87-145	99-160
VI 75+ points	36-60	45-75	57-95	84-140	99-160	117-160

MICH. COMP. LAWS § 777.64 (2010). Minimum sentence ranges for class C.

Sec. 64. The following are the minimum sentence ranges for class C:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9	0-11	0-17	10-19	12-24	19-38	29-57

points

II 10-24 points	0-17	5-17	12-24	19-38	29-57	36-71
III 25-34 points	10-19	12-24	19-38	29-57	36-71	43-86
IV 35-49 points	12-24	19-38	29-57	36-71	43-86	50-100
V 50-74 points	19-38	29-57	36-71	43-86	50-100	58-114
VI 75+ points	29-57	36-71	43-86	50-100	58-114	62-114

MICH. COMP. LAWS § 777.65 (2010). Minimum sentence ranges for class D.

Sec. 65. The following are the minimum sentence ranges for class D:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-6	0-9	0-11	0-17	5-23	10-23
II 10-24 points	0-9	0-11	0-17	5-23	10-23	19-38
III 25-34 points	0-11	0-17	5-23	10-23	19-38	29-57
IV 35-49 points	0-17	5-23	10-23	19-38	29-57	34-67

V 50-74 points	5-23	10-23	19-38	29-57	34-67	38-76
VI 75+ points	10-23	19-38	29-57	34-67	38-76	43-76

MICH. COMP. LAWS § 777.66 (2010). Minimum sentence ranges for class E.

Sec. 66. The following are the minimum sentence ranges for class E:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-3	0-6	0-9	5-23	7-23	9-23
II 10-24 points	0-6	0-9	0-11	7-23	10-23	12-24
III 25-34 points	0-9	0-11	0-17	10-23	12-24	14-29
IV 35-49 points	0-11	0-17	5-23	12-24	14-29	19-38
V 50-74 points	0-14	5-23	7-23	14-29	19-38	22-38
VI 75+ points	0-17	7-23	12-24	19-38	22-38	24-38

MICH. COMP. LAWS § 777.67 (2010). Minimum sentence ranges for class F.

Sec. 67. The following are the minimum sentence ranges for class F:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-3	0-6	0-9	2-17	5-23	10-23
II 10-34 points	0-6	0-9	0-17	5-23	10-23	12-24
III 35-74 points	0-9	0-17	2-17	10-23	12-24	14-29
IV 75+ points	0-17	2-17	5-23	12-24	14-29	17-30

MICH. COMP. LAWS § 777.68 (2010). Minimum sentence ranges for class G.

Sec. 68. The following are the minimum sentence ranges for class G:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-3	0-6	0-9	0-11	0-17	2-17
II 10-15 points	0-6	0-9	0-11	0-17	2-17	5-23
III 16+ points	0-9	0-11	0-17	2-17	5-23	7-23

MICH. COMP. LAWS § 777.69 (2010). Minimum sentence ranges for class H.

Sec. 69. The following are the minimum sentence ranges for class H:

	PRIOR RECORD VARIABLE LEVEL					
Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-1	0-3	0-6	0-9	0-11	0-17
II 10-15 points	0-3	0-6	0-9	0-11	0-17	2-17
III 16+ points	0-6	0-9	0-11	0-17	2-17	5-17

MINNESOTA

MINN. STAT. § 609.342 (2009). Criminal sexual conduct in the first degree.

Subdivision 1. Crime defined.

A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(b) the complainant is at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish sexual penetration; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. Penalty.

(a) Except as otherwise provided in section 609.3455; or Minnesota Statutes 2004, section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than $40,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

Subd. 3. Stay.

Except when imprisonment is required under section 609.3455; or Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

MINN. STAT. § 609.343 (2009). Criminal sexual conduct in the second degree.

Subdivision 1. Crime defined.

A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish the sexual contact; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. Penalty.

(a) Except as otherwise provided in section 609.3455; or Minnesota Statutes 2004, section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of not more than $35,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 90 months must be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

Subd. 3. Stay.

Except when imprisonment is required under section 609.3455; or Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

MINN. STAT. § 609.344 (2009). Criminal sexual conduct in the third degree.

Subdivision 1. Crime defined.

A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual penetration occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

Subd. 2. Penalty.

Except as otherwise provided in section 609.3455, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 15 years or to a payment of a fine of not more than $30,000, or both. A person convicted under this section is also subject to conditional release under section 609.3455.

Subd. 3. Stay.

Except when imprisonment is required under section 609.3455; or Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

Amendment to be effective August 1, 2010, and applies to crimes committed on or after that date.

Section 2. Minnesota Statutes 2008, section 609.344, subdivision 1, is amended to read:

Subdivision 1. Crime defined.

A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense. If the actor in such a case is no more than 48 months but more than 24 months older than the

complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, [A>or secure treatment facility, or treatment facility providing services to clients civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalties, <A]including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual penetration occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

MINN. STAT. § 609.345 (2009). Criminal sexual conduct in the fourth degree.

Subdivision 1. Crime defined.

A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual contact occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

Subd. 2. Penalty.

Except as otherwise provided in section 609.3455, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a payment of a fine of not more than $20,000, or both. A person convicted under this section is also subject to conditional release under section 609.3455.

Subd. 3. Stay.

Except when imprisonment is required under section 609.3455; or Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

Amendment to be effective August 1, 2010, and applies to crimes committed on or after that date.
Section 3. Minnesota Statutes 2008, section 609.345, subdivision 1, is amended to read:
Subdivision 1. Crime defined.

A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, [A>or secure treatment facility, or treatment facility providing services to clients civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalities, <A]including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual contact occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

MINN. STAT. § 609.3451 (2009). Criminal sexual conduct in the fifth degree.

Subdivision 1. Crime defined.

A person is guilty of criminal sexual conduct in the fifth degree:

(1) if the person engages in nonconsensual sexual contact; or

(2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

For purposes of this section, "sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

Subd. 2. Penalty.

A person convicted under subdivision 1 may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than $3,000, or both.

Subd. 3. Felony.

A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person violates subdivision 1, clause (2), after having been previously convicted of or adjudicated delinquent for violating subdivision 1, clause (2); section 617.23, subdivision 2, clause (1); or a statute from another state in conformity with subdivision 1, clause (2), or section 617.23, subdivision 2, clause (1).

MINN. STAT. § 609.3455 (2009). Dangerous sex offendres; life sentences; conditional release.

Subdivision 1. Definitions.

(a) As used in this section, the following terms have the meanings given.

(b) "Conviction" includes a conviction as an extended jurisdiction juvenile under section 260B.130 for a violation of, or an attempt to violate, section 609.342, 609.343, 609.344, or 609.3453, if the adult sentence has been executed.

(c) "Extreme inhumane conditions" mean situations where, either before or after the sexual penetration or sexual contact, the offender knowingly causes or permits the complainant to be placed in a situation likely to cause the complainant severe ongoing mental, emotional, or psychological harm, or causes the complainant's death.

(d) A "heinous element" includes:

(1) the offender tortured the complainant;

(2) the offender intentionally inflicted great bodily harm upon the complainant;

(3) the offender intentionally mutilated the complainant;

(4) the offender exposed the complainant to extreme inhumane conditions;

(5) the offender was armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and used or threatened to use the weapon or article to cause the complainant to submit;

(6) the offense involved sexual penetration or sexual contact with more than one victim;

(7) the offense involved more than one perpetrator engaging in sexual penetration or sexual contact with the complainant; or

(8) the offender, without the complainant's consent, removed the complainant from one place to another and did not release the complainant in a safe place.

(e) "Mutilation" means the intentional infliction of physical abuse designed to cause serious permanent disfigurement or permanent or protracted loss or impairment of the functions of any bodily member or organ, where the offender relishes the infliction of the abuse, evidencing debasement or perversion.

(f) A conviction is considered a "previous sex offense conviction" if the offender was convicted and sentenced for a sex offense before the commission of the present offense.

(g) A conviction is considered a "prior sex offense conviction" if the offender was convicted of committing a sex offense before the offender has been convicted of the present offense, regardless of whether the offender was convicted for the first offense before the commission of the present offense, and the convictions involved separate behavioral incidents.

(h) "Sex offense" means any violation of, or attempt to violate, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or any similar statute of the United States, this state, or any other state.

(i) "Torture" means the intentional infliction of extreme mental anguish, or extreme psychological or physical abuse, when committed in an especially depraved manner.

(j) An offender has "two previous sex offense convictions" only if the offender was convicted and sentenced for a sex offense committed after the offender was earlier convicted and sentenced for a sex offense and both convictions preceded the commission of the present offense of conviction.

Subd. 2. Mandatory life sentence without release; egregious first-time and repeat offenders.

(a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person convicted under section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h); or 609.343, subdivision 1, paragraph (c), (d), (e), (f), or (h), to life without the possibility of release if:

(1) the fact finder determines that two or more heinous elements exist; or

(2) the person has a previous sex offense conviction for a violation of section 609.342, 609.343, or 609.344, and the fact finder determines that a heinous element exists for the present offense.

(b) A fact finder may not consider a heinous element if it is an element of the underlying specified violation of section 609.342 or 609.343. In addition, when determining whether two or more heinous elements exist, the fact finder may not use the same underlying facts to support a determination that more than one element exists.

Subd. 3. Mandatory life sentence for egregious first-time offenders.

(a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted under section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h), or 609.343, subdivision 1, paragraph (c), (d), (e), (f), or (h); and the fact finder determines that a heinous element exists.

(b) The fact finder may not consider a heinous element if it is an element of the underlying specified violation of section 609.342 or 609.343.

Subd. 3a. Mandatory sentence for certain engrained offenders.

(a) A court shall commit a person to the commissioner of corrections for a period of time that is not less than double the presumptive sentence under the sentencing guidelines and not more than

the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, for a period of time that is equal to the statutory maximum, if:

(1) the court is imposing an executed sentence on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453;

(2) the fact finder determines that the offender is a danger to public safety; and

(3) the fact finder determines that the offender's criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term treatment or supervision extending beyond the presumptive term of imprisonment and supervised release.

(b) The fact finder shall base its determination that the offender is a danger to public safety on any of the following factors:

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the sentencing guidelines;

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224 or 609.2242, including:

(i) an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 or 609.2242 if committed by an adult; or

(ii) a violation or attempted violation of a similar law of any other state or the United States; or

(3) the offender planned or prepared for the crime prior to its commission.

(c) As used in this section, "predatory crime" has the meaning given in section 609.341, subdivision 22.

Subd. 4. Mandatory life sentence; repeat offenders.

(a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted of violating section 609.342, 609.343, 609.344, 609.345, or 609.3453 and:

(1) the person has two previous sex offense convictions;

(2) the person has a previous sex offense conviction and:

(i) the fact finder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for the previous sex offense conviction; or

(iii) the person was sentenced under this section or Minnesota Statutes 2004, section 609.108, for the previous sex offense conviction; or

(3) the person has two prior sex offense convictions, and the fact finder determines that the prior convictions and present offense involved at least three separate victims, and:

(i) the fact finder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for one of the prior sex offense convictions; or

(iii) the person was sentenced under this section or Minnesota Statutes 2004, section 609.108, for one of the prior sex offense convictions.

(b) Notwithstanding paragraph (a), a court may not sentence a person to imprisonment for life for a violation of section 609.345, unless the person's previous or prior sex offense convictions that are being used as the basis for the sentence are for violations of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

Subd. 5. Life sentences; minimum term of imprisonment.

At the time of sentencing under subdivision 3 or 4, the court shall specify a minimum term of imprisonment, based on the sentencing guidelines or any applicable mandatory minimum sentence, that must be served before the offender may be considered for supervised release.

Subd. 6. Mandatory ten-year conditional release term.

Notwithstanding the statutory maximum sentence otherwise applicable to the offense and unless a longer conditional release term is required in subdivision 7, when a court commits an offender to the custody of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453, the court shall provide that, after the offender has completed the sentence imposed, the commissioner shall place the offender on conditional release for ten years, minus the time the offender served on supervised release.

Subd. 7. Mandatory lifetime condition al release term.

(a) When a court sentences an offender under subdivision 3 or 4, the court shall provide that, if the offender is released from prison, the commissioner of corrections shall place the offender on conditional release for the remainder of the offender's life.

(b) Notwithstanding the statutory maximum sentence otherwise applicable to the offense, when the court commits an offender to the custody of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453, and the offender has a previous or prior sex offense conviction, the court shall provide that, after the offender has completed the sentence imposed, the commissioner shall place the offender on conditional release for the remainder of the offender's life.

(c) Notwithstanding paragraph (b), an offender may not be placed on lifetime conditional release for a violation of section 609.345, unless the offender's previous or prior sex offense conviction is for a violation of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

Subd. 8. Terms of conditional release; applicable to all sex offenders.

(a) The provisions of this subdivision relating to conditional release apply to all sex offenders sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453. Except as provided in this subdivision, conditional release of sex offenders is governed by provisions relating to supervised release. The commissioner of corrections may not dismiss an offender on conditional release from supervision until the offender's conditional release term expires.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. The commissioner shall develop a plan to pay the cost of treatment of a person released under this subdivision. The plan may include co-payments from offenders, third-party payers, local agencies, or other funding sources as they are identified. This section does not require the commissioner to accept or retain an offender in a treatment program. Before the offender is placed on conditional release, the commissioner shall notify the sentencing court and the prosecutor in the jurisdiction where the offender was sentenced of the terms of the offender's conditional release. The commissioner also shall make reasonable efforts to notify the victim of the offender's crime of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of the remaining portion of the conditional release term in prison.

Subd. 9. Applicability.

The provisions of this section do not affect the applicability of Minnesota Statutes 2004, section 609.108, to crimes committed before August 1, 2005, or the validity of sentences imposed under Minnesota Statutes 2004, section 609.108.

MINN. STAT. § 609.352 (2009). Solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children.

Subdivision 1. Definitions.

As used in this section:

(a) "child" means a person 15 years of age or younger;

(b) "sexual conduct" means sexual contact of the individual's primary genital area, sexual penetration as defined in section 609.341, or sexual performance as defined in section 617.246; and

(c) "solicit" means commanding, entreating, or attempting to persuade a specific person in person, by telephone, by letter, or by computerized or other electronic means.

Subd. 2. Prohib ited act.

A person 18 years of age or older who solicits a child or someone the person reasonably believes is a child to engage in sexual conduct with intent to engage in sexual conduct is guilty of a felony and may be sentenced as provided in subdivision 4.

Subd. 2a. Electronic solicitation of children.

A person 18 years of age or older who uses the Internet, a computer, computer program, computer network, computer system, an electronic communications system, or a telecommunications, wire, or radio communications system, or other electronic device capable of electronic data storage or transmission to commit any of the following acts, with the intent to arouse the sexual desire of any person, is guilty of a felony and may be sentenced as provided in subdivision 4:

(1) soliciting a child or someone the person reasonably believes is a child to engage in sexual conduct;

(2) engaging in communication with a child or someone the person reasonably believes is a child, relating to or describing sexual conduct; or

(3) distributing any material, language, or communication, including a photographic or video image, that relates to or describes sexual conduct to a child or someone the person reasonably believes is a child.

Subd. 2b. Jurisdiction.

A person may be convicted of an offense under subdivision 2a if the transmission that constitutes the offense either originates within this state or is received within this state.

Subd. 3. Defenses.

(a) Mistake as to age is not a defense to a prosecution under this section.

(b) The fact that an undercover operative or law enforcement officer was involved in the detection or investigation of an offense under this section does not constitute a defense to a prosecution under this section.

Subd. 4. Penalty.

A person convicted under subdivision 2 or 2a is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $5,000, or both.

MINN. STAT. § 609.375 (2009). Nonsupport of spouse or child.

Subdivision 1. Crime defined.

Whoever is legally obligated to provide care and support to a spouse or child, whether or not the child's custody has been granted to another, and knowingly omits and fails to do so is guilty of a misdemeanor, and upon conviction may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

Subd. 2. Gross misdemeanor violation.

A person who violates subdivision 1 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if:

(1) the violation continues for a period in excess of 90 days but not more than 180 days; or

(2) the person is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than six times but less than nine times the person's total monthly support and maintenance payments.

Subd. 2a. Felony violation.

A person who violates subdivision 1 is guilty of a felony and upon conviction may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both, if:

(1) the violation continues for a period in excess of 180 days; or

(2) the person is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than nine times the person's total monthly support and maintenance payments.

Subd. 2b. Attempt to obtain contempt order as prerequisite to prosecution.

A person may not be charged with violating this section unless there has been an attempt to obtain a court order holding the person in contempt for failing to pay support or maintenance under chapter 518 or 518A. This requirement is satisfied by a showing that reasonable attempts have been made at service of the order.

Subd. 3.

[Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 4.

[Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 5. Venue.

A person who violates this section may be prosecuted and tried in the county in which the support obligor resides or in the county in which the obligee or the child resides.

Subd. 6.

[Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 7. Conditions of work release; probation violation.

Upon conviction under this section, a defendant may obtain work release only upon the imposition of an automatic income withholding order, and may be required to post a bond in avoidance of jail time and conditioned upon payment of all child support owed. Nonpayment of child support is a violation of any probation granted following conviction under subdivision 2a.

Subd. 8. Defense.

It is an affirmative defense to criminal liability under this section if the defendant proves by a preponderance of the evidence that the omission and failure to provide care and support were with lawful excuse.

MINN. STAT. § 609.377 (2009). Malicious punishment of child.

Subdivision 1. Malicious punishment.

A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances is guilty of malicious punishment of a child and may be sentenced as provided in subdivisions 2 to 6.

Subd. 2. Gross misdemeanor.

If the punishment results in less than substantial bodily harm, the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. Enhancement to a felony.

Whoever violates the provisions of subdivision 2 during the time period between a previous conviction or adjudication for delinquency under this section or sections 609.221 to 609.2231, 609.224, 609.2242, 609.342 to 609.345, or 609.713, and the end of five years following discharge from sentence or disposition for that conviction or adjudication may be sentenced to imprisonment for not more than five years or a fine of $10,000, or both.

Subd. 4. Felony; child under age four.

If the punishment is to a child under the age of four and causes bodily harm to the head, eyes, neck, or otherwise causes multiple bruises to the body, the person may be sentenced to imprisonment for not more than five years or a fine of $10,000, or both.

Subd. 5. Felony; substantial bodily harm.

If the punishment results in substantial bodily harm, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 6. Felony; great bodily harm.

If the punishment results in great bodily harm, the person may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

MINN. STAT. § 609.378 (2009). Neglect or endangerment of child.

Subdivision 1. Persons guilty of neglect or endangerment.

(a)(1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.

(2) A parent, legal guardian, or caretaker who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) A parent, legal guardian, or caretaker who endangers the child's person or health by:

(1) intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; or

(2) knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with intent to manufacture, or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, 152.024, or 152.0262; is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).

(c) A person who intentionally or recklessly causes a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

If the endangerment results in substantial harm to the child's physical health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. Defenses.

It is a defense to a prosecution under subdivision 1, paragraph (a), clause (2), or paragraph (b), that at the time of the neglect or endangerment there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect or endangerment would result in substantial bodily harm to the defendant or the child in retaliation.

MINN. STAT. § 617.246 (2009). Use of minors in sexual performance prohibited.

Subdivision 1. Definitions.

(a) For the purpose of this section, the terms defined in this subdivision have the meanings given them.

(b) "Minor" means any person under the age of 18.

(c) "Promote" means to produce, direct, publish, manufacture, issue, or advertise.

(d) "Sexual performance" means any play, dance or other exhibition presented before an audience or for purposes of visual or mechanical reproduction that uses a minor to depict actual or simulated sexual conduct as defined by clause (e).

(e) "Sexual conduct" means any of the following:

(1) an act of sexual intercourse, normal or perverted, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;

(2) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts inflicted by or upon a person who is nude or clad in undergarments or in a revealing costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed;

(3) masturbation;

(4) lewd exhibitions of the genitals; or

(5) physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(f) "Pornographic work" means:

(1) an original or reproduction of a picture, film, photograph, negative, slide, videotape, videodisc, or drawing of a sexual performance involving a minor; or

(2) any visual depiction, including any photograph, film, video, picture, drawing, negative, slide, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means that:

(i) uses a minor to depict actual or simulated sexual conduct;

(ii) has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct; or

(iii) is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexual conduct.

For the purposes of this paragraph, an identifiable minor is a person who was a minor at the time the depiction was created or altered, whose image is used to create the visual depiction.

Subd. 2. Use of minor.

It is unlawful for a person to promote, employ, use or permit a minor to engage in or assist others to engage minors in posing or modeling alone or with others in any sexual performance or pornographic work if the person knows or has reason to know that the conduct intended is a sexual performance or a pornographic work.

Any person who violates this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000 for the first offense and $40,000 for a second or subsequent offense, or both.

Subd. 3. Operation or ownership of business.

A person who owns or operates a business in which a pornographic work, as defined in this section, is disseminated to an adult or a minor or is reproduced, and who knows the content and character of the pornographic work disseminated or reproduced, is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $20,000 for the first offense and $40,000 for a second or subsequent offense, or both.

Subd. 4. Dissemination.

A person who, knowing or with reason to know its content and character, disseminates for profit to an adult or a minor a pornographic work, as defined in this section, is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $20,000 for the first offense and $40,000 for a second or subsequent offense, or both.

Subd. 5. Consent; mistake.

Neither consent to sexual performance by a minor or the minor's parent, guardian, or custodian nor mistake as to the minor's age is a defense to a charge of violation of this section.

Subd. 6. Affirmative defense.

It shall be an affirmative defense to a charge of violating this section that the sexual performance or pornographic work was produced using only persons who were 18 years or older.

Subd. 7. Conditional release term.

Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating this section, the court shall provide that after the person has completed the sentence imposed, the commissioner shall place the person on conditional release for five years, minus the time the offender served on supervised release. If the person has previously been convicted of a violation of this section, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.247, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years, minus the time the offender served on supervised release. The terms of conditional release are governed by section 609.3455, subdivision 8.

MINN. STAT. § 617.247 (2009). Possession of pornographic work involving minors.

Subdivision 1. Policy; purpose.

It is the policy of the legislature in enacting this section to protect minors from the physical and psychological damage caused by their being used in pornographic work depicting sexual conduct which involves minors. It is therefore the intent of the legislature to penalize possession of pornographic work depicting sexual conduct which involve minors or appears to involve minors in order to protect the identity of minors who are victimized by involvement in the pornographic work, and to protect minors from future involvement in pornographic work depicting sexual conduct.

Subd. 2. Definitions.

For purposes of this section, the following terms have the meanings given them:

(a) "Pornographic work" has the meaning given to it in section 617.246.

(b) "Sexual conduct" has the meaning given to it in section 617.246.

Subd. 3. Dissemination prohibited.

(a) A person who disseminates pornographic work to an adult or a minor, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than seven years and a fine of not more than $10,000 for a first offense and for not more than 15 years and a fine of not more than $20,000 for a second or subsequent offense.

(b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than 15 years if the violation occurs when the person is a registered predatory offender under section 243.166.

Subd. 4. Possession prohibited.

(a) A person who possesses a pornographic work or a computer disk or computer or other electronic, magnetic, or optical storage system or a storage system of any other type, containing a pornographic work, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than five years and a fine of not more than $5,000 for a first offense and for not more than ten years and a fine of not more than $10,000 for a second or subsequent offense.

(b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than ten years if the violation occurs when the person is a registered predatory offender under section 243.166.

Subd. 5. Exception.

This section does not apply to the performance of official duties by peace officers, court personnel, or attorneys, nor to licensed physicians, psychologists, or social workers or persons acting at the direction of a licensed physician, psychologist, or social worker in the course of a bona fide treatment or professional education program.

Subd. 6. Consent.

Consent to sexual performance by a minor or the minor's parent, guardian, or custodian is not a defense to a charge of violation of this section.

Subd. 7. Second offense.

If a person is convicted of a second or subsequent violation of this section within 15 years of the prior conviction, the court shall order a mental examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

Subd. 8. Affirmative defense.

It shall be an affirmative defense to a charge of violating this section that the pornographic work was produced using only persons who were 18 years or older.

Subd. 9. Conditional release term.

Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating this section, the court shall provide that after the person has completed the sentence imposed, the commissioner shall place the person on conditional release for five years, minus the time the offender served on supervised release. If the person has previously been convicted of a violation of this section, section 609.34 2, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years, minus the time the offender served on supervised release. The terms of conditional release are governed by section 609.3455, subdivision 8.

MINN. STAT. § V (2009). Offense severity reference table.

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minnesota Statutes, section 609.3455, subdivision 2, are excluded from the guidelines by law.

XI Adulteration - 609.687, subd. 3(1)
Murder 2 (intentional murder; unintentional drive-by shootings) - 609.19, subd. 1
Murder 2 of an Unborn Child - 609.2662(1)

X Fleeing a Peace Officer (resulting in death) - 609.487, subd. 4(a)
Murder 2 (unintentional murder) - 609.19, subd. 2
Murder 2 of an Unborn Child - 609.2662(2)
Murder 3 - 609.195(a)
Murder 3 of an Unborn Child - 609.2663

IX Assault 1 - 609.221
Assault 1 of an Unborn Child - 609.267
Controlled Substance Crime in the First Degree - 152.021
Criminal Abuse of Vulnerable Adult (death) - 609.2325, subd. 3(a)(1)
Death of an Unborn Child in the Commission of Crime - 609.268, subd. 1
Engage or Hire a Minor to Engage in Prostitution - 609.324, subd. 1(a)
Importing Controlled Substances Across State Borders - 152.0261
Kidnapping (w/great bodily harm) - 609.25, subd. 2(2)
Manslaughter 1 - 609.20(1), (2) & (5)
Manslaughter 1 of an Unborn Child - 609.2664(1) & (2)
Murder 3 - 609.195(b)
Solicits, Promotes, or Receives Profit Derived from Prostitution; Sex Trafficking in the First Degree - 609.322, subd. 1
Tampering with Witness, Aggravated First Degree - 609.498, subd. 1b

VIII Aggravated Robbery 1 - 609.245, subd. 1
Arson 1 - 609.561
Burglary 1 - 609.582, 1(b) & (c)
Controlled Substance Crime in the Second Degree - 152.022
Criminal Abuse of Vulnerable Adult (great bodily harm) - 609.2325, subd. 3(a)(2)
Criminal Vehicular Homicide or Operation - 609.21, subd. 1a(a)
Drive-By Shooting (toward a person or occupied motor vehicle or building) - 609.66, subd. 1e(b)
Escape from Custody - 609.485, subd. 4(b)
Great Bodily Harm Caused by Distribution of Drugs - 609.228
Identity Theft - 609.527, subd. 3(5)
Kidnapping (not in safe place or victim under 16) - 609.25, subd. 2(2)
Malicious Punishment of Child (great bodily harm) - 609.377, subd. 6
Manslaughter 1 - 609.20(3) & (4)
Manslaughter 1 of an Unborn Child - 609.2664(3)
Manslaughter 2 - 609.205(1) & (5)
Manslaughter 2 of an Unborn Child - 609.2665(1)

VII Financial Exploitation of a Vulnerable Adult (over $ 35,000) - 609.2335

First Degree (Felony) Driving While Impaired - 169A.24

VI Aggravated Robbery 2 - 609.245, subd. 2
Assault 2 - 609.222
Burglary 1 - 609.582, subd. 1(a)
Certain Persons Not to Have Firearms - 624.713, subd. 1(b); 609.165, subd. 1b
Controlled Substance Crime in the Third Degree - 152.023
Discharge of Firearm at Occupied Transit Vehicle/Facility - 609.855, subd. 5
Explosive Device or Incendiary Device - 609.668, subd. 6
Failure to Affix Stamp on Cocaine - 297D.09, subd. 1
Failure to Affix Stamp on Hallucinogens or PCP - 297D.09, subd. 1
Failure to Affix Stamp on Heroin - 297D.09, subd. 1
Failure to Affix Stamp on Remaining Schedule I & II Narcotics - 297D.09, subd. 1
Fleeing Peace Officer (great bodily harm) - 609.487, subd. 4(b)
Kidnapping (safe release/no great bodily harm) - 609.25, subd. 2(1)
Price Fixing/Collusive Bidding - 325D.53, subd. 1(2)(a)
Theft over $ 35,000 - 609.52, subd. 2(3), (4), (15), & (16) with 609.52, subd. 3(1)

V Arson 2 - 609.562
Burglary 2 - 609.582, subd. 2(a)(1) & (2), 2(b)
Check Forgery over $ 35,000 - 609.631, subd. 4(1)
Criminal Vehicular Homicide or Operation - 609.21, subd. 1a(b)
Engage or Hire a Minor to Engage in Prostitution - 609.324, subd. 1(b)
Financial Exploitation of a Vulnerable Adult (over $ 5,000) - 609.2335
Financial Transaction Card Fraud over $ 35,000 - 609.821, subd. 3(1)(i)
Harassment/Stalking (third or subsequent violations) - 609.749, subd. 4(b)
Harassment/Stalking (pattern of harassing conduct) - 609.749, subd. 5
Interference with Emergency Communications - 609.776
Manslaughter 2 - 609.205(2), (3), & (4)
Manslaughter 2 of an Unborn Child - 609.2665(2), (3), & (4)
Negligent Discharge of Explosive - 299F.83
Perjury - 609.48, subd. 4(1)
Possession of Substances with Intent to Manufacture Methamphetamine - 152.0262
Possession or Use (unauthorized) of Explosives - 299F.79; 299F.80, subd. 1; 299F.82, subd. 1
Price Fixing/Collusive Bidding - 325D.53, subd. 1(1), and subd. 1(2)(b) & (c)
Riot 1 - 609.71, subd. 1
Simple Robbery - 609.24
Solicits, Promotes, or Receives Profit Derived from Prostitution; Sex Trafficking in the Second Degree - 609.322, subd. 1a
Tampering with Witness in the First Degree - 609.498, subd. 1a

IV Adulteration - 609.687, subd. 3(2)
Assault 2 of an Unborn Child - 609.2671
Assault 3 - 609.223, subd. 1, 2, & 3
Assault 5 (3rd or subsequent violation) - 609.224, subd. 4
Bribery - 609.42; 90.41; 609.86
Bribery, Advancing Money, and Treating Prohibited - 211B.13
Bring Contraband into State Prison - 243.55
Bring Dangerous Weapon into County Jail - 641.165, subd. 2(b)
Burglary 2 - 609.582, subd. 2(a)(3) & (4)
Burglary 3 - 609.582, subd. 3

Controlled Substance Crime in the Fourth Degree - 152.024
Criminal Abuse of Vulnerable Adult (substantial bodily harm) - 609.2325, subd. 3(a)(3)
Domestic Assault - 609.2242, subd. 4
Domestic Assault by Strangulation - 609.2247
False Imprisonment (substantial bodily harm) - 609.255, subd. 3
Financial Exploitation of a Vulnerable Adult ($ 5,000 or less) - 609.2335
Fleeing a Peace Officer (substantial bodily harm) - 609.487, subd. 4(c)
Harassment/Stalking (aggravated violations) - 609.749, subd. 3(a), (b)
Harassment/Stalking (2nd or subsequent violation) - 609.749, subd. 4(a)
Injury of an Unborn Child in Commission of Crime - 609.268, subd. 2
Malicious Punishment of Child (2nd or subsequent violation) - 609.377, subd. 3
Malicious Punishment of Child (bodily harm) - 609.377, subd. 4
Malicious Punishment of Child (substantial bodily harm) - 609.377, subd. 5
Negligent Fires - 609.576, subd. 1(1)
Perjury - 609.48, subd. 4(2)
Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods (second or subsequent violations) - 609.526
Receiving Stolen Property (firearm) - 609.53
Security Violations (over $ 2,500) - 80A.22, subd. 1; 80B.10, subd. 1; 80C.16, subd. 3(a) & (b)
Sports Bookmaking - 609.76, subd. 2
Terroristic Threats - 609.713, subd. 1
Theft From Person - 609.52
Theft of Controlled Substances - 609.52, subd. 3(2)
Theft of Firearm - 609.52, subd. 3(1)
Theft of Incendiary Device - 609.52, subd. 3(2)
Theft of Motor Vehicle - 609.52, subd. 2(1)
Use of Drugs to Injure or Facilitate Crime - 609.235
Violation of a Domestic Abuse No Contact Order - 518B.01, subd. 22(d)
Violation of an Order for Protection - 518B.01, subd. 14(d)
Violation of Harassment Restraining Order - 609.748, subd. 6(d)
Weapon in Courthouse or Certain State Buildings - 609.66, subd. 1g

III Anhydrous Ammonia (tamper/theft/transport) - 152.136
Arson 3 - 609.563
Bringing Stolen Goods into State (over $ 5,000) - 609.525
Check Forgery (over $ 2,500) - 609.631, subd. 4(2)
Coercion - 609.27, subd. 1(1)
Coercion ($ 2,500, or more) - 609.27, subd. 1(2), (3), (4), & (5)
Computer Damage (over $ 2,500) - 609.88
Computer Theft (over $ 2,500) - 609.89
Criminal Vehicular Homicide or Operation - 609.21, subd. 1a(c)
Damage or Theft to Energy Transmission, Telecommunications - 609.593
Damage to Property - 609.595, subd. 1(1)
Damages; Illegal Molestation of Human Remains; Burials; Cemeteries - 307.08, subd. 2(a)
Dangerous Smoking - 609.576, subd. 2
Dangerous Trespass, Railroad Tracks - 609.85(1)
Dangerous Weapons/Certain Persons Not to Have Firearms - 609.67, subd. 2; 624.713, subd. 1(a)
Depriving Another of Custodial or Parental Rights - 609.26, subd. 6(a)(2)
Disarming a Peace Officer - 609.504
Drive-By Shooting (unoccupied motor vehicle or building) - 609.66, subd. 1e(a)

Embezzlement of Public Funds (over $ 2,500) - 609.54
Engage or Hire a Minor to Engage in Prostitution - 609.324, subd. 1(c)
Escape from Civil Commitment - 609.485, subd. 4(a)(5)
Escape from Custody - 609.485, subd. 4(a)(1)
False Imprisonment - 609.255, subd. 2
False Traffic Signal - 609.851, subd. 2
Financial Transaction Card Fraud (over $ 2,500) - 609.821, subd. 2(1), (2), (5), (6), (7), & (8)
Firearm Silencer (public housing, school, or park zone) - 609.66, subd. 1a(a)(1)
Gambling Taxes - 297E.13, subd. 1-4
Hinder Logging (great bodily harm) - 609.591, subd. 3(1)
Identity Theft - 609.527, subd. 3(4)
Insurance Tax - 297I.90, subd. 1 & 2
Intentional Release of Harmful Substance - 624.732, subd. 2
Methamphetamine Crimes Involving Children and Vulnerable Adults - 152.137
Motor Vehicle Use Without Consent - 609.52, subd. 2(17)
Obstructing Legal Process, Arrest, Firefighting, or Ambulance Service Personnel Crew - 609.50, subd. 2
Possession of Burglary Tools - 609.59
Possession of Code Grabbing Devices - 609.586, subd. 2
Possession of Shoplifting Gear - 609.521
Possession or Sale of Stolen or Counterfeit Check - 609.528, subd. 3(4)
Precious Metal and Scrap Metal Dealers, Receiving Stolen Goods ($ 1,000, or more) - 609.526, subd. 2(1)
Receiving Stolen Goods (over $ 5,000) - 609.53
Rustling and Livestock Theft (over $ 2,500) - 609.551
Security Violations ($ 2,500, or less) - 80A.22, subd. 1; 80B.10, subd. 1; 80C.16, subd. 3(a) & (b)
Tampering with Fire Alarm System (results in bodily harm) - 609.686, subd. 2
Tax Evasion Laws - 289A.63
Tear Gas & Tear Gas Compounds; Electronic Incapacitation Devices - 624.731, subd. 8(a)
Telecommunications and Information Services; Obtaining Services By Fraud (over $ 2,500) - 609.893, subd. 1
Theft Crimes (over $ 5,000) $ I(See Theft Offense$ N $ IList)$ N
Theft of Controlled Substances - 609.52, subd. 3(3)(b)
Theft of Public Records - 609.52
Theft of Trade Secret - 609.52, subd. 2(8)
Unauthorized Presence at Camp Ripley - 609.396, subd. 2

II Accidents - 169.09, subd. 14(a)(1)
Aggravated Forgery (misc.) (non-check) - 609.625; 609.635; 609.64
Bribery of Participant or Official in Contest - 609.825, subd. 2
Bringing Stolen Goods into State ($ 1,001 - $ 5,000) - 609.525
Bringing Stolen Goods into State ($ 501 - $ 1,000), with previous conviction) - 609.525
Cellular Counterfeiting 1 - 609.894, subd. 4
Check Forgery ($ 251 - $ 2,500) - 609.631, subd. 4(3)(a)
Coercion ($ 301 - $ 2,499) - 609.27, subd. 1(2), (3), (4), & (5)
Computer Damage ($ 2,500, or less) - 609.88
Computer Theft ($ 2,500, or less) - 609.89
Controlled Substance in the Fifth Degree - 152.025
Counterfeited Intellectual Property - 609.895, subd. 3(a)
Damage to Property - 609.595, subd. 1(2), (3), & (4)

Discharge of Firearm (intentional) - 609.66, subd. 1a(a)(2)
Discharge of Firearm (public housing, school, or park zone) - 609.66, subd. 1a(a)(2) & (3)
Dishonored Check (over $ 500) - 609.535, subd. 2a(a)(1)
Duty to Render Aid (death or great bodily harm) - 609.662, subd. 2(b)(1)
Electronic Use of False Pretense to Obtain Identity - 609.527, subd. 5a
Embezzlement of Public Funds ($ 2,500, or less) - 609.54
Failure to Affix Stamp on Remaining Schedule I, II, & III Non-Narcotics - 297D.09, subd. 1
Failure to Control a Regulated Animal (great bodily harm or death) - 346.155, subd. 10(e)
Financial Transaction Card Fraud ($ 2,500, or less) - 609.821, subd. 2(1), (2), (5), (6), (7), & (8)
Firearm Silencer - 609.66, subd. 1a(a)(1)
Furnishing a Dangerous Weapon - 609.66, subd. 1c
Furnishing Firearm to Minor - 609.66, subd. 1b
Gambling Regulations - 349.2127, subd. 1-6; 349.22, subd. 4
Identity Theft - 609.527, subd. 3(3)
Mail Theft - 609.529
Negligent Fires (damage $ 2,500 or more) - 609.576, subd. 1(3)(iii)
Possession or Sale of Stolen or Counterfeit Check - 609.528, subd. 3(3)
Precious Metal Dealers, Regulatory Provisions - 325F.743
Receiving Stolen Goods ($ 5,000, or less) - 609.53
Residential Mortgage Fraud - 609.822
Riot 2 - 609.71, subd. 2
Rustling and Livestock Theft ($ 2,500, or less) - 609.551
Telecommunications and Information Services; Obtaining Services by Fraud ($ 2,500, or less) - 609.893, subd. 1
Telecommunications and Information Services; Facilitation of Telecommunications Fraud - 609.893, subd. 2
Terroristic Threats - 609.713, subd. 2
Theft Crimes ($ 5,000, or less) $ I(See Theft Offense List)$ N
Theft ($ 1,000, or less; risk of bodily harm) - 609.52, subd. 3a(1)
Theft (Looting) - 609.52
Transfer Pistol to Ineligible Person - 624.7141, subd. 2
Transfer Pistol to Minor - 624.7132, subd. 15(b)
Wildfire Arson - 609.5641, subd. 1

I Accidents - 169.09, subd. 14(a)(2)
Aiding Offender to Avoid Arrest - 609.495, subd. 1
Assault 4 - 609.2231, subds. 1, 2, 3, & 3a
Assault Weapon in Public if Under 21 - 624.7181, subd. 2
Assaulting or Harming a Police Horse - 609.597, subd. 3(3)
Assaults Motivated by Bias - 609.2231, subd. 4(b)
Bullet-Resistant Vest During Commission of Crime - 609.486
Cable Communication Systems Interference - 609.80, subd. 2
Cellular Counterfeiting 2 - 609.894, subd. 3
Certification for Title on Watercraft - 86B.865, subd. 1
Check Forgery ($ 250, or less) - 609.631, subd. 4(3)(b)
Child Neglect/Endangerment - 609.378
Counterfeited Intellectual Property - 609.895, subd. 3(b)
Crime Committed for Benefit of Gang - 609.229, subd. 3(c)
Criminal Damage to Property Motivated by Bias - 609.595, subd. 1a(a)
Criminal Use of Real Property (movie pirating) - 609.896
Dangerous Weapons on School Property - 609.66, subd. 1d(a)

Depriving Another of Custodial or Parental Rights - 609.26, subd. 6(a)(1)
Discharge of Firearm (reckless) - 609.66, subd. 1a(a)(3)
Discharge of Firearm at Unoccupied Transit Vehicle/Facility - 609.855, subd. 5
Duty to Render Aid (substantial bodily harm) - 609.662, subd. 2(b)(2)
Escape from Civil Commitment - 609.485, subd. 4(a)(4)
Escape from Custody - 609.485, subd. 4(a)(2)
Failure to Affix Stamp on Marijuana/Hashish/Tetrahydrocannabinols - 297D.09, subd. 1
Failure to Affix Stamp on Schedule IV Substances - 297D.09, subd. 1
Failure to Appear in Court - 609.49; 588.20, subd. 1
False Declaration - 256.984
False Information - Certificate of Title Application - 168A.30
Financial Transaction Card Fraud - 609.821, subd. 2(3) & (4)
Fleeing a Peace Officer - 609.487, subd. 3
Forgery - 609.63; and Forgery Related Crimes $ I(See Forgery Related Offense List)$ N
Fraudulent Drivers' Licenses and Identification Cards - 609.652
Insurance Regulations - 62A.41
Interference with Privacy (subsequent violations & minor victim) - 609.746, subd. 1(e)
Interference with Transit Operator - 609.855, subd. 2(c)(1)
Leaving State to Evade Establishment of Paternity - 609.31
Liquor Taxation (criminal penalties) - 297G.19, subds. 3, 4(c), 5(c)
Lottery Fraud - 609.651, subd. 1 with subd. 4(a)
Nonsupport of Spouse or Child - 609.375, subd. 2a
Pistol without a Permit (subsequent violations) - 624.714, subd. 1a
Prize Notices and Solicitations - 325F.755, subd. 7
Prostitution Crimes (gross misdemeanor level) Committed in School or Park Zones - 609.3242, subd. 2(2)
Remove or Alter Serial Number on Firearm - 609.667
Sale of Simulated Controlled Substance - 152.097
Tampering with a Fire Alarm (potential for bodily harm) - 609.686, subd. 2
Tax on Petroleum and Other Fuels (willful evasion) - 296A.23, subd. 2
Terroristic Threats - 609.713, subd. 3(a)
Theft from Abandoned or Vacant Building ($ 1,000, or less) - 609.52, subd. 3(3)(d)(iii)
Unlawful Acts Involving Liquor - 340A.701
Voting Violations - Chapter 201, 203B, & 204C

UNRANKED Abortion - 617.20; 617.22; 145.412
Accomplice After the Fact - 609.495, subd. 3
Adulteration - 609.687, subd. 3(3)
Aiding Suicide - 609.215
Altering Engrossed Bill - 3.191
Animal Fighting - 343.31 (a)(b)
Assaulting or Harming a Police Horse - 609.597, subd. 3(1) & (2)
Bigamy - 609.355
Cigarette Tax and Regulation Violations - 297F.20
Collusive Bidding/Price Fixing - 325D.53, subds. 1(3), 2, & 3
Computer Encryption - 609.8912
Concealing Criminal Proceeds; Engaging in Business - 609.496; 609.497
Corrupting Legislator - 609.425
Counterfeiting of Currency - 609.632
Damage to Property of Critical Public Service Facilities, Utilities, and Pipelines - 609.594

Escape with Violence from Gross Misdemeanor or Misdemeanor Offense - 609.485, subd. 4(a)(3)
Failure to Report - 626.556, subd. 6
Falsely Impersonating Another - 609.83
Female Genital Mutilation - 609.2245
Forced Execution of a Declaration - 145B.105
Fraudulent or Improper Financing Statements - 609.7475
Gambling Acts (Cheating, Certain Devices Prohibited; Counterfeit Chips; Manufacture, Sale, Modification of Devices; Instruction) - 609.76, subd. 3, 4, 5, 6, & 7
Hazardous Wastes - 609.671
Horse Racing - Prohibited Act - 240.25
Incest - 609.365
Insurance Fraud - Employment of Runners - 609.612
Interstate Compact Violation - 243.161
Issuing a Receipt for Goods One Does Not Have - 227.50
Issuing a Second Receipt Without "Duplicate" On It - 227.52
Killing or Harming a Public Safety Dog - 609.596, subd. 1
Labor Trafficking - 609.282
Lawful Gambling Fraud - 609.763
Metal Penetrating Bullets - 624.74
Midwest Interstate Low-Level Radioactive Waste Compact; Enforcement of Compact and Laws - 116C.835
Misprision of Treason - 609.39
Motor Vehicle Excise Tax - 297B.10
Obscene Materials; Distribution - 617.241, subd. 4
Obstructing Military Forces - 609.395
Pipeline Safety - 299J.07, subd. 2
Police Radios During Commission of Crime - 609.856
Racketeering, Criminal Penalties (RICO) - 609.904
Real and Simulated Weapons of Mass Destruction - 609.712
Refusal to Assist - 6.53
Sale of Membership Camping Contracts - 82A.03; 82A.13; 82A.25
Service Animal Providing Service - 343.21, subd. 9(e) (g)
State Lottery Fraud - 609.651, subd. 1 with 4(b) and subd. 2 & 3
Subdivided Land Fraud - 83.43
Torture or Cruelty to Pet or Companion Animal - 343.21, subd. 9(c) (d) (f) (h)
Treason - 609.385
Unauthorized Computer Access - 609.891
Unlawful Conduct with Documents in Furtherance of Labor or Sex Trafficking - 609.283
Unlawful Transfer of Sounds; Sales - 325E.201
Warning Subject of Investigation - 609.4971
Warning Subject of Surveillance or Search - 609.4975
Wire Communications Violations - 626A.02, subd. 4; 626A.03, subd. 1(b)(iii); 626A.26, subd. 2(1)(ii)

A Criminal Sexual Conduct 1 - 609.342

B Criminal Sexual Conduct 2 - 609.343, subd. 1(c) (d) (e) (f) (h)

C Criminal Sexual Conduct 3 - 609.344, subd. 1(c) (d) (g) (h) (i) (j) (k) (l) (m) (n) (o)

D Criminal Sexual Conduct 2 - 609.343, subd. 1(a) (b) (g)
Criminal Sexual Conduct 3 - 609.344, subd. 1(a) (b) (e) (f)
Dissemination of Child Pornography (subsequent or by predatory offender) - 617.247, subd. 3

E Criminal Sexual Conduct 4 - 609.345, subd. 1(c) (d) (g) (h) (i) (j) (k) (l) (m) (n) (o)
Use Minors in Sexual Performance - 617.246, subds. 2, 3, 4
Dissemination of Child Pornography - 617.247, subd. 3

F Criminal Sexual Conduct 4 - 609.345, subd. 1(a) (b) (e) (f)

Possession of Child Pornography (subsequent or by predatory offender) - 617.247, subd. 4

G Criminal Sexual Conduct 5 - 609.3451, subd. 3
Solicitation of Children to Engage in Sexual Conduct - 617.352, subd. 2
Solicitation of Children to Engage in Sexual Conduct (Electronic) - 609.352, subd. 2a
Indecent Exposure - 617.23, subd. 3
Possession of Child Pornography - 617.247, subd. 4

H Failure to Register as a Predatory Offender - 243.166, subd. 5(b) (c)

IV. SENTENCING GUIDELINES GRID

Presumptive Sentence Lengths in Months

Italicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure. Offenders with non-imprisonment felony sentences are subject to jail time according to law.

SEVERITY LEVEL OF CONVICTION OFFENSE (Common offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
Murder, 2nd Degree (intentional murder; drive-by-shootings)	XI	306 *261-367*	326 *278-391*	346 *295-415*	366 *312-439*	386 *329-463*	406 *346-480*[2]	426 *363-480*[2]
Murder, 3rd Degree Murder, 2nd Degree (unintentional murder)	X	150 *128-180*	165 *141-198*	180 *153-216*	195 *166-234*	210 *179-252*	225 *192-270*	240 *204-288*
Assault, 1st Degree Controlled Substance Crime, 1st Degree	IX	86 *74-103*	98 *84-117*	110 *94-132*	122 *104-146*	134 *114-160*	146 *125-175*	158 *135-189*
Aggravated Robbery, 1st Degree Controlled Substance Crime, 2nd Degree	VIII	48 *41-57*	58 *50-69*	68 *58-81*	78 *67-93*	88 *75-105*	98 *84-117*	108 *92-129*
Felony DWI	VII	36	42	48	54 *46-64*	60 *51-72*	66 *57-79*	72 *62-84*[2]
Controlled Substance Crime, 3rd Degree	VI	21	27	33	39 *34-46*	45 *39-54*	51 *44-61*	57 *49-68*
Residential Burglary Simple Robbery	V	18	23	28	33 *29-39*	38 *33-45*	43 *37-51*	48 *41-57*
Nonresidential Burglary	IV	12[1]	15	18	21	24 *21-28*	27 *23-32*	30 *26-36*
Theft Crimes (Over $5,000)	III	12[1]	13	15	17	19 *17-22*	21 *18-25*	23 *20-27*
Theft Crimes ($5,000 or less) Check Forgery ($251-$2,500)	II	12[1]	12[1]	13	15	17	19	21 *18-25*
Sale of Simulated Controlled Substance	I	12[1]	12[1]	12[1]	13	15	17	19 *17-22*

Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the guidelines by law. See Guidelines Section II.E., Mandatory Sentences, for policy regarding those sentences controlled by law.

Presumptive stayed sentence; at the discretion of the judge, up to a year in jail and/or other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in this section of the grid always carry a presumptive commitment to state prison. See, Guidelines Sections II.C. Presumptive Sentence and II.E. Mandatory Sentences.

1 One year and one day

2 M.S. § 244.09 requires the Sentencing Guidelines to provide a range for sentences which are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. See, Guidelines Sections II.H. Presumptive Sentence Durations that Exceed the Statutory Maximum Sentence and II.I. Sentence Ranges for Presumptive Commitment Offenses in Shaded Areas of Grids.

Effective August 1, 2009

Sex Offender Grid

Presumptive Sentence Lengths in Months

Italicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure. Offenders with non-imprisonment felony sentences are subject to jail time according to law.

SEVERITY LEVEL OF CONVICTION OFFENSE		CRIMINAL HISTORY SCORE						
		0	**1**	**2**	**3**	**4**	**5**	**6 or more**
CSC 1st Degree	**A**	144 *144-173*	156 *144-187*	168 *144-202*	180 *153-216*	234 *199-281*	306 *260-360*	360 *306-360*[2]
CSC 2nd Degree – (c)(d)(e)(f)(h)	**B**	90 *90-108*	110 *94-132*	130 *111-156*	150 *128-180*	195 *166-234*	255 *217-300*	300 *255-300*[2]
CSC 3rd Degree – (c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o)	**C**	48 *41-58*	62 *53-74*	76 *65-91*	90 *77-108*	117 *99-140*	153 *130-180*	180 *153-180*[2]
CSC 2nd Degree – (a)(b)(g) *CSC 3rd Degree – (a)(b)(e)(f)*[2] *Dissemination of Child Pornography (Subsequent or by Predatory Offender)*	**D**	36	48	60 *51-72*	70 *60-84*	91 *77-109*	119 *101-143*	140 *119-168*
CSC 4th Degree – (c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o) *Use Minors in Sexual Performance* *Dissemination of Child Pornography*[2]	**E**	24	36	48	60 51-72	78 *66-94*	102 *87-120*	120 *102-120*[2]
CSC 4th Degree – (a)(b)(e)(f) *Possession of Child Pornography (Subsequent or by Predatory Offender)*	**F**	18	27	36	45 *38-54*	59 *50-71*	77 *65-92*	84 *71-101*
CSC 5th Degree *Indecent Exposure* *Possession of Child Pornography* *Solicit Children for Sexual Conduct*[2]	**G**	15	20	25	30	39 *33-47*	51 *43-60*	60 *51-60*[2]
Registration Of Predatory Offenders	**H**	12[1] *12*[1]*-14*	14 *12*[1]*-17*	16 *14-19*	18 *15-22*	24 *20-29*	30 *26-36*	36 *31-43*

Presumptive commitment to state imprisonment. Sex offenses under Minn. Stat. § 609.3455, subd. 2 are excluded from the guidelines, because by law the sentence is mandatory imprisonment for life. See Guidelines Section II.E ., Mandatory Sentences, for policy regarding those sentences controlled by law, including minimum periods of supervision for sex offenders released from prison.

Presumptive stayed sentence; at the discretion of the judge, up to a year in jail and/or other non -jail sanctions can be imposed as conditions of probation. However, certain offenders in this section of the grid may qualify for a mandatory life sentence under Minn. Stat. § 609.3455, subd. 4. See, Guidelines Sections II.C. Presumptive Sentence and II.E. Mandatory Sentences.

1 One year and one day

2 M.S. § 244.09 requires the Sentencing Guidelines to provide a range for sentences which are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. See, Guidelines Sections II.H. Presumptive Sentence Durations that Exceed the Statutory Maximum Sentence and II.I. Sentence Ranges for Presumptive Commitment Offenses in Shaded Areas of Grids.

Effective August 1, 2009

MISSISSIPPI

MISS. CODE ANN. § 97-3-7 (2010). Simple assault; aggravated assault; simple domestic violence; aggravated domestic violence.

(1) A person is guilty of simple assault if he (a) attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or (b) negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (c) attempts by physical menace to put another in fear of imminent serious bodily harm; and, upon conviction, he shall be punished by a fine of not more than Five Hundred Dollars ($ 500.00) or by imprisonment in the county jail for not more than six (6) months, or both. However, a person convicted of simple assault (a) upon a statewide elected official, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker or family protection specialist or family protection worker employed by the Department of Human Services or another agency, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, or a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender, while such statewide elected official, judge or justice, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender is acting within the scope of his duty, office or employment; (b) upon a legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his duty, office or employment; or (c) upon a person who is sixty-five (65) years of age or older or a person who is a vulnerable adult as defined in Section 43-47-5, shall be punished by a fine of not more than One Thousand Dollars ($ 1,000.00) or by imprisonment for not more than five (5) years, or both.

(2) A person is guilty of aggravated assault if he (a) attempts to cause serious bodily injury to another, or causes such injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life; or (b) attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; and, upon conviction, he shall be punished by imprisonment in the county jail for not more than one (1) year or in the Penitentiary for not more than twenty (20) years. However, a person convicted of aggravated assault (a) upon a statewide elected official, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker employed by the Department of Human Services or another agency, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, or a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender, while such statewide elected official, judge or

justice, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender is acting within the scope of his duty, office or employment; (b) upon a legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his duty, office or employment; or (c) upon a person who is sixty-five (65) years of age or older or a person who is a vulnerable adult as defined in Section 43-47-5, shall be punished by a fine of not more than Five Thousand Dollars ($ 5,000.00) or by imprisonment for not more than thirty (30) years, or both.

(3) A person is guilty of simple domestic violence who commits simple assault as described in subsection (1) of this section against a current or former spouse or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, other persons related by consanguinity or affinity who reside with or formerly resided with the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child and, upon conviction, the defendant shall be punished as provided under subsection (1) of this section; however, upon a third or subsequent conviction of simple domestic violence, whether against the same or another victim and within five (5) years, the defendant shall be guilty of a felony and sentenced to a term of imprisonment not less than five (5) nor more than ten (10) years. In sentencing, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred.

(4) A person is guilty of aggravated domestic violence who commits aggravated assault as described in subsection (2) of this section against a current or former spouse or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant, other persons related by consanguinity or affinity who reside with or formerly resided with the defendant or a child of that person, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child and, upon conviction, the defendant shall be punished as provided under subsection (2) of this section; however, upon a third or subsequent offense of aggravated domestic violence, whether against the same or another victim and within five (5) years, the defendant shall be guilty of a felony and sentenced to a term of imprisonment of not less than five (5) nor more than twenty (20) years. In sentencing, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred. Reasonable discipline of a child, such as spanking, is not an offense under this subsection (4).

(5) "Dating relationship" means a social relationship as defined in Section 93-21-3.

(6) Every conviction of domestic violence may require as a condition of any suspended sentence that the defendant participate in counseling or treatment to bring about the cessation of domestic abuse. The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

(7) When investigating allegations of a violation of subsection (3) or (4) of this section, law enforcement officers shall utilize the form prescribed for such purposes by the Office of the Attorney General in consultation with the sheriff's and police chief's associations.

(8) In any conviction of assault as described in any subsection of this section which arises from an incident of domestic violence, the sentencing order shall include the designation "domestic violence." The court shall forward a copy of each sentencing order bearing the designation "domestic violence" to the Office of the Attorney General.

Amendment Effective from and after July 1, 2010:
SECTION 1. Section 97-3-7, Mississippi Code of 1972, is amended as follows:

97-3-7. (1) A person is guilty of simple assault if he (a) attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or (b) negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (c) attempts by physical menace to put another in fear of imminent serious bodily harm; and, upon conviction, he shall be punished by a fine of not more than Five Hundred Dollars ($ 500.00) or by imprisonment in the county jail for not more than six (6) months, or both. However, a person convicted of simple assault (a) upon a statewide elected official, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker or family protection specialist or family protection worker employed by the Department of Human Services or another agency, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, or a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender, while such statewide elected official, judge or justice, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender is acting within the scope of his duty, office or employment; (b) upon a legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his duty, office or employment; or (c) upon a person who is sixty-five (65) years of age or older or a person who is a vulnerable adult [A> , <A] as defined in Section 43-47-5, shall be punished by a fine of not more than One Thousand Dollars ($ 1,000.00) or by imprisonment for not more than five (5) years, or both.

(2) A person is guilty of aggravated assault if he (a) attempts to cause serious bodily injury to another, or causes such injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life; or (b) attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; and, upon conviction, he shall be punished by imprisonment in the county jail for not more than one (1) year or in the Penitentiary for not more than twenty (20) years. However, a person convicted of aggravated assault (a) upon a statewide elected official, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker employed by the Department of Human Services or another agency, youth detention center personnel, training

school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, or a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender, while such statewide elected official, judge or justice, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender is acting within the scope of his duty, office or employment; (b) upon a legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his duty, office or employment; or (c) upon a person who is sixty-five (65) years of age or older or a person who is a vulnerable adult [A> , <A] as defined in Section 43-47-5, shall be punished by a fine of not more than Five Thousand Dollars ($ 5,000.00) or by imprisonment for not more than thirty (30) years, or both.

(3) A person is guilty of simple domestic violence who commits simple assault as described in subsection (1) of this section against a current or former spouse or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, other persons related by consanguinity or affinity who reside with or formerly resided with the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child and, upon conviction, the defendant shall be punished as provided under subsection (1) of this section; however, upon a third or subsequent conviction of simple domestic violence, whether against the same or another victim and within five (5) years, the defendant shall be guilty of a felony and sentenced to a term of imprisonment not less than five (5) nor more than ten (10) years. In sentencing, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred.

(4) A person is guilty of aggravated domestic violence who commits aggravated assault as described in subsection (2) of this section against [A> , OR WHO STRANGLES, OR ATTEMPTS TO STRANGLE, <A] a current or former spouse or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant [A> OR A CHILD OF THAT PERSON <A] , other persons related by consanguinity or affinity who reside with or formerly resided with the defendant* * *, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child [A> . <A] Upon conviction, the defendant shall be punished [A> BY IMPRISONMENT IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS FOR NOT LESS THAN TWO (2) YEARS <A] ; however, upon a third or subsequent [A> CONVICTION <A] of aggravated domestic violence, whether against the same or another victim and within five (5) years, the defendant shall be guilty of a felony and sentenced to a term of imprisonment of not less than [A> TEN (10) <A] nor more than twenty (20) years. In sentencing, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred. Reasonable discipline of a child, such as spanking, is not an offense

under this subsection (4). [A> A PERSON CONVICTED OF AGGRAVATED DOMESTIC VIOLENCE SHALL NOT BE ELIGIBLE FOR PAROLE UNDER THE PROVISIONS OF SECTION 47-7-3(1)(C) UNTIL HE SHALL HAVE SERVED ONE (1) YEAR OF HIS SENTENCE. <A]

[A> FOR THE PURPOSES OF THIS SECTION, "STRANGLE" MEANS TO RESTRICT THE FLOW OF OXYGEN OR BLOOD BY INTENTIONALLY APPLYING PRESSURE ON THE NECK OR THROAT OF ANOTHER PERSON BY ANY MEANS OR TO INTENTIONALLY BLOCK THE NOSE OR MOUTH OF ANOTHER PERSON BY ANY MEANS. <A]

(5) "Dating relationship" means a social relationship as defined in Section 93-21-3.

(6) Every conviction of domestic violence may require as a condition of any suspended sentence that the defendant participate in counseling or treatment to bring about the cessation of domestic abuse. The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

(7) When investigating allegations of a violation of subsection (3) or (4) of this section, law enforcement officers shall utilize the form prescribed for such purposes by the Office of the Attorney General in consultation with the sheriff's and police chief's associations.

(8) In any conviction of assault as described in any subsection of this section which arises from an incident of domestic violence, the sentencing order shall include the designation "domestic violence." The court shall forward a copy of each sentencing order bearing the designation "domestic violence" to the Office of the Attorney General.

MISS. CODE ANN. § 97-3-51 (2010). Interstate removal of child under age fourteen by noncustodial parent or relative.

(1) For the purposes of this section, the following terms shall have the meaning herein ascribed unless the context otherwise clearly requires:

(a) "Child" means a person under the age of fourteen (14) years at the time a violation of this section is alleged to have occurred.

(b) "Court order" means an order, decree or judgment of any court of this state which is competent to decide child custody matters.

(2) It shall be unlawful for any noncustodial parent or relative with intent to violate a court order awarding custody of a child to another to remove the child from this state or to hold the child out of state after the entry of a court order.

(3) Any person convicted of a violation of subsection (2) of this section shall be guilty of a felony and may be punished by a fine of not more than Two Thousand Dollars ($ 2,000.00), or by imprisonment in the state penitentiary for a term not to exceed three (3) years, or by both such fine and imprisonment.

(4) The provisions of this section shall not be construed to repeal, modify or amend any other criminal statute of this state.

MISS. CODE ANN. § 97-3-52 (2010). Prohibition against selling, buying, offering to sell and offering to buy child or unborn child; penalties.

(1) Selling, buying, offering to sell and offering to buy a child or an unborn child is prohibited and, upon conviction, shall be punishable by a fine not to exceed Twenty Thousand Dollars ($ 20,000.00), imprisonment in the custody of the Department of Corrections for a term not to exceed ten (10) years, or both.

(2) This section shall not be construed so as to prohibit any payment to an entity licensed for child placing or as otherwise authorized under Section 43-15-117.

MISS. CODE ANN. § 97-3-53 (2010). Kidnapping; punishment.

Any person who, without lawful authority and with or without intent to secretly confine, shall forcibly seize and confine any other person, or shall inveigle or kidnap any other person with intent to cause such person to be confined or imprisoned against his or her will, or without lawful authority shall forcibly seize, inveigle or kidnap any child under the age of sixteen (16) years against the will of the parents or guardian or person having the lawful custody of the child, upon conviction shall be imprisoned for life in the custody of the Department of Corrections if the punishment is so fixed by the jury in its verdict. If the jury fails to agree on fixing the penalty at imprisonment for life, the court shall fix the penalty at not less than one (1) year nor more than thirty (30) years in the custody of the Department of Corrections.

This section shall not be held to repeal, modify or amend any other criminal statute of this state.

MISS. CODE ANN. § 97-3-54.1 (2010). Anti-Human Trafficking Act; prohibited conduct; penalty.

(1) (a) A person who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services, shall be guilty of the crime of human-trafficking.

(b) A person who knowingly subjects, or attempts to subject, another person to forced labor or services shall be guilty of the crime of procuring involuntary servitude.

(c) A person who knowingly subjects, or attempts to subject, or who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, a minor, knowing that the minor will engage in commercial sexual activity, sexually-explicit performance, or the production of sexually oriented material, or causes or attempts to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, shall be guilty of procuring sexual servitude of a minor and shall be punished by commitment to the custody of the Department of Corrections for not more than thirty (30) years.

(2) A person who is convicted of an offense set forth in subsection (1)(a) or (b) of this section, or who benefits, whether financially or by receiving anything of value, from participation in a venture that has engaged in an act described in this section, shall be committed to the custody of the Department of Corrections for not more than twenty (20) years.

MISS. CODE ANN. § 97-3-65 (2010). Statutory rape; enhanced penalty for forcible sexual intercourse or statutory rape by administering certain substances.

(1) The crime of statutory rape is committed when:

(a) Any person seventeen (17) years of age or older has sexual intercourse with a child who:

(i) Is at least fourteen (14) but under sixteen (16) years of age;

(ii) Is thirty-six (36) or more months younger than the person; and

(iii) Is not the person's spouse; or

(b) A person of any age has sexual intercourse with a child who:

(i) Is under the age of fourteen (14) years;

(ii) Is twenty-four (24) or more months younger than the person; and

(iii) Is not the person's spouse.

(2) Neither the victim's consent nor the victim's lack of chastity is a defense to a charge of statutory rape.

(3) Upon conviction for statutory rape, the defendant shall be sentenced as follows:

(a) If eighteen (18) years of age or older, but under twenty-one (21) years of age, and convicted under subsection (1)(a) of this section, to imprisonment for not more than five (5) years in the State Penitentiary or a fine of not more than Five Thousand Dollars ($ 5,000.00), or both;

(b) If twenty-one (21) years of age or older and convicted under subsection (1)(a) of this section, to imprisonment of not more than thirty (30) years in the State Penitentiary or a fine of not more than Ten Thousand Dollars ($ 10,000.00), or both, for the first offense, and not more than forty (40) years in the State Penitentiary for each subsequent offense;

(c) If eighteen (18) years of age or older and convicted under subsection (1)(b) of this section, to imprisonment for life in the State Penitentiary or such lesser term of imprisonment as the court may determine, but not less than twenty (20) years;

(d) If thirteen (13) years of age or older but under eighteen (18) years of age and convicted under subsection (1)(a) or (1)(b) of this section, such imprisonment, fine or other sentence as the court, in its discretion, may determine.

(4) (a) Every person who shall have forcible sexual intercourse with any person, or who shall have sexual intercourse not constituting forcible sexual intercourse or statutory rape with any person without that person's consent by administering to such person any substance or liquid which shall produce such stupor or such imbecility of mind or weakness of body as to prevent effectual resistance, upon conviction, shall be imprisoned for life in the State Penitentiary if the jury by its verdict so prescribes; and in cases where the jury fails to fix the penalty at life

imprisonment, the court shall fix the penalty at imprisonment in the State Penitentiary for any term as the court, in its discretion, may determine.

(b) This subsection (4) shall apply whether the perpetrator is married to the victim or not.

(5) In all cases where a victim is under the age of sixteen (16) years, it shall not be necessary to prove penetration where it is shown the genitals, anus or perineum of the child have been lacerated or torn in the attempt to have sexual intercourse with the child.

(6) For the purposes of this section, "sexual intercourse" shall mean a joining of the sexual organs of a male and female human being in which the penis of the male is inserted into the vagina of the female or the penetration of the sexual organs of a male or female human being in which the penis or an object is inserted into the genitals, anus or perineum of a male or female.

MISS. CODE ANN. § 97-3-101 (2010). Sexual battery; penalty.

(1) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(a), (b), or (2) shall be imprisoned in the State Penitentiary for a period of not more than thirty (30) years, and for a second or subsequent such offense shall be imprisoned in the penitentiary for not more than forty (40) years.

(2) (a) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(c) who is at least eighteen (18) but under twenty-one (21) years of age shall be imprisoned for not more than five (5) years in the State Penitentiary or fined not more than Five Thousand Dollars ($ 5,000.00), or both;

(b) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(c) who is twenty-one (21) years of age or older shall be imprisoned not more than thirty (30) years in the State Penitentiary or fined not more than Ten Thousand Dollars ($ 10,000.00), or both, for the first offense, and not more than forty (40) years in the State Penitentiary for each subsequent offense.

(3) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(d) who is eighteen (18) years of age or older shall be imprisoned for life in the State Penitentiary or such lesser term of imprisonment as the court may determine, but not less than twenty (20) years.

(4) Every person who shall be convicted of sexual battery who is thirteen (13) years of age or older but under eighteen (18) years of age shall be sentenced to such imprisonment, fine or other sentence as the court, in its discretion, may determine.

MISS. CODE ANN. § 97-5-1 (2010). Abandonment of child under age six.

If the father or mother of any child under the age of six years, or any other person having the lawful custody of such child, or to whom such child shall have been confided, shall expose such child in any highway, street, field, house, outhouse, or elsewhere, with intent wholly to abandon it, such person shall, upon conviction, be punished by imprisonment in the penitentiary not more than seven years, or in the county jail not more than one year.

MISS. CODE ANN. § 97-5-3 (2010). Desertion or nonsupport of child under age eighteen.

Any parent who shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her child or children, including the natural parent of an illegitimate child or children wherein paternity has been established by law or when the natural parent has acknowledged paternity in writing, while said child or children are under the age of eighteen (18) years shall be guilty of a felony and, on conviction thereof, shall be punished for a first offense by a fine of not less than One Hundred Dollars ($ 100.00) nor more than Five Hundred Dollars ($ 500.00), or by commitment to the custody of the Department of Corrections not more than five (5) years, or both; and for a second or subsequent offense, by a fine of not less than One Thousand Dollars ($ 1,000.00) nor more than Ten Thousand Dollars ($ 10,000.00), or by commitment to the custody of the Department of Corrections not less than two (2) years nor more than five (5) years, or both, in the discretion of the court.

MISS. CODE ANN. § 97-5-5 (2010). Enticing child for concealment, prostitution or marriage.

Every person who shall maliciously, wilfully, or fraudulently lead, take, carry away, decoy or entice away, any child under the age of fourteen years, with intent to detain or conceal such child from its parents, guardian, or other person having lawful charge of such child, or for the purpose of prostitution, concubinage, or marriage, shall, on conviction, be imprisoned in the penitentiary not exceeding ten years, or imprisoned in the county jail not more than one year, or fined not more than one thousand dollars, or both.

MISS. CODE ANN. § 97-5-7 (2010). Enticing child for employment.

Any person who shall persuade, entice or decoy away from its father or mother with whom it resides any child under the age of eighteen (18) years, being unmarried, for the purpose of employing such child without the consent of its parents, or one of them, shall upon conviction be punished by a fine of not more than twenty dollars ($ 20.00) or imprisoned in the county jail not more than thirty (30) days, or both.

MISS. CODE ANN. § 97-5-23 (2010). Touching, handling, etc., child, mentally defective or incapacitated person or physically helpless person.

(1) Any person above the age of eighteen (18) years, who, for the purpose of gratifying his or her lust, or indulging his or her depraved licentious sexual desires, shall handle, touch or rub with hands or any part of his or her body or any member thereof, any child under the age of sixteen (16) years, with or without the child's consent, or a mentally defective, mentally incapacitated or physically helpless person as defined in Section 97-3-97, shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than One Thousand Dollars ($ 1,000.00) nor more than Five Thousand Dollars ($ 5,000.00), or be committed to the custody of the State Department of Corrections not less than two (2) years nor more than fifteen (15) years, or be punished by both such fine and imprisonment, at the discretion of the court.

(2) Any person above the age of eighteen (18) years, who, for the purpose of gratifying his or her lust, or indulging his or her depraved licentious sexual desires, shall handle, touch or rub with

hands or any part of his or her body or any member thereof, any child younger than himself or herself and under the age of eighteen (18) years who is not such person's spouse, with or without the child's consent, when the person occupies a position of trust or authority over the child shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than One Thousand Dollars ($ 1,000.00) nor more than Five Thousand Dollars ($ 5,000.00), or be committed to the custody of the State Department of Corrections not less than two (2) years nor more than fifteen (15) years, or be punished by both such fine and imprisonment, at the discretion of the court. A person in a position of trust or authority over a child includes without limitation a child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach.

(3) Upon a second conviction for an offense under this section, the person so convicted shall be punished by commitment to the State Department of Corrections for a term not to exceed twenty (20) years, however, upon conviction and sentencing, the offender shall serve at least one-half (1/2) of the sentence so imposed.

MISS. CODE ANN. § 97-5-35 (2010). Exploitation of children; penalties.

Any person who violates any provision of Section 97-5-33 shall be guilty of a felony and upon conviction shall be fined not less than Fifty Thousand Dollars ($ 50,000.00) nor more than Five Hundred Thousand Dollars ($ 500,000.00) and shall be imprisoned for not less than five (5) years nor more than forty (40) years. Any person convicted of a second or subsequent violation of Section 97-5-33 shall be fined not less than One Hundred Thousand Dollars ($ 100,000.00) nor more than One Million Dollars ($ 1,000,000.00) and shall be confined in the custody of the Department of Corrections for life or such lesser term as the court may determine, but not less than twenty (20) years.

MISS. CODE ANN. § 97-5-39 (2010). Contributing to the neglect or delinquency of a child; felonious abuse and/or battery of a child.

(1) (a) Except as otherwise provided in this section, any parent, guardian or other person who willfully commits any act or omits the performance of any duty, which act or omission contributes to or tends to contribute to the neglect or delinquency of any child or which act or omission results in the abuse of any child, as defined in Section 43-21-105(m) of the Youth Court Law, or who knowingly aids any child in escaping or absenting himself from the guardianship or custody of any person, agency or institution, or knowingly harbors or conceals, or aids in harboring or concealing, any child who has absented himself without permission from the guardianship or custody of any person, agency or institution to which the child shall have been committed by the youth court shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed One Thousand Dollars ($ 1,000.00), or by imprisonment not to exceed one (1) year in jail, or by both such fine and imprisonment.

(b) If the child's deprivation of necessary food, clothing, shelter, health care or supervision appropriate to the child's age results in substantial harm to the child's physical, mental or emotional health, the person may be sentenced to imprisonment for not more than five (5) years or to payment of a fine of not more than Five Thousand Dollars ($ 5,000.00), or both.

(c) A parent, legal guardian or other person who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment for

not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars ($ 10,000.00), or both.

(2) (a) Any person who shall intentionally (i) burn any child, (ii) torture any child or, (iii) except in self-defense or in order to prevent bodily harm to a third party, whip, strike or otherwise abuse or mutilate any child in such a manner as to cause serious bodily harm, shall be guilty of felonious abuse of a child and, upon conviction, shall be sentenced to imprisonment in the custody of the Department of Corrections for life or such lesser term of imprisonment as the court may determine, but not less than ten (10) years. For any second or subsequent conviction under this subsection, the person shall be sentenced to imprisonment for life.

(b) (i) A parent, legal guardian or caretaker who endangers a child's person or health by knowingly causing or permitting the child to be present where any person is selling, manufacturing or possessing immediate precursors or chemical substances with intent to manufacture, sell or possess a controlled substance as prohibited under Section 41-29-139 or 41-29-313, is guilty of child endangerment and may be sentenced to imprisonment for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars ($ 10,000.00), or both.

(ii) If the endangerment results in substantial harm to the child's physical, mental or emotional health, the person may be sentenced to imprisonment for not more than twenty (20) years or to payment of a fine of not more than Twenty Thousand Dollars ($ 20,000.00), or both.

(3) Nothing contained in this section shall prevent proceedings against the parent, guardian or other person under any statute of this state or any municipal ordinance defining any act as a crime or misdemeanor. Nothing in the provisions of this section shall preclude any person from having a right to trial by jury when charged with having violated the provisions of this section.

(4) After consultation with the Department of Human Services, a regional mental health center or an appropriate professional person, a judge may suspend imposition or execution of a sentence provided in subsections (1) and (2) of this section and in lieu thereof require treatment over a specified period of time at any approved public or private treatment facility. A person may be eligible for treatment in lieu of criminal penalties no more than one (1) time.

(5) In any proceeding resulting from a report made pursuant to Section 43-21-353 of the Youth Court Law, the testimony of the physician making the report regarding the child's injuries or condition or cause thereof shall not be excluded on the ground that the physician's testimony violates the physician-patient privilege or similar privilege or rule against disclosure. The physician's report shall not be considered as evidence unless introduced as an exhibit to his testimony.

(6) Any criminal prosecution arising from a violation of this section shall be tried in the circuit, county, justice or municipal court having jurisdiction; provided, however, that nothing herein shall abridge or dilute the contempt powers of the youth court.

MISS. CODE ANN. § 97-5-40 (2010). Condoning child abuse.

(1) Any parent, guardian, custodian, stepparent or any other person who lives in the household with a child, who knowingly condones an incident of felonious child abuse of that child, which consists of one or more violations of (a) subsection (2) of Section 97-5-39 or (b) felonious sexual

battery of that child, which consists of one or more violations of Section 97-3-95 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not more than one (1) year or by a fine of not more than One Thousand Dollars ($ 1,000.00), or both.

(2) A person shall not be considered to have condoned child abuse merely because such person does not report an act of child abuse.

(3) The provisions of this section shall be in addition to any other criminal law.

MISS. CODE ANN. § 97-5-41 (2010). Carnal knowledge of step or adopted child; carnal knowledge of child by cohabitating partner.

(1) Any person who shall have carnal knowledge of his or her unmarried stepchild or adopted child younger than himself or herself and over fourteen (14) and under eighteen (18) years of age, upon conviction, shall be punished by imprisonment in the penitentiary for a term not exceeding ten (10) years.

(2) Any person who shall have carnal knowledge of an unmarried child younger than himself or herself and over fourteen (14) and under eighteen (18) years of age, with whose parent he or she is cohabiting or living together as husband and wife, upon conviction, shall be punished by imprisonment in the penitentiary for a term not exceeding ten (10) years.

MISS. CODE ANN. § 97-5-42 (2010). Protection of children from parents convicted of felony child sexual abuse; creation of local registry; penalties; standards for visitation.

(1) (a) For purposes of this section, a conviction of felony parental child sexual abuse shall include any nolo contendere plea, guilty plea or conviction at trial to any offense enumerated in Section 93-15-103(3)(g) or any other statute of the State of Mississippi whereby a parent may be penalized as a felon on account of sexual abuse of his or her own child; and shall include any conviction by plea or trial in any other state of the United States to an offense whereby a parent may be penalized as a felon for sexual abuse of his or her own child under the laws of that state, or which would be so penalized for such conduct had the act or acts been committed in the State of Mississippi.

(b) A certified copy of the court order or judgment evidencing such a conviction shall be accepted by any public office with responsibilities pursuant to this section, and by any court in the State of Mississippi, as conclusive evidence of the conviction.

(2) (a) No person who has been convicted of felony parental child sexual abuse shall contact or attempt to contact the victim child without the prior express written permission of the child's then legal custodian, who may be the other parent, a guardian, person in loco parentis or person with legal or physical custody of a child.

(b) No person who has been convicted of felony parental child sexual abuse shall harass, threaten, intimidate or by any other means menace the victim child or any legal custodian of the child, who may be the other parent, a guardian, person in loco parentis or person with legal or physical custody of a child.

(c) Any person who believes that a person who has been convicted of felony parental child sexual abuse may violate the provisions of subsection (2) (a) or (2) (b) hereof may register with the sheriff and any municipal law enforcement agency of the child's county and municipality of residence, setting forth the factual basis for that belief which shall include a certified copy of the court order or judgment evidencing the conviction of the child sexual abuse felon. The sheriff's office of each county and all municipal law enforcement agencies shall maintain a separate and distinct register for the purpose of recording the data required herein, and shall advise the reporting party of how emergency contact can be made with that office at any time with respect to a threatened violation of subsection (2) (a) or (2) (b) hereof. Immediate response with police protection shall be provided to any emergency contact made pursuant to this section, which police protection shall be continued in such reasonable manner as to deter future violations and protect the child and any person with legal custody of the child.

(d) Any person who has been convicted of felony parental child sexual abuse who violates subsection (2) (a) hereof shall, upon conviction, be punished by imprisonment in the county jail for not more than one (1) year. Any person who has been convicted of felony parental child sexual abuse who violates subsection (2) (b) hereof shall, upon conviction, be punished by imprisonment in the state penitentiary for not more than five (5) years.

(3) No person who has been convicted of felony parental child sexual abuse shall be entitled to have parental or other visitation rights as to that child who was the victim, unless he or she files a petition in the chancery court of the county in which the child resides, reciting the conviction, and joining as parties defendant any other parent, guardian, person standing in loco parentis or having legal or physical custody of the child. A guardian ad litem shall be appointed to represent the child at petitioner's expense. The court shall appoint a qualified psychologist or psychiatrist to conduct an independent examination of the petitioner to determine whether contact with that person poses a physical or emotional risk to the child, and report to the court. Such examination shall be at petitioner's expense. The court shall require any such petitioner to deposit with the court sufficient funds to pay expenses chargeable to a petitioner hereunder, the amount of such deposit to be within the discretion of the chancellor. Any defendant and the child through his or her guardian ad litem shall be entitled to a full evidentiary hearing on the petition. In no event shall a child be required to testify in court or by deposition, or be subjected to any psychological examination, without the express consent of the child through his or her guardian ad litem. Such guardian ad litem shall consult with the child's legal guardian or custodians before consenting to such testimony or examination. At any hearing there is a rebuttable presumption that contact with the child poses a physical and emotional risk to the child. That presumption may be rebutted and visitation or contact allowed on such terms and conditions that the chancery court shall set only upon specific written findings by the court that:

(a) Contact between the child and the offending parent is appropriate and poses minimal risk to the child;

(b) If the child has received counseling, that the child's counselor believes such contact is in the child's best interest;

(c) The offending parent has successfully engaged in treatment for sex offenders or is engaged in such treatment and making progress; and

(d) The offending parent's treatment provider believes contact with the child is appropriate and poses minimal risk to the child. If the court, in its discretion, allows visitation or contact it may impose such conditions to the visitation or contact which it finds reasonable, including

supervision of contact or visitation by a neutral and independent adult with a detailed plan for supervision of any such contact or visitation.

MISS. CODE ANN. § 99-19-20 (2010). Sentence; imposition of fine; payment; imprisonment for nonpayment; indigent defendants.

(1) When any court sentences a defendant to pay a fine, the court may order (a) that the fine be paid immediately, or (b) that the fine be paid in installments to the clerk of said court or to the judge, if there be no clerk, or (c) that payment of the fine be a condition of probation, or (d) that the defendant be required to work on public property for public benefit under the direction of the sheriff for a specific number of hours, or (e) any combination of the above.

(2) The defendant may be imprisoned until the fine is paid if the defendant is financially able to pay a fine and the court so finds, subject to the limitations hereinafter set out. The defendant shall not be imprisoned if the defendant is financially unable to pay a fine and so states to the court in writing, under oath, after sentence is pronounced, and the court so finds, except if the defendant is financially unable to pay a fine and such defendant failed or refused to comply with a prior sentence as specified in subsection (1) of this section, the defendant may be imprisoned.

This subsection shall be limited as follows:

(a) In no event shall such period of imprisonment exceed one (1) day for each Twenty-five Dollars ($ 25.00) of the fine. [A> IF A DEFENDANT IS UNABLE TO WORK OR IF THE COUNTY OR THE MUNICIPALITY IS UNABLE TO PROVIDE WORK FOR THE DEFENDANT, THE DEFENDANT SHALL RECEIVE A CREDIT OF TWENTY-FIVE DOLLARS ($ 25.00) FOR EACH DAY OF IMPRISONMENT. <A]

(b) If a sentence of imprisonment, as well as a fine, were imposed, the aggregate of such term for nonpayment of a fine and the original sentence of imprisonment shall not exceed the maximum authorized term of imprisonment.

(c) [A> IT SHALL BE IN THE DISCRETION OF THE JUDGE TO DETERMINE THE RATE OF THE <A] credit* * * [A> TO <A] be earned for work performed under subsection (1)(d), [A> BUT THE RATE SHALL BE NO LOWER THAN <A] the rate of the highest current federal minimum wage.

(3) Periods of confinement imposed for nonpayment of two (2) or more fines shall run consecutively unless specified by the court to run concurrently.

MISS. CODE ANN. § 99-19-81 (2010). Sentencing of habitual criminals to maximum term of imprisonment.

Every person convicted in this state of a felony who shall have been convicted twice previously of any felony or federal crime upon charges separately brought and arising out of separate incidents at different times and who shall have been sentenced to separate terms of one (1) year or more in any state and/or federal penal institution, whether in this state or elsewhere, shall be sentenced to the maximum term of imprisonment prescribed for such felony, and such sentence shall not be reduced or suspended nor shall such person be eligible for parole or probation.

MISS. CODE ANN. § 99-19-83 (2010). Sentencing of habitual criminals to life imprisonment.

Every person convicted in this state of a felony who shall have been convicted twice previously of any felony or federal crime upon charges separately brought and arising out of separate incidents at different times and who shall have been sentenced to and served separate terms of one (1) year or more in any state and/or federal penal institution, whether in this state or elsewhere, and where any one (1) of such felonies shall have been a crime of violence shall be sentenced to life imprisonment, and such sentence shall not be reduced or suspended nor shall such person be eligible for parole or probation.

MISS. CODE ANN. § 99-19-84 (2010). Electronic monitoring as condition of probation for offense requiring registration as a sex offender; rules and regulations.

Whenever probation is a part of a sentence prescribed for an offense for which registration as a sex offender is required under Title 45, Chapter 33, the court may include as a condition of probation that the sex offender be placed on electronic monitoring. The Department of Corrections shall promulgate rules and regulations for the implementation of electronic monitoring of sex offenders on probation.

MISS. CODE ANN. § 99-37-3 (2010). Imposition and amount of restitution.

(1) When a person is convicted of criminal activities which have resulted in pecuniary damages, in addition to any other sentence it may impose, the court may order that the defendant make restitution to the victim; provided, however, that the justice court shall not order restitution in an amount exceeding Five Thousand Dollars ($ 5,000.00).

(2) In determining whether to order restitution which may be complete, partial or nominal, the court shall take into account:

(a) The financial resources of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant;

(b) The ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court; and

(c) The rehabilitative effect on the defendant of the payment of restitution and the method of payment.

(3) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall, at the time of sentencing, allow him to be heard on such issue.

(4) If the court determines that restitution is inappropriate or undesirable, an order reciting such finding shall be entered, which should also state the underlying circumstances for such determination.

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MO. REV. STAT. § 557.021 (2010). Classification of offenses outside this code.

1. Any offense defined outside this code which is declared to be a misdemeanor without specification of the penalty therefor is a class A misdemeanor.

2. Any offense defined outside this code which is declared to be a felony without specification of the penalty therefor is a class D felony.

3. For the purpose of applying the extended term provisions of section 558.016, RSMo, and the minimum prison term provisions of section 558.019, RSMo, and for determining the penalty for attempts and conspiracies, offenses defined outside of this code shall be classified as follows:

(1) If the offense is a felony:

(a) It is a class A felony if the authorized penalty includes death, life imprisonment or imprisonment for a term of twenty years or more;

(b) It is a class B felony if the maximum term of imprisonment authorized exceeds ten years but is less than twenty years;

(c) It is a class C felony if the maximum term of imprisonment authorized is ten years;

(d) It is a class D felony if the maximum term of imprisonment is less than ten years;

(2) If the offense is a misdemeanor:

(a) It is a class A misdemeanor if the authorized imprisonment exceeds six months in jail;

(b) It is a class B misdemeanor if the authorized imprisonment exceeds thirty days but is not more than six months;

(c) It is a class C misdemeanor if the authorized imprisonment is thirty days or less;

(d) It is an infraction if there is no authorized imprisonment.

MO. REV. STAT. § 558.011 (2010). Sentence of imprisonment, terms – conditional release.

1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;

(3) For a class C felony, a term of years not to exceed seven years;

(4) For a class D felony, a term of years not to exceed four years;

(5) For a class A misdemeanor, a term not to exceed one year;

(6) For a class B misdemeanor, a term not to exceed six months;

(7) For a class C misdemeanor, a term not to exceed fifteen days.

2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.

3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under section 557.036, RSMo, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

4. (1) A sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, RSMo, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036, RSMo, shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an

offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall be conducted as provided in section 217.670, RSMo. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

MO. REV. STAT. § 558.016 (2010). Extended terms for recidivism -- definitions -- persistent misdemeanor offender.

1. The court may sentence a person who has pleaded guilty to or has been found guilty of an offense to a term of imprisonment as authorized by section 558.011 or to a term of imprisonment authorized by a statute governing the offense if it finds the defendant is a prior offender or a persistent misdemeanor offender, or to an extended term of imprisonment if it finds the defendant is a persistent offender or a dangerous offender.

2. A "prior offender" is one who has pleaded guilty to or has been found guilty of one felony.

3. A "persistent offender" is one who has pleaded guilty to or has been found guilty of two or more felonies committed at different times.

4. A "dangerous offender" is one who:

(1) Is being sentenced for a felony during the commission of which he knowingly murdered or endangered or threatened the life of another person or knowingly inflicted or attempted or threatened to inflict serious physical injury on another person; and

(2) Has pleaded guilty to or has been found guilty of a class A or B felony or a dangerous felony.

5. A "persistent misdemeanor offender" is one who has pleaded guilty to or has been found guilty of two or more class A or B misdemeanors, committed at different times, which are defined as offenses under chapters 195, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, and 576, RSMo.

6. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

7. The total authorized maximum terms of imprisonment for a persistent offender or a dangerous offender are:

(1) For a class A felony, any sentence authorized for a class A felony;

(2) For a class B felony, any sentence authorized for a class A felony;

(3) For a class C felony, any sentence authorized for a class B felony;

(4) For a class D felony, any sentence authorized for a class C felony.

MO. REV. STAT. § 558.018 (2010). Persistent sexual offender, predatory sexual offender, defined, extension of term, when, minimum term.

1. The court shall sentence a person who has pleaded guilty to or has been found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection to an extended term of imprisonment if it finds the defendant is a persistent sexual offender.

2. A "persistent sexual offender" is one who has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection.

3. The term of imprisonment for one found to be a persistent sexual offender shall be imprisonment for life without eligibility for probation or parole. Subsection 4 of section 558.019 shall not apply to any person imprisoned under this subsection, and "imprisonment for life" shall mean imprisonment for the duration of the person's natural life.

4. The court shall sentence a person who has pleaded guilty to or has been found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender.

5. For purposes of this section, a "predatory sexual offender" is a person who:

(1) Has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony; or

(2) Has previously committed an act which would constitute an offense listed in subsection 4 of this section, whether or not the act resulted in a conviction; or

(3) Has committed an act or acts against more than one victim which would constitute an offense or offenses listed in subsection 4 of this section, whether or not the defendant was charged with an additional offense or offenses as a result of such act or acts.

6. A person found to be a predatory sexual offender shall be imprisoned for life with eligibility for parole, however subsection 4 of section 558.019 shall not apply to persons found to be predatory sexual offenders for the purposes of determining the minimum prison term or the length of sentence as defined or used in such subsection. Notwithstanding any other provision of law, in no event shall a person found to be a predatory sexual offender receive a final discharge from parole.

7. Notwithstanding any other provision of law, the court shall set the minimum time required to be served before a predatory sexual offender is eligible for parole, conditional release or other early release by the department of corrections. The minimum time to be served by a person found to be a predatory sexual offender who:

(1) Has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the preceding crimes shall be any number of years but not less than thirty years;

(2) Has previously pleaded guilty to or has been found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony and pleads guilty to or is found guilty of attempting to commit or committing forcible rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree shall be any number of years but not less than fifteen years;

(3) Has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(4) Has previously pleaded guilty to or has been found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony, and pleads guilty to or is found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of subsection 5 of this section shall be any number of years within the range to which the person could have been sentenced pursuant to the applicable law if the person was not found to be a predatory sexual offender.

8. Notwithstanding any provision of law to the contrary, the department of corrections, or any division thereof, may not furlough an individual found to be and sentenced as a persistent sexual offender or a predatory sexual offender.

MO. REV. STAT. § 558.019 (2010). Prior felony convictions, minimum prison terms -- prison commitment defined -- dangerous felony, minimum term prison term, how calculated -- sentencing commission created, members, duties -- recommended sentences, distribution -- report -- expenses -- cooperation with commission -- restorative justice methods -- restitution fund.

1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section

565.020, RSMo, section 558.018 or section 571.015, RSMo, which set minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to section 217.378, RSMo. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the offender has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age, and has served at least thirty percent of the sentence imposed, whichever occurs first;

(2) If the offender has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the offender has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be eighty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for crimes committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the

president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of this state. This system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri. The recommended sentence for each crime shall take into account, but not be limited to, the following factors:

(a) The nature and severity of each offense;

(b) The record of prior offenses by the offender;

(c) The data gathered by the commission showing the duration and nature of sentences imposed for each crime; and

(d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.

(5) The commission shall publish and distribute its recommendations on or before July 1, 2004. The commission shall study the implementation and use of the recommendations until July 1, 2005, and return a report to the governor, the speaker of the house of representatives, and the president pro tem of the senate. Following the July 1, 2005, report, the commission shall revise the recommended sentences every two years.

(6) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(7) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the

performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(8) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.

8. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

9. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.

10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565, RSMo. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565, RSMo.

11. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.

12. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

MO. REV. STAT. § 558.026 (2010). Concurrent and consecutive terms of imprisonment.

1. Multiple sentences of imprisonment shall run concurrently unless the court specifies that they shall run consecutively; except that, in the case of multiple sentences of imprisonment imposed for the felony of rape, forcible rape, sodomy, forcible sodomy or an attempt to commit any of the aforesaid and for other offenses committed during or at the same time as that rape, forcible rape, sodomy, forcible sodomy or an attempt to commit any of the aforesaid, the sentences of imprisonment imposed for the other offenses may run concurrently, but the sentence of imprisonment imposed for the felony of rape, forcible rape, sodomy, forcible sodomy or an attempt to commit any of the aforesaid shall run consecutively to the other sentences.

2. If a person who is on probation, parole or conditional release is sentenced to a term of imprisonment for an offense committed after the granting of probation or parole or after the start of his conditional release term, the court shall direct the manner in which the sentence or sentences imposed by the court shall run with respect to any resulting probation, parole or conditional release revocation term or terms. If the subsequent sentence to imprisonment is in another jurisdiction, the court shall specify how any resulting probation, parole or conditional release revocation term or terms shall run with respect to the foreign sentence of imprisonment.

3. A court may cause any sentence it imposes to run concurrently with a sentence an individual is serving or is to serve in another state or in a federal correctional center. If the Missouri sentence is served in another state or in a federal correctional center, subsection 4 of section 558.011 and section 217.690, RSMo, shall apply as if the individual were serving his sentence within the department of corrections of the state of Missouri, except that a personal hearing before the board of probation and parole shall not be required for parole consideration.

MO. REV. STAT. § 560.011 (2010). Fines for felonies.

1. A person who has been convicted of a class C or D felony may be sentenced

(1) To pay a fine which does not exceed five thousand dollars; or

(2) If the offender has gained money or property through the commission of the crime, to pay an amount, fixed by the court, not exceeding double the amount of the offender's gain from the commission of the crime. An individual offender may be fined not more than twenty thousand dollars under this provision.

2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime. The amount of money or value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed shall be deducted from the fine. When the court imposes a fine based on gain the court shall make a finding as to the amount of the offender's gain from the crime. If the record does not contain sufficient evidence to support such a finding, the court may conduct a hearing upon the issue.

3. The provisions of this section shall not apply to corporations.

MO. REV. STAT. § 560.016 (2010). Fines for misdemeanors and infractions.

1. Except as otherwise provided for an offense outside this code, a person who has been convicted of a misdemeanor or infraction may be sentenced to pay a fine which does not exceed:

(1) For a class A misdemeanor, one thousand dollars;

(2) For a class B misdemeanor, five hundred dollars;

(3) For a class C misdemeanor, three hundred dollars;

(4) For an infraction, two hundred dollars.

2. In lieu of a fine imposed under subsection 1, a person who has been convicted of a misdemeanor or infraction through which he derived "gain" as defined in section 560.011, may be sentenced to a fine which does not exceed double the amount of gain from the commission of the offense. An individual offender may be fined not more than twenty thousand dollars under this provision.

MO. REV. STAT. § 565.150 (2010). Interference with custody--penalty.

1. A person commits the crime of interference with custody if, knowing that he has no legal right to do so, he takes or entices from legal custody any person entrusted by order of a court to the custody of another person or institution.

2. Interference with custody is a class A misdemeanor unless the person taken or enticed away from legal custody is removed from this state, detained in another state or concealed, in which case it is a class D felony.

MO. REV. STAT. § 565.153 (2010). Parental kidnapping -- penalty.

1. In the absence of a court order determining rights of custody or visitation to a child, a person having a right of custody of the child commits the crime of parental kidnapping if he removes, takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child.

2. Parental kidnapping is a class D felony, unless committed by detaining or concealing the whereabouts of the child for:

(1) Not less than sixty days but not longer than one hundred nineteen days, in which case, the crime is a class C felony;

(2) Not less than one hundred twenty days, in which case, the crime is a class B felony.

3. A subsequently obtained court order for custody or visitation shall not affect the application of this section.

MO. REV. STAT. § 566.030 (2010). Forcible rape and attempted forcible rape, penalties--suspended sentences not granted, when.

1. A person commits the crime of forcible rape if such person has sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible rape or an attempt to commit forcible rape is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years;

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such forcible rape is described under subdivision (3) of this subsection; or

(3) The victim is a child less than twelve years of age and such forcible rape was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible rape when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of or pleading guilty to forcible rape or an attempt to commit forcible rape shall be granted a suspended imposition of sentence or suspended execution of sentence.

MO. REV. STAT. § 566.032 (2010). Statutory rape and attempt to commit, first degree, penalties.

1. A person commits the crime of statutory rape in the first degree if he has sexual intercourse with another person who is less than fourteen years old.

2. Statutory rape in the first degree or an attempt to commit statutory rape in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, or the victim is less than twelve years of age in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years.

MO. REV. STAT. § 566.060 (2010). Forcible sodomy, penalties--suspended sentence not granted, when.

1. A person commits the crime of forcible sodomy if such person has deviate sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such forcible sodomy is described under subdivision (3) of this subsection; or

(3) The victim is a child less than twelve years of age and such forcible sodomy was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible sodomy when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of or pleading guilty to forcible sodomy or an attempt to commit forcible sodomy shall be granted a suspended imposition of sentence or suspended execution of sentence.

MO. REV. STAT. § 566.062 (2010). Statutory sodomy and attempt to commit, first degree, penalties.

1. A person commits the crime of statutory sodomy in the first degree if he has deviate sexual intercourse with another person who is less than fourteen years old.

2. Statutory sodomy in the first degree or an attempt to commit statutory sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person,

or the victim is less than twelve years of age, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years.

MO. REV. STAT. § 566.067 (2010). Child molestation, first degree, penalties.

1. A person commits the crime of child molestation in the first degree if he or she subjects another person who is less than fourteen years of age to sexual contact.

2. Child molestation in the first degree is a class B felony unless:

(1) The actor has previously been convicted of an offense under this chapter or in the course thereof the actor inflicts serious physical injury, displays a deadly weapon or deadly instrument in a threatening manner, or the offense is committed as part of a ritual or ceremony, in which case the crime is a class A felony; or

(2) The victim is a child less than twelve years of age and:

(a) The actor has previously been convicted of an offense under this chapter; or

(b) In the course thereof the actor inflicts serious physical injury, displays a deadly weapon or deadly instrument in a threatening manner, or if the offense is committed as part of a ritual or ceremony, in which case, the crime is a class A felony and such person shall serve his or her term of imprisonment without eligibility for probation or parole.

MO. REV. STAT. § 566.068 (2010). Child molestation, second degree, penalties.

1. A person commits the crime of child molestation in the second degree if he or she subjects another person who is less than seventeen years of age to sexual contact.

2. Child molestation in the second degree is a class A misdemeanor unless the actor has previously been convicted of an offense under this chapter or in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, or the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.

MO. REV. STAT. § 566.083 (2010). Sexual misconduct involving a child, penalty -- applicability of section -- affirmative defense not allowed, when.

1. A person commits the crime of sexual misconduct involving a child if the person:

(1) Knowingly exposes his or her genitals to a child less than fifteen years of age under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child;

(2) Knowingly exposes his or her genitals to a child less than fifteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(3) Knowingly coerces or induces a child less than fifteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

3. It is not an affirmative defense to prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

4. Sexual misconduct involving a child or attempted sexual misconduct involving a child is a class D felony unless the actor has previously pleaded guilty to or been found guilty of an offense pursuant to this chapter or the actor has previously pleaded guilty to or has been convicted of an offense against the laws of another state or jurisdiction which would constitute an offense under this chapter, in which case it is a class C felony.

MO. REV. STAT. § 566.090 (2010). Sexual misconduct, first degree, penalties.

1. A person commits the crime of sexual misconduct in the first degree if such person purposely subjects another person to sexual contact without that person's consent.

2. Sexual misconduct in the first degree is a class A misdemeanor unless the actor has previously been convicted of an offense under this chapter or unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

MO. REV. STAT. § 566.093 (2010). Sexual misconduct, second degree, penalties.

1. A person commits the crime of sexual misconduct in the second degree if such person:

(1) Exposes his or her genitals under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm;

(2) Has sexual contact in the presence of a third person or persons under circumstances in which he or she knows that such conduct is likely to cause affront or alarm; or

(3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.

2. Sexual misconduct in the second degree is a class B misdemeanor unless the actor has previously been convicted of an offense under this chapter, in which case it is a class A misdemeanor.

MO. REV. STAT. § 566.100 (2010). Sexual abuse, penalties.

1. A person commits the crime of sexual abuse if he subjects another person to sexual contact by the use of forcible compulsion.

2. Sexual abuse is a class C felony unless in the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual contact with more than one person or the victim is less than fourteen years of age, in which case the crime is a class B felony.

MO. REV. STAT. § 566.103 (2010). Crime of promoting on-line sexual solicitation, violation, penalty.

1. A person or entity commits the offense of promoting on-line sexual solicitation if such person or entity knowingly permits a web-based classified service owned or operated by such person or entity to be used by individuals to post advertisements promoting prostitution, enticing a child to engage in sexual conduct, or promoting sexual trafficking of a child after receiving notice under this section.

2. As used in this section, the term "web-based classified service" means a person or entity in whose name a specific URL or Internet domain name is registered which has advertisements for goods and services or personal advertisements.

3. An advertisement may be deemed to promote prostitution, entice a child to engage in sexual conduct, or promote sexual trafficking of a child, if the content of such advertisement would be interpreted by a reasonable person as offering to exchange sexual conduct for goods or services in violation of chapter 567, RSMo, as seeking a child for the purpose of sexual conduct or commercial sex act, or as offering a child as a participant in sexual conduct or commercial sex act in violation of section 566.151, 566.212, or 566.213.

4. It shall be prima facie evidence that a person or entity acts knowingly if an advertisement is not removed from the web-based classified service within seventy-two hours of that person or entity being notified that an advertisement has been posted on that service which is prohibited under this section.

5. Notice under this section may be provided by certified mail or facsimile transmission by the attorney general or any prosecuting attorney or circuit attorney.

6. A violation of this section shall be a felony, punishable by a fine in the amount of five thousand dollars per day that the advertisement remains posted on the web-based classified service after seventy-two hours of when notice has been provided pursuant to this section.

7. Original jurisdiction for prosecution of a violation of this section shall be with the local prosecuting attorney or circuit attorney.

MO. REV. STAT. § 566.151 (2010). Enticement of a child, penalties.

1. A person at least twenty-one years of age or older commits the crime of enticement of a child if that person persuades, solicits, coaxes, entices, or lures whether by words, actions or through

communication via the Internet or any electronic communication, any person who is less than fifteen years of age for the purpose of engaging in sexual conduct.

2. It is not an affirmative defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

3. Enticement of a child or an attempt to commit enticement of a child is a felony for which the authorized term of imprisonment shall be not less than five years and not more than thirty years. No person convicted under this section shall be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for a period of five calendar years.

MO. REV. STAT. § 566.213 (2010). Sexual trafficking of a child under age twelve -- affirmative defense not allowed, when -- penalty.

1. A person commits the crime of sexual trafficking of a child under the age of twelve if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means a person under the age of twelve to participate in a commercial sex act or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of twelve to engage in a commercial sex act.

2. It shall not be an affirmative defense that the defendant believed that the person was twelve years of age or older.

3. Sexual trafficking of a child less than twelve years of age shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or been found guilty of sexual trafficking of a child less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

MO. REV. STAT. § 566.215 (2010). Contributing to human trafficking -- penalty.

1. A person commits the crime of contributing to human trafficking through the misuse of documentation when the individual knowingly:

(1) Destroys, conceals, removes, confiscates, or possesses a valid or purportedly valid passport, government identification document, or other immigration document of another person while committing crimes or with the intent to commit crimes, pursuant to sections 566.200 to 566.218; or

(2) Prevents, restricts, or attempts to prevent or restrict, without lawful authority, a person's ability to move or travel by restricting the proper use of identification, in order to maintain the labor or services of a person who is the victim of a crime committed pursuant to sections 566.200 to 566.218.

2. A person who pleads guilty to or is found guilty of the crime of contributing to human trafficking through the misuse of documentation shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The crime of contributing to human trafficking through the misuse of documentation is a class D felony.

MO. REV. STAT. § 568.045 (2010). Endangering the welfare of a child in the first degree, penalties.

1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age or in a residence where a person less than seventeen years of age resides, unlawfully manufactures, or attempts to manufacture compounds, possesses, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. Endangering the welfare of a child in the first degree is a class C felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class B felony.

3. This section shall be known as "Hope's Law".

MO. REV. STAT. § 568.050 (2010). Endangering the welfare of a child in thesecond degree.

1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He or she with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or

(2) He or she knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he or she recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(4) He or she knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo; or

(5) He or she operates a vehicle in violation of subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, subdivision (4) of subsection 1 of section 565.060, RSMo, section 577.010, RSMo, or section 577.012, RSMo, while a child less than seventeen years old is present in the vehicle.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.

MO. REV. STAT. § 568.060 (2010). Abuse of a child, penalty.

1. A person commits the crime of abuse of a child if such person:

(1) Knowingly inflicts cruel and inhuman punishment upon a child less than seventeen years old; or

(2) Photographs or films a child less than eighteen years old engaging in a prohibited sexual act or in the simulation of such an act or who causes or knowingly permits a child to engage in a prohibited sexual act or in the simulation of such an act for the purpose of photographing or filming the act.

2. As used in this section "prohibited sexual act" means any of the following, whether performed or engaged in either with any other person or alone: sexual or anal intercourse, masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction.

3. Abuse of a child is a class C felony, unless:

(1) In the course thereof the person inflicts serious emotional injury on the child, or the offense is committed as part of a ritual or ceremony in which case the crime is a class B felony; or

(2) A child dies as a result of injuries sustained from conduct chargeable pursuant to the provisions of this section, in which case the crime is a class A felony.

4. As used in this section, the word "fetishism" means a condition in which erotic feelings are excited by an object or body part whose presence is psychologically necessary for sexual stimulation or gratification.

MO. REV. STAT. § 568.080 (2010). Child used in sexual performance, penalties.

1. A person commits the crime of use of a child in a sexual performance if, knowing the character and content thereof, the person employs, authorizes, or induces a child less than seventeen years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in such sexual performance.

2. Use of a child in a sexual performance is a class C felony, unless in the course thereof the person inflicts serious emotional injury on the child, in which case the crime is a class B felony.

MO. REV. STAT. § 573.023 (2010). Sexual exploitation of a minor, penalties.

1. A person commits the crime of sexual exploitation of a minor if such person knowingly or recklessly photographs, films, videotapes, produces or otherwise creates obscene material with a minor or child pornography.

2. Sexual exploitation of a minor is a class B felony unless the minor is a child, in which case it is a class A felony.

MO. REV. STAT. § 573.025 (2010). Promoting child pornography in the first degree.

1. A person commits the crime of promoting child pornography in the first degree if such person possesses with the intent to promote or promotes child pornography of a child less than fourteen years of age or obscene material portraying what appears to be a child less than fourteen years of age.

2. Promoting child pornography in the first degree is a class B felony unless the person knowingly promotes such material to a minor, in which case it is a class A felony. No person who pleads guilty to or is found guilty of, or is convicted of, promoting child pornography in the first degree shall be eligible for probation, parole, or conditional release for a period of three calendar years.

3. Nothing in this section shall be construed to require a provider of electronic communication services or remote computing services to monitor any user, subscriber or customer of the provider, or the content of any communication of any user, subscriber or customer of the provider.

MO. REV. STAT. § 573.030 (2010). Promoting obscenity in the second degree.

1. A person commits the crime of promoting pornography for minors or obscenity in the second degree if he or she:

(1) Promotes or possesses with the purpose to promote any obscene material for pecuniary gain; or

(2) Produces, presents, directs or participates in any obscene performance for pecuniary gain; or

(3) Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or

(4) Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain; or

(5) Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. Promoting pornography for minors or obscenity in the second degree is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense pursuant to this section committed at a different time, in which case it is a class D felony.

MO. REV. STAT. § 573.035 (2010). Promoting child pornography in the second degree.

1. A person commits the crime of promoting child pornography in the second degree if such person possesses with the intent to promote or promotes child pornography of a minor under the age of eighteen or obscene material portraying what appears to be a minor under the age of eighteen.

2. Promoting child pornography in the second degree is a class C felony unless the person knowingly promotes such material to a minor, in which case it is a class B felony. No person who is found guilty of, pleads guilty to, or is convicted of promoting child pornography in the second degree shall be eligible for probation.

MO. REV. STAT. § 573.037 (2010). Possession of child pornography.

1. A person commits the crime of possession of child pornography if such person knowingly or recklessly possesses any child pornography of a minor under the age of eighteen or obscene material portraying what appears to be a minor under the age of eighteen.

2. Possession of child pornography is a class C felony unless the person possesses more than twenty still images of child pornography, possesses one motion picture, film, videotape, videotape production, or other moving image of child pornography, or has pleaded guilty to or has been found guilty of an offense under this section, in which case it is a class B felony.

MO. REV. STAT. § 589.400 (2010). Registration of certain offenders with chief law officers of county of residence--time limitation--cities may request copy of registration--fees--automatic removal from registry--petitions for removal--procedure, notice, denial of petition--higher education students and workers--persons removed.

1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a felony offense of chapter 566, RSMo, including sexual trafficking of a child and sexual trafficking of a child under the age of twelve, or any offense of chapter 566, RSMo, where the victim is a minor, unless such person is exempted from registering under subsection 8 of this section; or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit one or more of the following offenses: kidnapping when the victim was a child and the defendant was not a parent or guardian of the child; abuse of a child under section 568.060, RSMo, when such abuse is sexual in nature; felonious restraint when the victim was a child and the defendant is not a parent or guardian of the child; sexual contact or sexual intercourse with a resident of a nursing home, under section 565.200, RSMo; endangering the welfare of a child under section 568.045, RSMo, when the endangerment is sexual in nature; genital mutilation of a female child, under section 568.065, RSMo; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic material to minors; public display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity in the first degree; promoting pornography for minors or obscenity in the second degree; incest; use of a child in a sexual performance; or promoting sexual performance by a child; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(6) Any juvenile fourteen years of age or older at the time of the offense who has been adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;

(7) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, or foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to commit, or conspiring to commit an offense which, if committed in this state, would be a

violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection or has been or is required to register in another state or has been or is required to register under tribal, federal, or military law; or

(8) Any person who has been or is required to register in another state or has been or is required to register under tribal, federal, or military law and who works or attends an educational institution, whether public or private in nature, including any secondary school, trade school, professional school, or institution of higher education on a full-time or on a part-time basis or has a temporary residence in Missouri. "Part-time" in this subdivision means for more than seven days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within three days of conviction, release from incarceration, or placement upon probation, register with the chief law enforcement official of the county or city not within a county in which such person resides unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county or city not within a county within three days. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town, village, or campus law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town, village, or campus law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless:

(1) All offenses requiring registration are reversed, vacated or set aside;

(2) The registrant is pardoned of the offenses requiring registration;

(3) The registrant is no longer required to register and his or her name shall be removed from the registry under the provisions of subsection 6 of this section; or

(4) The registrant may petition the court for removal or exemption from the registry under subsection 7 or 8 of this section and the court orders the removal or exemption of such person from the registry.

4. For processing an initial sex offender registration the chief law enforcement officer of the county or city not within a county may charge the offender registering a fee of up to ten dollars.

5. For processing any change in registration required pursuant to section 589.414 the chief law enforcement official of the county or city not within a county may charge the person changing their registration a fee of five dollars for each change made after the initial registration.

6. Any person currently on the sexual offender registry for being convicted of, found guilty of, or pleading guilty or nolo contendere to committing, attempting to commit, or conspiring to commit, felonious restraint when the victim was a child and he or she was the parent or guardian of the child, nonsexual child abuse that was committed under section 568.060, RSMo, or kidnapping when the victim was a child and he or she was the parent or guardian of the child shall be

removed from the registry. However, such person shall remain on the sexual offender registry for any other offense for which he or she is required to register under sections 589.400 to 589.425.

7. Any person currently on the sexual offender registry for having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to committing, attempting to commit, or conspiring to commit promoting prostitution in the second degree, promoting prostitution in the third degree, public display of explicit sexual material, statutory rape in the second degree, and no physical force or threat of physical force was used in the commission of the crime may file a petition in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the offense or offenses for the removal of his or her name from the sexual offender registry after ten years have passed from the date he or she was required to register.

8. Effective August 28, 2009, any person on the sexual offender registry for having been convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included under subsection 1 of this section may file a petition after two years have passed from the date the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for removal of his or her name from the registry if such person was nineteen years of age or younger and the victim was thirteen years of age or older at the time of the offense and no physical force or threat of physical force was used in the commission of the offense, unless such person meets the qualifications of this subsection, and such person was eighteen years of age or younger at the time of the offense, and is convicted or found guilty of or pleads guilty or nolo contendere to a violation of section* 566.068, 566.090, 566.093, or 566.095, RSMo, when such offense is a misdemeanor, in which case, such person may immediately file a petition to remove or exempt his or her name from the registry upon his or her conviction or finding or pleading of guilty or nolo contendere to such offense.

9. (1) The court may grant such relief under subsection 7 or 8 of this section if such person demonstrates to the court that he or she has complied with the provisions of this section and is not a current or potential threat to public safety. The prosecuting attorney in the circuit court in which the petition is filed must be given notice, by the person seeking removal or exemption from the registry, of the petition to present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of the person seeking removal or exemption from the registry to notify the prosecuting attorney of the petition shall result in an automatic denial of such person's petition. If the prosecuting attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of the crime for which the person was required to register of the petition and the dates and times of any hearings or other proceedings in connection with that petition.

(2) the petition is denied, such person shall wait at least twelve months before petitioning the court again. If the court finds that the petitioner is entitled to relief, which removes or exempts such person's name from the registry, a certified copy of the written findings or order shall be forwarded by the court to the chief law enforcement official having jurisdiction over the offender and to the Missouri state highway patrol in order to have such person's name removed or exempted from the registry.

10. Any nonresident worker or nonresident student shall register for the duration of such person's employment or attendance at any school of higher education and is not entitled to relief under the provisions of subsection 9 of this section. Any registered offender from another state who has a temporary residence in this state and resides more than seven days in a twelve-month period shall register for the duration of such person's temporary residency and is not entitled to the provisions of subsection 9 of this section.

11. Any person whose name is removed or exempted from the sexual offender registry under subsection 7 or 8 of this section shall no longer be required to fulfill the registration requirements of sections 589.400 to 589.425, unless such person is required to register for committing another offense after being removed from the registry.

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MONT. CODE ANN. § 41-2-118 (2010). Penalties.

An employer who violates any of the provisions of this part is guilty of a misdemeanor and is punishable as provided in 46-18-212. Each day during which a violation of this part continues constitutes a separate offense, and the employment of a minor in violation of this part constitutes, with respect to each minor employed, a separate offense.

MONT. CODE ANN. § 41-3-207 (2010). Penalty for failure to report.

(1) Any person, official, or institution required by law to report known or suspected child abuse or neglect who fails to do so or who prevents another person from reasonably doing so is civilly liable for the damages proximately caused by such failure or prevention.

(2) Any person or official required by law to report known or suspected child abuse or neglect who purposely or knowingly fails to report known child abuse or neglect or purposely or knowingly prevents another person from doing so is guilty of a misdemeanor.

MONT. CODE ANN. § 45-5-206 (2010). Partner or family member assault -- penalty.

(1) A person commits the offense of partner or family member assault if the person:

(a) purposely or knowingly causes bodily injury to a partner or family member;

(b) negligently causes bodily injury to a partner or family member with a weapon; or

(c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.

(2) For the purposes of Title 40, chapter 15, 45-5-231 through 45-5-234, 46-6-311, and this section, the following definitions apply:

(a) "Family member" means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption

and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household.

(b) "Partners" means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship with a person of the opposite sex.

(3) (a) (i) An offender convicted of partner or family member assault shall be fined an amount not less than $ 100 or more than $ 1,000 and be imprisoned in the county jail for a term not to exceed 1 year or not less than 24 hours for a first offense.

(ii) An offender convicted of a second offense under this section shall be fined not less than $ 300 or more than $ 1,000 and be imprisoned in the county jail not less than 72 hours or more than 1 year.

(iii) Upon a first or second conviction, the offender may be ordered into misdemeanor probation as provided in 46-23-1005.

(iv) On a third or subsequent conviction for partner or family member assault, the offender shall be fined not less than $ 500 and not more than $ 50,000 and be imprisoned for a term not less than 30 days and not more than 5 years. If the term of imprisonment does not exceed 1 year, the person shall be imprisoned in the county jail. If the term of imprisonment exceeds 1 year, the person shall be imprisoned in the state prison.

(v) If the offense was committed within the vision or hearing of a minor, the judge shall consider the minor's presence as a factor at the time of sentencing.

(b) (i) For the purpose of determining the number of convictions under this section, a conviction means a conviction, as defined in 45-2-101, in this state, conviction for a violation of a similar statute in another state, or a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or in another state for a violation of a similar statute, which forfeiture has not been vacated. A prior conviction for domestic abuse under this section is a prior conviction for purposes of subsection (3)(a).

(ii) A conviction for assault with a weapon under 45-5-213, if the offender was a partner or family member of the victim, constitutes a conviction for the purpose of calculating prior convictions under this section.

(4) (a) An offender convicted of partner or family member assault is required to pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency. An investigative criminal justice report, as defined in 45-5-231, must be copied and sent to the offender intervention program, as defined in 45-5-231, to assist the counseling provider in properly assessing the offender's need for counseling and treatment. Counseling providers shall take all required precautions to ensure the confidentiality of the report. If the report contains confidential information relating to the victim's location or not related to the charged offense, that information must be deleted from the report prior to being sent to the offender intervention program.

(b) The offender shall complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment,

made by the counseling provider. The counseling provider must be approved by the court. The counseling must include a preliminary assessment for counseling, as defined in 45-5-231. The offender shall complete a minimum of 40 hours of counseling. The counseling may include attendance at psychoeducational groups, as defined in 45-5-231, in addition to the assessment. The preliminary assessment and counseling that holds the offender accountable for the offender's violent or controlling behavior must be:

(i) with a person licensed under Title 37, chapter 17, 22, or 23;

(ii) with a professional person as defined in 53-21-102; or

(iii) in a specialized domestic violence intervention program.

(c) The minimum counseling and attendance at psychoeducational groups provided in subsection (4)(b) must be directed to the violent or controlling conduct of the offender. Other issues indicated by the assessment may be addressed in additional counseling beyond the minimum 40 hours. Subsection (4)(b) does not prohibit the placement of the offender in other appropriate treatment if the court determines that there is no available treatment program directed to the violent or controlling conduct of the offender.

(5) In addition to any sentence imposed under subsections (3) and (4), after determining the financial resources and future ability of the offender to pay restitution as provided for in 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable actual medical, housing, wage loss, and counseling costs.

(6) In addition to the requirements of subsection (5), if financially able, the offender must be ordered to pay for the costs of the offender's probation, if probation is ordered by the court.

(7) The court may prohibit an offender convicted under this section from possession or use of the firearm used in the assault. The court may enforce 45-8-323 if a firearm was used in the assault.

(8) The court shall provide an offender with a written copy of the offender's sentence at the time of sentencing or within 2 weeks of sentencing if the copy is sent electronically or by mail.

MONT. CODE ANN. § 45-5-212 (2010). Assault on minor.

(1) A person commits the offense of assault on a minor if the person commits an offense under 45-5-201, and at the time of the offense, the victim is under 14 years of age and the offender is 18 years of age or older.

(2) A person convicted of assault on a minor shall be imprisoned in a state prison for a term not to exceed 5 years or be fined not more than $ 50,000, or both.

MONT. CODE ANN. § 45-5-213 (2010). Assault with weapon.

(1) A person commits the offense of assault with a weapon if the person purposely or knowingly causes:

(a) bodily injury to another with a weapon; or

(b) reasonable apprehension of serious bodily injury in another by use of a weapon or what reasonably appears to be a weapon.

(2) (a) Subject to the provisions of subsection (2)(b), a person convicted of assault with a weapon shall be imprisoned in the state prison for a term not to exceed 20 years or be fined not more than $ 50,000, or both.

(b) In addition to any sentence imposed under subsection (2)(a), if the person convicted of assault with a weapon is a partner or family member of the victim, as defined in 45-5-206, the person is required to pay for and complete a counseling assessment as required in 45-5-206(4).

MONT. CODE ANN. § 45-5-302 (2010). Kidnapping.

(1) A person commits the offense of kidnapping if the person knowingly or purposely and without lawful authority restrains another person by either secreting or holding the other person in a place of isolation or by using or threatening to use physical force.

(2) A person convicted of the offense of kidnapping shall be imprisoned in the state prison for a term of not less than 2 years or more than 10 years and may be fined not more than $ 50,000, except as provided in 46-18-219 and 46-18-222.

MONT. CODE ANN. § 45-5-303 (2010). Aggravated kidnapping.

(1) A person commits the offense of aggravated kidnapping if the person knowingly or purposely and without lawful authority restrains another person by either secreting or holding the other person in a place of isolation or by using or threatening to use physical force, with any of the following purposes:

(a) to hold for ransom or reward or as a shield or hostage;

(b) to facilitate commission of any felony or flight thereafter;

(c) to inflict bodily injury on or to terrorize the victim or another;

(d) to interfere with the performance of any governmental or political function; or

(e) to hold another in a condition of involuntary servitude.

(2) Except as provided in 46-18-219 and 46-18-222, a person convicted of the offense of aggravated kidnapping shall be punished by death or life imprisonment as provided in 46-18-301 through 46-18-310 or be imprisoned in the state prison for a term of not less than 2 years or more than 100 years and may be fined not more than $ 50,000, unless the person has voluntarily released the victim alive, in a safe place, and with no serious bodily injury, in which event the person shall be imprisoned in the state prison for a term of not less than 2 years or more than 10 years and may be fined not more than $ 50,000.

MONT. CODE ANN. § 45-5-304 (2010). Custodial interference.

(1) A person commits the offense of custodial interference if, knowing that the person has no legal right to do so, the person takes, entices, or withholds from lawful custody any child, incompetent person, or other person entrusted by authority of law to the custody of another person or institution.

(2) A person convicted of the offense of custodial interference shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed $ 50,000, or both.

(3) With respect to the first alleged commission of the offense only, a person who has not left the state does not commit an offense under this section if the person voluntarily returns the child, incompetent person, or other person to lawful custody before arraignment. With respect to the first alleged commission of the offense only, a person who has left the state does not commit an offense under this section if the person voluntarily returns the child, incompetent person, or other person to lawful custody before arrest.

MONT. CODE ANN. § 45-5-305 (2010). Subjecting another to involuntary servitude -- definitions.

(1) A person commits the offense of subjecting another to involuntary servitude if the person purposely or knowingly obtains or maintains the forced labor or services of another person by any of the following actions or by threatening any of the following actions:

(a) causing physical harm to any person;

(b) damaging or destroying the property of any person;

(c) physically restraining another person;

(d) abusing the law or legal process;

(e) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document of another person;

(f) blackmail; or

(g) causing financial harm to any person or using financial control over any person.

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of subjecting another to involuntary servitude shall be imprisoned in the state prison for a term of not more than 10 years, fined an amount not to exceed $ 50,000, or both.

(b) A person convicted of the offense of subjecting another to involuntary servitude, if the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate homicide, shall be punished by life imprisonment or by imprisonment in the state prison for a term of not more than 100 years and may be fined not more than $ 50,000.

(3) As used in this section, the following definitions apply:

(a) "Blackmail" means an unlawful demand of money, property, or services under threat to accuse another person of a crime or to expose any secret tending to subject a person to hatred, contempt, or ridicule.

(b) "Financial harm" includes employment contracts that violate 28-2-903, taking, receiving, reserving, or charging a rate of interest greater than is allowed by 31-1-107, and defrauding creditors as defined in 45-6-315.

(c) "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through violation of subsection (1).

(d) "Labor" means work of economic or financial value.

(e) "Maintain" means to secure continued performance of labor or services, regardless of any initial agreement on the part of the victim to perform that type of service.

(f) "Obtain" means to secure performance of labor or services.

(g) "Services" means an ongoing relationship between a person and the offender in which the person performs activities under the supervision of or for the benefit of the offender, including commercial sexual activity and sexually explicit performances.

MONT. CODE ANN. § 45-5-306 (2010). Trafficking of persons for involuntary servitude.

(1) A person commits the offense of trafficking of persons for involuntary servitude if the person purposely or knowingly:

(a) recruits, entices, harbors, transports, provides, or obtains by any means another person, intending or knowing that the person will be subjected to involuntary servitude as described in 45-5-305; or

(b) benefits financially by receiving anything of value from participation in a venture that has engaged in the offense of subjecting another to involuntary servitude as described in 45-5-305.

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of trafficking of persons for involuntary servitude shall be imprisoned in the state prison for a term of not more than 15 years, fined an amount not to exceed $ 100,000, or both.

(b) A person convicted of the offense of trafficking of persons for involuntary servitude, if the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate homicide, shall be punished by life imprisonment or by imprisonment in the state prison for a term of not more than 100 years and may be fined not more than $ 100,000.

MONT. CODE ANN. § 45-5-502 (2010). Sexual assault.

(1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.

(2) A person convicted of sexual assault shall be fined not to exceed $ 500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than $ 50,000.

(4) An act "in the course of committing sexual assault" includes an attempt to commit the offense or flight after the attempt or commission.

(5) (a) Subject to subsections (5)(b) and (5)(c), consent is ineffective under this section if the victim is:

(i) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(ii) less than 14 years old and the offender is 3 or more years older than the victim;

(iii) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the youth care facility; or

(iv) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the facility or community-based service.

(b) Subsection (5)(a)(i) does not apply if one of the parties is on probation or parole and the other party is a probation or parole officer of the supervising authority and the parties are married to each other.

(c) Subsections (5)(a)(iii) and (5)(a)(iv) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

MONT. CODE ANN. § 45-5-503 (2010). Sexual intercourse without consent.

(1) A person who knowingly has sexual intercourse without consent with another person commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of the person's spouse, as provided in 45-5-501(1)(a)(ii)(D).

(2) A person convicted of sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 2 years or more than 100 years and may be fined not more than $ 50,000, except as provided in 46-18-219, 46-18-222, and subsections (3) and (4) of this section.

(3) (a) If the victim is less than 16 years old and the offender is 4 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual intercourse without consent, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than $ 50,000, except as provided in 46-18-219 and 46-18-222.

(b) If two or more persons are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense, each offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 5 years or more than 100 years and may be fined not more than $ 50,000, except as provided in 46-18-219 and 46-18-222.

(c) If the offender was previously convicted of an offense under this section or of an offense under the laws of another state or of the United States that if committed in this state would be an offense under this section and if the offender inflicted serious bodily injury upon a person in the course of committing each offense, the offender shall be:

(i) punished by death as provided in 46-18-301 through 46-18-310, unless the offender is less than 18 years of age at the time of the commission of the offense; or

(ii) punished as provided in 46-18-219.

(4) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed $ 50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(5) In addition to any sentence imposed under subsection (2) or (3), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable medical and counseling costs that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

(6) As used in subsections (3) and (4), an act "in the course of committing sexual intercourse without consent" includes an attempt to commit the offense or flight after the attempt or commission.

MONT. CODE ANN. § 45-5-601 (2010). Prostitution.

(1) A person commits the offense of prostitution if the person engages in or agrees or offers to engage in sexual intercourse with another person for compensation, whether the compensation is received or to be received or paid or to be paid.

(2) (a) A prostitute convicted of prostitution shall be fined an amount not to exceed $ 500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) Except as provided in subsection (3), a prostitute's client who is convicted of prostitution shall for the first offense be fined an amount not to exceed $ 1,000 or be imprisoned for a term not to exceed 1 year, or both, and for a second or subsequent offense shall be fined an amount not to exceed $ 10,000 or be imprisoned for a term not to exceed 5 years, or both.

(3) (a) If the prostitute was 12 years of age or younger and the prostitute's client was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed $ 50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

MONT. CODE ANN. § 45-5-602 (2010). Promoting prostitution.

(1) A person commits the offense of promoting prostitution if the person purposely or knowingly commits any of the following acts:

(a) owns, controls, manages, supervises, resides in, or otherwise keeps, alone or in association with others, a house of prostitution or a prostitution business;

(b) procures an individual for a house of prostitution or a place in a house of prostitution for an individual;

(c) encourages, induces, or otherwise purposely causes another to become or remain a prostitute;

(d) solicits clients for another person who is a prostitute;

(e) procures a prostitute for a patron;

(f) transports an individual into or within this state with the purpose to promote that individual's engaging in prostitution or procures or pays for transportation with that purpose;

(g) leases or otherwise permits a place controlled by the offender, alone or in association with others, to be regularly used for prostitution or for the procurement of prostitution or fails to make reasonable effort to abate that use by ejecting the tenant, notifying law enforcement authorities, or using other legally available means; or

(h) lives in whole or in part upon the earnings of an individual engaging in prostitution, unless the person is the prostitute's minor child or other legal dependent incapable of self-support.

(2) Except as provided in subsection (3), a person convicted of promoting prostitution shall be fined an amount not to exceed $ 50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(3) (a) If the prostitute was 12 years of age or younger and the prostitute's client was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed $ 50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

MONT. CODE ANN. § 45-5-603 (2010). Aggravated promotion of prostitution.

(1) A person commits the offense of aggravated promotion of prostitution if the person purposely or knowingly commits any of the following acts:

(a) compels another to engage in or promote prostitution;

(b) promotes prostitution of a child under the age of 18 years, whether or not the person is aware of the child's age;

(c) promotes the prostitution of one's spouse, child, ward, or any person for whose care, protection, or support the person is responsible.

(2) (a) Except as provided in subsections (2)(b) and (2)(c), a person convicted of aggravated promotion of prostitution shall be punished by:

(i) life imprisonment; or

(ii) imprisonment in a state prison for a term not to exceed 20 years or a fine in an amount not to exceed $ 50,000, or both.

(b) Except as provided in 46-18-219 and 46-18-222, a person convicted of aggravated promotion of prostitution of a child, who at the time of the offense is under 18 years of age, shall be punished by:

(i) life imprisonment; or

(ii) imprisonment in a state prison for a term of not less than 4 years or more than 100 years or a fine in an amount not to exceed $ 100,000, or both.

(c) (i) If the prostitute was 12 years of age or younger and the prostitute's client was 18 years of age or older at the time of the offense, the offender:

(A) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (2)(c)(i)(A) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(B) may be fined an amount not to exceed $ 50,000; and

(C) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(ii) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

MONT. CODE ANN. § 45-5-622 (2010). Endangering welfare of children.

(1) A parent, guardian, or other person supervising the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly endangers the child's welfare by violating a duty of care, protection, or support.

(2) Except as provided in 16-6-305, a parent or guardian or any person who is 18 years of age or older, whether or not the parent, guardian, or other person is supervising the welfare of the child, commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly contributes to the delinquency of a child less than:

(a) 18 years old by:

(i) supplying or encouraging the use of an intoxicating substance by the child; or

(ii) assisting, promoting, or encouraging the child to enter a place of prostitution; or

(b) 16 years old by assisting, promoting, or encouraging the child to:

(i) abandon the child's place of residence without the consent of the child's parents or guardian; or

(ii) engage in sexual conduct.

(3) A person, whether or not the person is supervising the welfare of a child less than 18 years of age, commits the offense of endangering the welfare of children if the person, in the residence of a child, in a building, structure, conveyance, or outdoor location where a child might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple-unit residential building, knowingly:

(a) produces or manufactures methamphetamine or attempts to produce or manufacture methamphetamine;

(b) possesses any material, compound, mixture, or preparation that contains any combination of the items listed in 45-9-107 with intent to manufacture methamphetamine; or

(c) causes or permits a child to inhale, be exposed to, have contact with, or ingest methamphetamine or be exposed to or have contact with methamphetamine paraphernalia.

(4) A parent, guardian, or other person supervising the welfare of a child less than 16 years of age may verbally or in writing request a person who is 18 years of age or older and who has no legal right of supervision or control over the child to stop contacting the child if the requester believes that the contact is not in the child's best interests. If the person continues to contact the child, the parent, guardian, or other person supervising the welfare of the child may petition or the county attorney may upon the person's request petition for an order of protection under Title 40, chapter 15. To the extent that they are consistent with this subsection, the provisions of Title 40, chapter 15, apply. A person who purposely or knowingly violates an order of protection commits the offense of endangering the welfare of children and upon conviction shall be sentenced as provided in subsection (5)(a).

(5) (a) Except as provided in subsection (5)(b), a person convicted of endangering the welfare of children shall be fined an amount not to exceed $ 500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of endangering the welfare of children shall be fined an amount not to exceed $ 1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(b) A person convicted under subsection (3) is guilty of a felony and shall be imprisoned in the state prison for a term not to exceed 5 years and may be fined an amount not to exceed $ 10,000, or both. If a child suffers serious bodily injury, the offender shall be fined an amount not to exceed $ 25,000 or be imprisoned for a term not to exceed 10 years, or both. Prosecution or conviction of a violation of subsection (3) does not bar prosecution or conviction for any other crime committed by the offender as part of the same conduct.

(6) On the issue of whether there has been a violation of the duty of care, protection, and support, the following, in addition to all other admissible evidence, is admissible: cruel treatment; abuse; infliction of unnecessary and cruel punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past bodily injury.

(7) The court may order, in its discretion, any fine levied or any bond forfeited upon a charge of endangering the welfare of children paid to or for the benefit of the person or persons whose welfare the defendant has endangered.

MONT. CODE ANN. § 45-5-623 (2010). Unlawful transactions with children.

(1) Except as provided for in 16-6-305, a person commits the offense of unlawful transactions with children if the person knowingly:

(a) sells or gives explosives to a child under the age of majority except as authorized under appropriate city ordinances;

(b) sells or gives intoxicating substances other than alcoholic beverages to a child under the age of majority;

(c) sells or gives an alcoholic beverage to a person under 21 years of age;

(d) being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child under the age of majority without authorization of the parent or guardian; or

(e) tattoos or provides a body piercing on a child under the age of majority without the explicit in-person consent of the child's parent or guardian. For purposes of this subsection, "tattoo" and "body piercing" have the meaning provided in 50-48-102. Failure to adequately verify the identity of a parent or guardian is not an excuse for violation of this subsection.

(2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not to exceed $ 500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed $ 1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both.(See compiler's comments for contingent termination of certain text.)

MONT. CODE ANN. § 45-5-625 (2010). Sexual abuse of children.

(1) A person commits the offense of sexual abuse of children if the person:

(a) knowingly employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;

(b) knowingly photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;

(c) knowingly, by any means of communication, including electronic communication, persuades, entices, counsels, or procures a child under 16 years of age or a person the offender believes to be a child under 16 years of age to engage in sexual conduct, actual or simulated;

(d) knowingly processes, develops, prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(e) knowingly possesses any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(f) finances any of the activities described in subsections (1)(a) through (1)(d) and (1)(g), knowing that the activity is of the nature described in those subsections;

(g) possesses with intent to sell any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;

(h) knowingly travels within, from, or to this state with the intention of meeting a child under 16 years of age or a person the offender believes to be a child under 16 years of age in order to engage in sexual conduct, actual or simulated; or

(i) knowingly coerces, entices, persuades, arranges for, or facilitates a child under 16 years of age or a person the offender believes to be a child under 16 years of age to travel within, from, or to this state with the intention of engaging in sexual conduct, actual or simulated.

(2) (a) Except as provided in subsection (2)(b), (2)(c), or (4), a person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years and may be fined not more than $ 10,000.

(b) Except as provided in 46-18-219, if the victim is under 16 years of age, a person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than $ 10,000.

(c) Except as provided in 46-18-219, a person convicted of the offense of sexual abuse of children for the possession of material, as provided in subsection (1)(e), shall be fined not to exceed $ 10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(3) An offense is not committed under subsections (1)(d) through (1)(g) if the visual or print medium is processed, developed, printed, published, transported, distributed, sold, possessed, or

possessed with intent to sell, or if the activity is financed, as part of a sexual offender information or treatment course or program conducted or approved by the department of corrections.

(4) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed $ 50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(5) As used in this section, the following definitions apply:

(a) "Electronic communication" means a sign, signal, writing, image, sound, data, or intelligence of any nature transmitted or created in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.

(b) "Sexual conduct" means:

(i) actual or simulated:

(A) sexual intercourse, whether between persons of the same or opposite sex;

(B) penetration of the vagina or rectum by any object, except when done as part of a recognized medical procedure;

(C) bestiality;

(D) masturbation;

(E) sadomasochistic abuse;

(F) lewd exhibition of the genitals, breasts, pubic or rectal area, or other intimate parts of any person; or

(G) defecation or urination for the purpose of the sexual stimulation of the viewer; or

(ii) depiction of a child in the nude or in a state of partial undress with the purpose to abuse, humiliate, harass, or degrade the child or to arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person.

(c) "Simulated" means any depicting of the genitals or pubic or rectal area that gives the appearance of sexual conduct or incipient sexual conduct.

(d) "Visual medium" means:

(i) any film, photograph, videotape, negative, slide, or photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(ii) any disk, diskette, or other physical media that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

MONT. CODE ANN. § 45-5-627 (2010). Ritual abuse of minor -- exceptions -- penalty.

(1) A person commits the offense of ritual abuse of a minor if the person purposely or knowingly and as part of any ceremony, rite, or ritual or of any training or practice for any ceremony, rite, or ritual:

(a) has sexual intercourse without consent with a person less than 16 years of age; commits assault, aggravated assault, assault on a minor, or assault with a weapon against a victim less than 16 years of age; or kills a person less than 16 years of age;

(b) actually or by simulation tortures, mutilates, or sacrifices an animal or person in the presence of the minor;

(c) dissects, mutilates, or incinerates a human corpse or remains in the presence of the minor;

(d) forces upon the minor or upon another person in the presence of a minor the ingestion or the external bodily application of human or animal urine, feces, flesh, blood, bone, or bodily secretions or drugs or chemical compounds;

(e) places a living minor or another living person in the presence of a minor in a coffin or open grave that is empty or that contains a human corpse or remains; or

(f) threatens the minor or, in the presence of the minor, threatens any person or animal with death or serious bodily harm and the minor reasonably believes that the threat will or may be carried out.

(2) This section does not apply to activities, practices, and procedures otherwise allowed by law.

(3) Except as provided in 46-18-219, a person convicted of ritual abuse of a minor shall:

(a) for the first offense, be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than $ 50,000, or both; and

(b) for a second or subsequent offense, be imprisoned in the state prison for any term of not less than 2 years or more than 40 years and may be fined not more than $ 50,000, or both.

(4) In addition to any sentence imposed under subsection (3), after determining pursuant to 46-18-242 the financial resources and future ability of the offender to pay restitution, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

MONT. CODE ANN. § 45-5-631 (2010). Interference with parent-child contact.

(1) A person who has been granted parent-child contact under a parenting plan commits the offense of interference with parent-child contact if the person knowingly or purposely prevents, obstructs, or frustrates the rights of another person entitled to parent-child contact under an existing court order.

(2) A person convicted of the offense of interference with parent-child contact shall be fined an amount not to exceed $ 500 or be imprisoned in the county jail for a term not to exceed 5 days, or both.

MONT. CODE ANN. § 45-5-632 (2010). Aggravated interference with parent-child contact.

(1) A person who commits the offense of interference with parent-child contact by changing the residence of the minor child to another state without giving written notice as required in 40-4-217, unless the notice requirement has been precluded under 40-4-234, or without written consent of the person entitled to parent-child contact pursuant to an existing court order commits the offense of aggravated interference with parent-child contact.

(2) A person convicted of the offense of aggravated interference with parent-child contact shall be fined an amount not to exceed $ 1,000 or be imprisoned in the state prison for a term not to exceed 18 months, or both.

MONT. CODE ANN. § 45-5-634 (2010). Parenting interference.

(1) A person commits the offense of parenting interference if, knowing that the person has no legal right to do so, the person:

(a) before the entry of a court order determining parenting rights, takes, entices, or withholds a child from the other parent when the action manifests a purpose to substantially deprive that parent of parenting rights; or

(b) is one of two persons who has parenting authority of a child under a court order and takes, entices, or withholds the child from the other when the action manifests a purpose to substantially deprive the other parent of parenting rights.

(2) A person convicted of the offense of parenting interference shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed $ 50,000, or both.

(3) With respect to the first alleged commission of the offense only, a person who has not left the state does not commit an offense under this section if the person voluntarily returns the child before arraignment. With respect to the first alleged commission of the offense only, a person who has left the state does not commit an offense under this section if the person voluntarily returns the child before arrest.

MONT. CODE ANN. § 46-18-201 (2010). Sentences that may be imposed.

(1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), and 45-5-625(4); or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(v) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;

(vi) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;

(vii) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

(viii) any combination of subsections (2) and (3)(a)(i) through (3)(a)(vii).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;

(n) participation in a day reporting program provided for in 53-1-203;

(o) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

(p) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(p).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.

MONT. CODE ANN. § 46-18-205 (2010). Mandatory minimum sentences -- restrictions on deferral or suspension.

(1) If the victim was less than 16 years of age, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under the following sections may not be deferred or suspended and the provisions of 46-18-222 do not apply to the first 30 days of the imprisonment:

(a) 45-5-503, sexual intercourse without consent;

(b) 45-5-504, indecent exposure;

(c) 45-5-505, deviate sexual conduct; or

(d) 45-5-507, incest.

(2) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:

(a) 45-5-103(4), mitigated deliberate homicide;

(b) 45-5-202, aggravated assault;

(c) 45-5-302(2), kidnapping;

(d) 45-5-303(2), aggravated kidnapping;

(e) 45-5-401(2), robbery;

(f) 45-5-502(3), sexual assault;

(g) 45-5-503(2) and (3), sexual intercourse without consent;

(h) 45-5-603, aggravated promotion of prostitution;

(i) 45-9-101(2), (3), and (5)(d), criminal distribution of dangerous drugs;

(j) 45-9-102(4), criminal possession of dangerous drugs; and

(k) 45-9-103(2), criminal possession with intent to distribute dangerous drugs.

(3) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102, deliberate homicide, may not be deferred or suspended.

(4) The provisions of this section do not apply to sentences imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), or 45-5-625(4).

MONT. CODE ANN. § 46-18-206 (2010). Sexual offenders -- electronic monitoring as additional condition of sentence.

Upon sentencing a person for conviction of a sexual offense under Title 45, chapter 5, part 5, who is designated as a level 3 offender under 46-23-509, the sentencing judge shall, as a condition of probation, parole, conditional release, or deferment or suspension of sentence, require the offender to participate in the program for the continuous satellite-based monitoring of sexual offenders established under 46-23-1010.

MONT. CODE ANN. § 46-18-212 (2010). When no penalty is specified.

The court, in imposing sentence upon an offender convicted of an offense for which no penalty is otherwise provided or if the offense is designated a misdemeanor and no penalty is otherwise provided, may sentence the offender to a term of imprisonment not to exceed 6 months in the county jail or a fine not to exceed $ 500, or both.

MONT. CODE ANN. § 46-18-213 (2010). When no penalty is specified – felony.

The court, in imposing sentence upon an offender convicted of an offense which is designated as a felony and no penalty is otherwise provided, may sentence the offender for any term not to exceed 10 years in the state prison or may fine the offender in an amount not to exceed $ 50,000 or may impose both such fine and imprisonment.

MONT. CODE ANN. § 46-18-220 (2010). Sentences for certain offenses committed in official detention -- death penalty.

An offender convicted of having committed attempted deliberate homicide, aggravated assault, or aggravated kidnapping while in official detention, as defined in 45-2-101, shall, if the provisions of 46-1-401 have been complied with, be sentenced to death or life imprisonment as provided in 46-18-301 through 46-18-310.

MONT. CODE ANN. § 46-18-221 (2010). Additional sentence for offenses committed with dangerous weapon.

(1) If the provisions of 46-1-401 have been complied with, a person who has been found guilty of any offense, other than an offense in which the use of a weapon is an element of the offense, and who, while engaged in the commission of the offense, knowingly displayed, brandished, or otherwise used a firearm, destructive device, as defined in 45-8-332(1), or other dangerous weapon shall, in addition to the punishment provided for the commission of the underlying offense, be sentenced to a term of imprisonment in the state prison of not less than 2 years or more than 10 years, except as provided in 46-18-222.

(2) If the provisions of 46-1-401 have been complied with, a person convicted of a second or subsequent offense under this section shall, in addition to the punishment provided for the commission of the present offense, be sentenced to a term of imprisonment in the state prison of not less than 4 years or more than 20 years, except as provided in 46-18-222. For the purposes of this subsection, the following persons must be considered to have been convicted of a previous offense under this section:

(a) a person who has previously been convicted of an offense, committed on a different occasion than the present offense, under 18 U.S.C. 924(c); and

(b) a person who has previously been convicted of an offense in this or another state, committed on a different occasion than the present offense, during the commission of which the person knowingly displayed, brandished, or otherwise used a firearm, destructive device, as defined in 45-8-332(1), or other dangerous weapon.

(3) The imposition or execution of the minimum sentences prescribed by this section may not be deferred or suspended, except as provided in 46-18-222.

(4) An additional sentence prescribed by this section must run consecutively to the sentence provided for the offense.

MONT. CODE ANN. § 46-18-231 (2010). Fines in felony and misdemeanor cases.

(1) (a) Except as provided in subsection (1)(b), whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a felony penalty of imprisonment could be imposed, the sentencing judge may, in lieu of or in addition to a sentence of imprisonment, impose a fine only in accordance with subsection (3).

(b) For those crimes for which penalties are provided in the following sections, a fine may be imposed in accordance with subsection (3) in addition to a sentence of imprisonment:

(i) 45-5-103(4), mitigated deliberate homicide;

(ii) 45-5-202, aggravated assault;

(iii) 45-5-213, assault with a weapon;

(iv) 45-5-302(2), kidnapping;

(v) 45-5-303(2), aggravated kidnapping;

(vi) 45-5-401(2), robbery;

(vii) 45-5-502(3), sexual assault when the victim is less than 16 years old and the offender is 3 or more years older than the victim or the offender inflicts bodily injury in the course of committing the sexual assault;

(viii) 45-5-503(2) through (4), sexual intercourse without consent;

(ix) 45-5-507(5), incest when the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense;

(x) 45-5-601(3), 45-5-602(3), or 45-5-603(2)(c), prostitution, promotion of prostitution, or aggravated promotion of prostitution when the prostitute was 12 years of age or younger and the prostitute's client was 18 years of age or older at the time of the offense;

(xi) 45-5-625(4), sexual abuse of children;

(xii) 45-9-101(2), (3), and (5)(d), criminal possession with intent to distribute a narcotic drug, criminal possession with intent to distribute a dangerous drug included in Schedule I or Schedule II, or other criminal possession with intent to distribute a dangerous drug;

(xiii) 45-9-102(4), criminal possession of an opiate;

(xiv) 45-9-103(2), criminal possession of an opiate with an intent to distribute; and

(xv) 45-9-109, criminal possession with intent to distribute dangerous drugs on or near school property.

(2) Whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the sentencing judge may impose a fine only in accordance with subsection (3).

(3) The sentencing judge may not sentence an offender to pay a fine unless the offender is or will be able to pay the fine. In determining the amount and method of payment, the sentencing judge shall take into account the nature of the crime committed, the financial resources of the offender, and the nature of the burden that payment of the fine will impose.

(4) Any fine levied under this section in a felony case shall be in an amount fixed by the sentencing judge not to exceed $ 50,000.

MONT. CODE ANN. § 46-18-502 (2010). Sentencing of persistent felony offender.

(1) Except as provided in 46-18-219 and subsection (2) of this section, a persistent felony offender shall be imprisoned in the state prison for a term of not less than 5 years or more than 100 years or shall be fined an amount not to exceed $ 50,000, or both, if the offender was 21 years of age or older at the time of the commission of the present offense.

(2) Except as provided in 46-18-219, an offender shall be imprisoned in a state prison for a term of not less than 10 years or more than 100 years or shall be fined an amount not to exceed $ 50,000, or both, if:

(a) the offender was a persistent felony offender, as defined in 46-18-501, at the time of the offender's previous felony conviction;

(b) less than 5 years have elapsed between the commission of the present offense and:

(i) the previous felony conviction; or

(ii) the offender's release on parole, from prison, or from other commitment imposed as a result of the previous felony conviction; and

(c) the offender was 21 years of age or older at the time of the commission of the present offense.

(3) Except as provided in 46-18-222, the imposition or execution of the first 5 years of a sentence imposed under subsection (1) of this section or the first 10 years of a sentence imposed under subsection (2) of this section may not be deferred or suspended.

(4) Any sentence imposed under subsection (2) must run consecutively to any other sentence imposed.

MONT. CODE ANN. § 46-23-504 (2010). Persons required to register – procedure.

(1) Except as provided in 41-5-1513, a sexual or violent offender:

(a) shall register immediately upon conclusion of the sentencing hearing if the offender is not sentenced to confinement or is not sentenced to the department and placed in confinement by the department;

(b) must be registered as provided in 46-23-503 at least 10 days prior to release from confinement if sentenced to confinement or sentenced to the department and placed in confinement by the department;

(c) shall register within 3 business days of entering a county of this state for the purpose of residing or setting up a temporary residence for 10 days or more or for an aggregate period exceeding 30 days in a calendar year; and

(d) who is a transient shall register within 3 business days of entering a county of this state.

(2) Registration under subsection (1)(a), (1)(c), or (1)(d) must be with the appropriate registration agency. If an offender registers with a police department, the department shall notify the sheriff's office of the county in which the municipality is located of the registration. The probation officer having supervision over an offender required to register under subsection (1)(a) shall verify the offender's registration status with the appropriate registration agency.

(3) At the time of registering, the offender shall sign a statement in writing giving the information required by subsections (3)(a) through (3)(g) and any other information required by the department of justice. The registration agency shall fingerprint the offender, unless the offender's fingerprints are on file with the department of justice, and shall photograph the offender. Within 3 days, the registration agency shall send copies of the statement, fingerprints, and photographs to the department of justice. The registration agency shall require an offender given a level 2 or level 3 designation to appear before the registration agency for a new photograph every year. The information collected from the offender at the time of registration must include the:

(a) name of the offender and any aliases used by the offender;

(b) offender's social security number;

(c) residence information required by subsection (4);

(d) name and address of any business or other place where the offender is or will be an employee;

(e) name and address of any school where the offender will be a student;

(f) offender's driver's license number; and

(g) description and license number of any motor vehicle owned or operated by the offender.

(4) (a) If, at the time of registration, the offender regularly resides in more than one county or municipality, the offender shall register with the registration agency of each county or municipality in which the offender resides. If an offender resides in more than one location within the same county or municipality, the registration agency may require the offender to provide all of the locations where the offender regularly resides and to designate one of them as the offender's primary residence.

(b) Registration of more than one residence pursuant to this section is an exception from the single residence rule provided in 1-1-215.

(5) A transient shall report monthly, in person, to the registration agency with which the transient registered pursuant to subsection (1)(d). The transient shall report on a day specified by the registration agency and during the normal business hours of that agency. On that day, the transient shall provide the registration agency with the information listed in subsections (3)(a) through (3)(g). The registration agency to which the transient reports may also require the transient to provide the locations where the transient stayed during the previous 30 days and may stay during the next 30 days.

(6) (a) The department of justice shall mail a registration verification form:

(i) each 90 days to an offender designated as a level 3 offender under 46-23-509;

(ii) each 180 days to an offender designated as a level 2 offender under 46-23-509; and

(iii) each year to a violent offender or an offender designated as a level 1 offender under 46-23-509.

(b) If the offender is a transient, the department of justice shall mail the offender's registration verification form to the registration agency with which the offender last registered.

(c) The form must require the offender's notarized signature. Within 10 days after receipt of the form, the offender shall complete the form and return it to the registration agency where the offender last registered or, if the offender was initially registered pursuant to subsection (1)(b), to the registration agency in the county or municipality in which the offender is located. A sexual offender shall return the form to the appropriate registration agency in person, and at the time that the sexual offender returns the registration verification form, the registration agency shall take a photograph of the offender.

(7) Within 3 days after receipt of a registration verification form, the registration agency shall provide a copy of the form and most recent photograph to the department of justice.

(8) The offender is responsible, if able to pay, for costs associated with registration. The fees charged for registration may not exceed the actual costs of registration. The department of justice may adopt a rule establishing fees to cover registration costs incurred by the department of justice in maintaining registration and address verification records. The fees must be deposited in the general fund.

(9) The clerk of the district court in the county in which a person is convicted of a sexual or violent offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment.

MONT. CODE ANN. § 46-23-507 (2010). Penalty.

A sexual or violent offender who knowingly fails to register, verify registration, or keep registration current under this part may be sentenced to a term of imprisonment of not more than 5 years or may be fined not more than $ 10,000, or both.

NEBRASKA

NEB. REV. STAT. ANN. § 28-105 (2010). Felonies; classification of penalties; sentences; where served; elibility for probation.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, felonies are divided into nine classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I felony ..... Death

Class IA felony ..... Life imprisonment without parole

Class IB felony ..... Maximum-life imprisonment

Minimum-twenty years imprisonment

Class IC felony ..... Maximum-fifty years imprisonment

Mandatory minimum-five years imprisonment

Class ID felony ..... Maximum-fifty years imprisonment

Mandatory minimum-three years imprisonment

Class II felony ..... Maximum-fifty years imprisonment

Minimum-one year imprisonment

Class III felony ..... Maximum-twenty years imprisonment, or twenty-five thousand dollars fine, or both

Minimum-one year imprisonment

Class IIIA felony ..... Maximum-five years imprisonment, or ten thousand dollars fine, or both

Minimum-none

Class IV felony ..... Maximum-five years imprisonment, or ten thousand dollars fine, or both

Minimum-none

(2) All sentences of imprisonment for Class IA, IB, IC, ID, II, and III felonies and sentences of one year or more for Class IIIA and IV felonies shall be served in institutions under the jurisdiction of the Department of Correctional Services. Sentences of less than one year shall be served in the county jail except as provided in this subsection. If the department certifies that it has programs and facilities available for persons sentenced to terms of less than one year, the court may order that any sentence of six months or more be served in any institution under the jurisdiction of the department. Any such certification shall be given by the department to the State Court Administrator, who shall forward copies thereof to each judge having jurisdiction to sentence in felony cases.

(3) Nothing in this section shall limit the authority granted in sections 29-2221 and 29-2222 to increase sentences for habitual criminals.

(4) A person convicted of a felony for which a mandatory minimum sentence is prescribed shall not be eligible for probation.

NEB. REV. STAT. ANN. § 28-106 (2010). Misdemeanors; classification of penalties; sentences; where served.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I misdemeanor ..... Maximum ---- not more than one year imprisonment, or one thousand dollars fine, or both

Minimum ---- none

Class II misdemeanor ..... Maximum ---- six months imprisonment, or one thousand dollars fine, or both

Minimum ---- none

Class III misdemeanor ..... Maximum ---- three months imprisonment, or five hundred dollars fine, or both

Minimum ---- none

Class IIIA misdemeanor ..... Maximum ---- seven days imprisonment, five hundred dollars fine, or both

Minimum ---- none

Class IV misdemeanor ..... Maximum ---- no imprisonment, five hundred dollars fine

Minimum ---- one hundred dollars fine

Class V misdemeanor ..... Maximum ---- no imprisonment, one hundred dollars fine

Minimum ---- none

Class W misdemeanor ..... Driving under the influence or implied consent

First conviction

Maximum ---- sixty days imprisonment and five hundred dollars fine

Mandatory minimum ---- seven days imprisonment and four hundred dollars fine

Second conviction

Maximum ---- six months imprisonment and five hundred dollars fine

Mandatory minimum ---- thirty days imprisonment and five hundred dollars fine

Third conviction

Maximum ---- one year imprisonment and six hundred dollars fine

Mandatory minimum ---- ninety days imprisonment and six hundred dollars fine

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services:

(a) If the sentence is for a term of one year upon conviction of a Class I misdemeanor;

(b) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or

(c) If the Department of Correctional Services has certified as provided in section 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term of six months or more.

NEB. REV. STAT. ANN. § 28-107 (2010). Felony or misdemeanor, defined outside of code; how treated.

(1) Any felony or misdemeanor defined by state statute outside of this code without specification of its class shall be punishable as provided in the statute defining it, or as otherwise provided by law outside of this code, except as provided in subsections (2) and (3) of this section.

(2) A felony defined by statute outside this code, without classification, the sentence for which exceeds the sentence authorized in this code for a Class III felony, shall constitute for sentencing purposes a Class III felony. A person adjudged guilty under such law is deemed to be convicted of a Class III felony and shall be sentenced for a felony of that class in accordance with this code.

(3) A misdemeanor defined by a statute outside this code, the sentence for which exceeds the sentence authorized in this code for a Class I misdemeanor, shall constitute for sentencing purposes a Class I misdemeanor. A person adjudged guilty under such law is deemed to be convicted of a Class I misdemeanor and shall be sentenced for a Class I misdemeanor in accordance with this code.

NEB. REV. STAT. ANN. § 28-311 (2010). Criminal child enticement; attempt; penalties.

(1) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice, or lure or attempt to solicit, coax, entice, or lure any child under the age of fourteen years to enter into any vehicle, whether or not the person knows the age of the child.

(2) It is an affirmative defense to a charge under this section that:

(a) The person had the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity;

(b) (i) The person is a law enforcement officer, emergency services provider as defined in section 71-507, firefighter, or other person who regularly provides emergency services, is the operator of a bookmobile or other such vehicle operated by the state or a political subdivision and used for informing, educating, organizing, or transporting children, is a paid employee of, or a volunteer for, a nonprofit or religious organization which provides activities for children, or is an employee or agent of or a volunteer acting under the direction of any board of education and (ii) the person listed in subdivision (2)(b)(i) of this section was, at the time the person undertook the activity, acting within the scope of his or her lawful duties in that capacity; or

(c) The person undertook the activity in response to a bona fide emergency situation or the person undertook the activity in response to a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.

(3) Any person who violates this section commits criminal child enticement and is guilty of a Class IIIA felony. If such person has previously been convicted of (a) criminal child enticement under this section, (b) sexual assault of a child in the first degree under section 28-319.01, (c) sexual assault of a child in the second or third degree under section 28-320.01, (d) child enticement by means of an electronic communication device under section 28-320.02, or (e) assault under section 28-308, 28-309, or 28-310, kidnapping under section 28-313, or false imprisonment under section 28-314 or 28-315 when the victim was under eighteen years of age when such person violates this section, such person is guilty of a Class III felony.

NEB. REV. STAT. ANN. § 28-316 (2010). Violation of custody; penalty.

(1) Any person, including a natural or foster parent, who, knowing that he has no legal right to do so or, heedless in that regard, takes or entices any child under the age of eighteen years from

the custody of its parent having legal custody, guardian, or other lawful custodian commits the offense of violation of custody.

(2) Except as provided in subsection (3) of this section, violation of custody is a Class II misdemeanor.

(3) Violation of custody in contravention of an order of any district or juvenile court of this state granting the custody of a child under the age of eighteen years to any person, agency, or institution, with the intent to deprive the lawful custodian of the custody of such child, is a Class IV felony.

NEB. REV. STAT. ANN. § 28-319.01 (2010). Sexual assault of a child; first degree; penalty.

(1) A person commits sexual assault of a child in the first degree:

(a) When he or she subjects another person under twelve years of age to sexual penetration and the actor is at least nineteen years of age or older; or

(b) When he or she subjects another person who is at least twelve years of age but less than sixteen years of age to sexual penetration and the actor is twenty-five years of age or older.

(2) Sexual assault of a child in the first degree is a Class IB felony with a mandatory minimum sentence of fifteen years in prison for the first offense.

(3) Any person who is found guilty of sexual assault of a child in the first degree under this section and who has previously been convicted (a) under this section, (b) under section 28-319 of first degree or attempted first degree sexual assault, (c) under section 28-320.01 before July 14, 2006, of sexual assault of a child or attempted sexual assault of a child, (d) under section 28-320.01 on or after July 14, 2006, of sexual assault of a child in the second or third degree or attempted sexual assault of a child in the second or third degree, or (e) in any other state or federal court under laws with essentially the same elements as this section, section 28-319, or section 28-320.01 as it existed before, on, or after July 14, 2006, shall be guilty of a Class IB felony with a mandatory minimum sentence of twenty-five years in prison.

(4) In any prosecution under this section, the age of the actor shall be an essential element of the offense that must be proved beyond a reasonable doubt.

NEB. REV. STAT. ANN. § 28-320.01 (2010). Sexual assault of a child; second or third degree; penalties.

(1) A person commits sexual assault of a child in the second or third degree if he or she subjects another person fourteen years of age or younger to sexual contact and the actor is at least nineteen years of age or older.

(2) Sexual assault of a child is in the second degree if the actor causes serious personal injury to the victim. Sexual assault of a child in the second degree is a Class II felony for the first offense.

(3) Sexual assault of a child is in the third degree if the actor does not cause serious personal injury to the victim. Sexual assault of a child in the third degree is a Class IIIA felony for the first offense.

(4) Any person who is found guilty of second degree sexual assault of a child under this section and who has previously been convicted (a) under this section, (b) under section 28-319 of first degree or attempted first degree sexual assault, (c) under section 28-319.01 for first degree or attempted first degree sexual assault of a child, or (d) in any other state or federal court under laws with essentially the same elements as this section, section 28-319, or section 28-319.01 shall be guilty of a Class IC felony and shall be sentenced to a mandatory minimum term of twenty-five years in prison.

(5) Any person who is found guilty of third degree sexual assault of a child under this section and who has previously been convicted (a) under this section, (b) under section 28-319 of first degree or attempted first degree sexual assault, (c) under section 28-319.01 for first degree or attempted first degree sexual assault of a child, or (d) in any other state or federal court under laws with essentially the same elements as this section, section 28-319, or 28-319.01 shall be guilty of a Class IC felony.

NEB. REV. STAT. ANN. § 28-320.02 (2010). Sexual assault; use of electronic communication device; prohibited acts; penalties.

(1) No person shall knowingly solicit, coax, entice, or lure (a) a child sixteen years of age or younger or (b) a peace officer who is believed by such person to be a child sixteen years of age or younger, by means of an electronic communication device as that term is defined in section 28-833, to engage in an act which would be in violation of section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section 28-320. A person shall not be convicted of both a violation of this subsection and a violation of section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section 28-320 if the violations arise out of the same set of facts or pattern of conduct and the individual solicited, coaxed, enticed, or lured under this subsection is also the victim of the sexual assault under section 28-319, 28-319.01, or 28-320.01 or subsection (1) or (2) of section 28-320.

(2) A person who violates this section is guilty of a Class ID felony. If a person who violates this section has previously been convicted of a violation of this section or section 28-308, 28-309, 28-310, 28-311, 28-313, 28-314, 28-315, 28-319, 28-319.01, 28-320.01, 28-813.01, 28-833, 28-1463.03, or 28-1463.05 or subsection (1) or (2) of section 28-320, the person is guilty of a Class IC felony.

NEB. REV. STAT. ANN. § 28-322.05 (2010). Unlawful use of the Internet by a prohibited sex offender; penalties.

(1) Any person required to register under the Sex Offender Registration Act who is required to register because of a conviction for one or more of the following offenses, including any substantially equivalent offense committed in another state, territory, commonwealth, or other jurisdiction of the United States, and who knowingly and intentionally uses a social networking web site, instant messaging, or chat room service that allows a person who is less than eighteen years of age to access or use its social networking web site, instant messaging, or chat room service, commits the offense of unlawful use of the Internet by a prohibited sex offender:

(a) Kidnapping of a minor pursuant to section 28-313;

(b) Sexual assault of a child in the first degree pursuant to section 28-319.01;

(c) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;

(d) Incest of a minor pursuant to section 28-703;

(e) Pandering of a minor pursuant to section 28-802;

(f) Visual depiction of sexually explicit conduct of a child pursuant to section 28-1463.03 or 28-1463.05;

(g) Possessing any visual depiction of sexually explicit conduct pursuant to section 28-813.01;

(h) Criminal child enticement pursuant to section 28-311;

(i) Child enticement by means of an electronic communication device pursuant to section 28-320.02;

(j) Enticement by electronic communication device pursuant to section 28-833; or

(k) An attempt or conspiracy to commit an offense listed in subdivisions (1)(a) through (1)(j) of this section.

(2) Unlawful use of the Internet by a prohibited sex offender is a Class I misdemeanor for a first offense. Any second or subsequent conviction under this section is a Class IIIA felony.

NEB. REV. STAT. ANN. § 28-706 (2010). Criminal nonsupport; penalty; exceptions.

(1) Any person who intentionally fails, refuses, or neglects to provide proper support which he or she knows or reasonably should know he or she is legally obliged to provide to a spouse, minor child, minor stepchild, or other dependent commits criminal nonsupport.

(2) A parent or guardian who refuses to pay hospital costs, medical costs, or any other costs arising out of or in connection with an abortion procedure performed on a minor child or minor stepchild does not commit criminal nonsupport if:

(a) Such parent or guardian was not consulted prior to the abortion procedure; or

(b) After consultation, such parent or guardian refused to grant consent for such procedure, and the abortion procedure was not necessary to preserve the minor child or stepchild from an imminent peril that substantially endangered her life or health.

(3) Support includes, but is not limited to, food, clothing, medical care, and shelter.

(4) A designation of assets for or use of income by an individual in accordance with section 68-922 shall be considered just cause for failure to use such assets or income to provide medical support of such individual's spouse.

(5) This section does not exclude any applicable civil remedy.

(6) Except as provided in subsection (7) of this section, criminal nonsupport is a Class II misdemeanor.

(7) Criminal nonsupport is a Class IV felony if it is in violation of any order of any court.

NEB. REV. STAT. ANN. § 28-707 (2010). Child abuse; privileges not available; penalties.

(1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:

(a) Placed in a situation that endangers his or her life or physical or mental health;

(b) Cruelly confined or cruelly punished;

(c) Deprived of necessary food, clothing, shelter, or care;

(d) Placed in a situation to be sexually exploited by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions; or

(e) Placed in a situation to be sexually abused as defined in section 28-319, 28-319.01, or 28-320.01.

(2) The statutory privilege between patient and physician, between client and professional counselor, and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Child abuse is a Class I misdemeanor if the offense is committed negligently.

(4) Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section 28-109.

(5) Child abuse is a Class II felony if the offense is committed knowingly and intentionally and results in serious bodily injury as defined in such section.

(6) Child abuse is a Class IB felony if the offense is committed knowingly and intentionally and results in the death of such child.

NEB. REV. STAT. ANN. § 29-718 (2010). Child protection cases; central register.

There shall be a central register of child protection cases maintained in the department containing records of all reports of child abuse or neglect opened for investigation as provided in section 28-713 and classified as either court substantiated or agency substantiated as provided in section 28-720. The department may change records classified as inconclusive prior to August 30, 2009, to agency substantiated. The department shall give public notice of the changes made to this section and subsection (3) of section 28-720 by Laws 2009, LB 122, within thirty days after August 30, 2009, by having such notice published in a newspaper or newspapers of general circulation within the state.

NEB. REV. STAT. ANN. § 28-831 (2010). Human trafficking; forced labor or services; prohibited acts; penalties.

(1) No person shall knowingly subject or attempt to subject another person to forced labor or services. If an actor knowingly subjects another person to forced labor or services by:

(a) Inflicting or threatening to inflict serious personal injury as defined by section 28-318, the actor is guilty of a Class III felony;

(b) Physically restraining or threatening to physically restrain another person, the actor is guilty of a Class III felony;

(c) Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of such other person, the actor is guilty of a Class IV felony; or

(d) Causing or threatening to cause financial harm to another person, the actor is guilty of a Class I misdemeanor.

(2) No person shall knowingly recruit, entice, harbor, transport, provide, or obtain by any means or attempt to recruit, entice, harbor, provide, or obtain by any means a minor for the purpose of having such minor engage in commercial sexual activity, sexually-explicit performance, or the production of pornography, or to cause or attempt to cause a minor to engage in commercial sexual activity, sexually-explicit performance, or the production of pornography. A person who violates this subsection shall be punished as follows:

(a) In cases in which the actor uses overt force or the threat of force, the actor is guilty of a Class II felony;

(b) In cases in which the victim has not attained the age of fifteen years and the actor does not use overt force or the threat of force, the actor is guilty of a Class II felony; or

(c) In cases involving a victim between the ages of fifteen and eighteen years, and the actor does not use overt force or threat of force, the actor is guilty of a Class III felony.

(3) Any person who knowingly (a) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, a person eighteen years of age or older, intending or knowing that the person will be subjected to forced labor or services or (b) benefits, financially or by receiving anything of value, from participation in a venture which has, as part of the venture, an act that is in violation of subsection (1) of this section, is guilty of a Class IV felony.

NEB. REV. STAT. ANN. § 29-4003 (2010). Applicability of act.

(1) (a) The Sex Offender Registration Act applies to any person who on or after January 1, 1997:

(i) Has ever pled guilty to, pled nolo contendere to, or been found guilty of any of the following:

(A) Kidnapping of a minor pursuant to section 28-313, except when the person is the parent of the minor and was not convicted of any other offense in this section;

(B) False imprisonment of a minor pursuant to section 28-314 or 28-315;

(C) Sexual assault pursuant to section 28-319 or 28-320;

(D) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;

(E) Sexual assault of a child in the first degree pursuant to section 28-319.01;

(F) Sexual abuse of a vulnerable adult pursuant to subdivision (1)(c) of section 28-386;

(G) Incest of a minor pursuant to section 28-703;

(H) Pandering of a minor pursuant to section 28-802;

(I) Visual depiction of sexually explicit conduct of a child pursuant to section 28-1463.03 or 28-1463.05;

(J) Knowingly possessing any visual depiction of sexually explicit conduct which has a child as one of its participants or portrayed observers pursuant to section 28-813.01;

(K) Criminal child enticement pursuant to section 28-311;

(L) Child enticement by means of an electronic communication device pursuant to section 28-320.02;

(M) Debauching a minor pursuant to section 28-805; or

(N) Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit an offense listed in subdivisions (1)(a)(i)(A) through (1)(a)(i)(M) of this section;

(ii) Has ever pled guilty to, pled nolo contendere to, or been found guilty of any offense that is substantially equivalent to a registrable offense under subdivision (1)(a)(i) of this section by any village, town, city, state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, by court-martial or other military tribunal, or by a foreign jurisdiction, notwithstanding a procedure comparable in effect to that described under section 29-2264 or any other procedure to nullify a conviction other than by pardon;

(iii) Is incarcerated in a jail, a penal or correctional facility, or any other public or private institution or is under probation or parole as a result of pleading guilty to or being found guilty of a registrable offense under subdivision (1)(a)(i) or (ii) of this section prior to January 1, 1997; or

(iv) Enters the state and is required to register as a sex offender under the laws of another village, town, city, state, territory, commonwealth, or other jurisdiction of the United States.

(b) In addition to the registrable offenses under subdivision (1)(a) of this section, the Sex Offender Registration Act applies to any person who on or after January 1, 2010:

(i) (A) Except as provided in subdivision (1)(b)(i)(B) of this section, has ever pled guilty to, pled nolo contendere to, or been found guilty of any of the following:

(I) Murder in the first degree pursuant to section 28-303;

(II) Murder in the second degree pursuant to section 28-304;

(III) Manslaughter pursuant to section 28-305;

(IV) Assault in the first degree pursuant to section 28-308;

(V) Assault in the second degree pursuant to section 28-309;

(VI) Assault in the third degree pursuant to section 28-310;

(VII) Stalking pursuant to section 28-311.03;

(VIII) Unlawful intrusion on a minor pursuant to section 28-311.08;

(IX) Kidnapping pursuant to section 28-313;

(X) False imprisonment pursuant to section 28-314 or 28-315;

(XI) Sexual abuse of an inmate or parolee in the first degree pursuant to section 28-322.02;

(XII) Sexual abuse of an inmate or parolee in the second degree pursuant to section 28-322.03;

(XIII) Sexual abuse of a protected individual pursuant to section 28-322.04;

(XIV) Incest pursuant to section 28-703;

(XV) Child abuse pursuant to subdivision (1)(d) or (e) of section 28-707;

(XVI) Enticement by electronic communication device pursuant to section 28-833; or

(XVII) Attempt, solicitation, aiding or abetting, being an accessory, or conspiracy to commit an offense listed in subdivisions (1)(b)(i)(A) (I) through (1)(b)(i)(A)(XVI) of this section.

(B) In order for the Sex Offender Registration Act to apply to the offenses listed in subdivisions (1)(b)(i)(A)(I), (II), (III), (IV), (V), (VI), (VII), (IX), and (X) of this section, a court shall have found that evidence of sexual penetration or sexual contact, as those terms are defined in section 28-318, was present in the record, which shall include consideration of the factual basis for a plea-based conviction and information contained in the presentence report;

(ii) Has ever pled guilty to, pled nolo contendere to, or been found guilty of any offense that is substantially equivalent to a registrable offense under subdivision (1)(b)(i) of this section by any village, town, city, state, territory, commonwealth, or other jurisdiction of the United States, by the United States Government, by court-martial or other military tribunal, or by a foreign jurisdiction, notwithstanding a procedure comparable in effect to that described under section 29-2264 or any other procedure to nullify a conviction other than by pardon; or

(iii) Enters the state and is required to register as a sex offender under the laws of another village, town, city, state, territory, commonwealth, or other jurisdiction of the United States.

(2) A person appealing a conviction of a registrable offense under this section shall be required to comply with the act during the appeals process.

NEB. REV. STAT. ANN. § 29-4011 (2010). Violations; penalties; investigation and enforcement.

(1) Any person required to register under the Sex Offender Registration Act who violates the act is guilty of a Class IV felony.

(2) Any person required to register under the act who violates the act and who has previously been convicted of a violation of the act is guilty of a Class III felony and shall be sentenced to a mandatory minimum term of at least one year in prison unless the violation which caused the person to be placed on the registry was a misdemeanor, in which case the violation of the act shall be a Class IV felony.

(3) Any law enforcement agency with jurisdiction in the area in which a person required to register under the act resides, has a temporary domicile, maintains a habitual living location, is employed, carries on a vocation, or attends school shall investigate and enforce violations of the act.

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NEV. REV. STAT. ANN. § 176.059 (2009). Administrative assessment for misdemeanor: Collection; distribution; limitations on use.

1. Except as otherwise provided in subsection 2, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Fine	Assessment

$ 5 to $ 49	$ 30
50 to 59	45
60 to 69	50
70 to 79	55
80 to 89	60
90 to 99	65
100 to 199	75
200 to 299	85
300 to 399	95
400 to 499	105
500 to 1,000	120

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.

2. The provisions of subsection 1 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

3. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

4. If the justice or judge permits the fine and administrative assessment to be paid in installments, the payments must be first applied to the unpaid balance of the administrative assessment. The city treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 5. The county treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 6.

5. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars to the county treasurer for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund

if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the municipal courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the municipal general fund if it has not been committed for expenditure. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) FIVE DOLLARS TO THE STATE CONTROLLER FOR CREDIT TO THE STATE GENERAL FUND.

(d) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund FOR DISTRIBUTION AS PROVIDED IN SUBSECTION 8.

6. The money collected for administrative assessments in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the justice courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

7. The money apportioned to a juvenile court, a justice court or a municipal court pursuant to this section must be used, in addition to providing services to juvenile offenders in the juvenile court, to improve the operations of the court, or to acquire appropriate advanced technology or the use of such technology, or both. Money used to improve the operations of the court may include expenditures for:

(a) Training and education of personnel;

(b) Acquisition of capital goods;

(c) Management and operational studies; or

(d) Audits.

8. Of the total amount deposited in the State General Fund pursuant to PARAGRAPH (D) OF SUBSECTION 5 and PARAGRAPH (D) OF SUBSECTION 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

(a) Not less than 51 percent to the Office of Court Administrator for allocation as follows:

(1) THIRTY-SIX and one-half percent of the amount distributed to the Office of Court Administrator for:

(I) THE administration of the courts. ;

(II) THE development of a uniform system for judicial records; AND

(III) CONTINUING judicial education.]

(2) Forty-eight percent of the amount distributed to the Office of Court Administrator for the Supreme Court.

(3) Three and one-half percent of the amount distributed to the Office of Court Administrator for the payment for the services of retired justices and retired district judges.

(4) Twelve percent of the amount distributed to the Office of Court Administrator for the provision of specialty court programs.

(b) Not more than 49 percent must be used to the extent of legislative authorization for the support of:

(1) The Central Repository for Nevada Records of Criminal History;

(2) The Peace Officers' Standards and Training Commission;

(3) The operation by the Department of Public Safety of a computerized interoperative system for information related to law enforcement;

(4) The Fund for the Compensation of Victims of Crime;

(5) The Advisory Council for Prosecuting Attorneys ; AND

(6) PROGRAMS WITHIN THE OFFICE OF THE ATTORNEY GENERAL RELATED TO VICTIMS OF DOMESTIC VIOLENCE.

9. ANY MONEY DEPOSITED IN THE STATE GENERAL FUND PURSUANT TO PARAGRAPH (D) OF SUBSECTION 5 AND PARAGRAPH (D) OF SUBSECTION 6 THAT IS NOT DISTRIBUTED OR USED PURSUANT TO PARAGRAPH (B) OF SUBSECTION 8 MUST BE TRANSFERRED TO THE UNCOMMITTED BALANCE OF THE STATE GENERAL FUND.

10. As used in this section:

(a) "Juvenile court" has the meaning ascribed to it in NRS 62A.180.

(b) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

NEV. REV. STAT. ANN. § 176.062 (2009). Administrative assessment for felony or gross misdemeanor: Collection; distribution; limitations on use.

1. When a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a felony or gross misdemeanor, the judge shall include in the sentence the sum of $25 as an administrative assessment and render a judgment against the defendant for the assessment.

2. The money collected for an administrative assessment:

(a) Must not be deducted from any fine imposed by the judge;

(b) Must be taxed against the defendant in addition to the fine; and

(c) Must be stated separately on the court's docket.

3. The money collected for administrative assessments in district courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Five dollars for credit to a special account in the county general fund for the use of the district court.

(b) The remainder of each assessment to the State Controller.

4. The State Controller shall credit the money received pursuant to subsection 3 to a special account for the assistance of criminal justice in the State General Fund, and distribute the money from the account to the Attorney General as authorized by the Legislature. Any amount received in excess of the amount authorized by the Legislature for distribution must remain in the account.

NEV. REV. STAT. ANN. § 176.0926 (2009). Crime against child: Notice of conviction to Central Repository; defendant to be informed of duty to register; effect of failure to inform.

1. If a defendant is convicted of a crime against a child, the court shall, following the imposition of a sentence:

(a) Notify the Central Repository of the conviction of the defendant, so the Central Repository may carry out the provisions for registration of the defendant pursuant to NRS 179D.450.

(b) Inform the defendant of the requirements for registration, including, but not limited to:

(1) The duty to register initially pursuant to NRS 179D.445;

(2) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.450;

(3) The duty to register in any other jurisdiction, including, without limitation, any jurisdiction outside the United States, during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(4) If he moves from this State to another jurisdiction, including, without limitation, any jurisdiction outside the United States, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(5) The duty to notify the local law enforcement agency in whose jurisdiction he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(6) The duty to notify immediately the appropriate local law enforcement agency if the defendant is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the defendant is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

(c) Require the defendant to read and sign a form stating that the requirements for registration have been explained to him and that he understands the requirements for registration.

2. The failure to provide the defendant with the information or confirmation form required by paragraphs (b) and (c) of subsection 1 does not affect the duty of the defendant to register and to comply with all other provisions for registration pursuant to NRS 179D.010 to 179D.550, inclusive.

NEV. REV. STAT. ANN. § 176.0927 (2009). Sexual offense: Notice of conviction to Central Repository; defendant to be informed of duty to register; effect of failure to inform.

1. If a defendant is convicted of a sexual offense, the court shall, following the imposition of a sentence:

(a) Notify the Central Repository of the conviction of the defendant, so the Central Repository may carry out the provisions for registration of the defendant pursuant to NRS 179D.450.

(b) Inform the defendant of the requirements for registration, including, without limitation:

(1) The duty to register initially pursuant to NRS 179D.445;

(2) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.460;

(3) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(4) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(5) The duty to notify the local law enforcement agency in whose jurisdiction he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(6) The duty to notify immediately the appropriate local law enforcement agency if the defendant is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the defendant is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

(c) Require the defendant to read and sign a form stating that the requirements for registration have been explained to him and that he understands the requirements for registration.

2. The failure to provide the defendant with the information or confirmation form required by paragraphs (b) and (c) of subsection 1 does not affect the duty of the defendant to register and to comply with all other provisions for registration pursuant to NRS 179D.010 to 179D.550, inclusive.

NEV. REV. STAT. ANN. § 179C.100 (2009). Registration with local law enforcement officer within 48 hours; duties and procedures; registration card may not be required; effect of restoration of civil rights.

1. It is unlawful for a convicted person to be or remain in the State of Nevada for a period of more than 48 hours without, during such 48-hour period, registering with the sheriff of a county or the chief of police of a city in the manner prescribed in this section.

2. A convicted person who does not reside in the State of Nevada but who has a temporary or permanent place of abode outside the State of Nevada, and who comes into the State on five occasions or more during any 30-day period, is subject to the provisions of this chapter.

3. A person who has registered as a convicted person with the sheriff of a county or the chief of police of a city shall register again as provided in this section if he subsequently commits another offense described or referred to in this chapter.

4. A person required by this section to register shall do so by filing with the sheriff or chief of police a statement in writing, upon a form prescribed and furnished by the sheriff or chief of police, which is signed by the person and which provides the following information:

(a) His true name and each alias that he has used or under which he may have been known;

(b) A full and complete description of his person;

(c) The kind, character and nature of each crime of which he has been convicted;

(d) The place in which he was convicted of each crime;

(e) The name under which he was convicted in each instance and the date thereof;

(f) The name, if any, and the location of each prison, reformatory, jail or other penal institution in which he was confined or to which he was sentenced;

(g) The location and address of his residence, stopping place, living quarters or place of abode, and if more than one residence, stopping place or place of abode, that fact must be stated and the location and address of each given;

(h) The kind of residence, stopping place, or place of abode in which he resides, including whether it is a private residence, hotel, apartment house or other building or structure;

(i) The length of time he has occupied each place of residence, stopping place or place of abode, and the length of time he expects or intends to remain in the State of Nevada; and

(j) Any further information that may be required by the sheriff or chief of police for the purpose of aiding and assisting in carrying into effect the provisions and intent of this chapter.

5. The sheriff of a county or the chief of police of a city shall not require a convicted person to carry a registration card, and no convicted person who is required to register pursuant to this section may be punished for the failure to carry a registration card.

6. When so ordered in the individual case by the district court in which the conviction was obtained, by the State Board of Parole Commissioners or by the State Board of Pardons Commissioners, whichever is appropriate, the provisions of this section do not apply to a convicted person who has had his civil rights restored.

NEV. REV. STAT. ANN. § 179D.441 (2009). Duty to register and to keep registration current.

Each offender convicted of a crime against a child and each sex offender shall:

1. Register initially with the local law enforcement agency of the jurisdiction in which the offender or sex offender was convicted as required pursuant to NRS 179D.445;

2. Register with the appropriate law enforcement agency as required pursuant to NRS 179D.460 and 179D.480; and

3. Keep his registration current as required pursuant to NRS 179D.447.

NEV. REV. STAT. ANN. § 179D.550 (2009). Prohibited acts; penalties; duties of local law enforcement agency.

1. Except as otherwise provided in subsection 2, an offender or sex offender who:

(a) Fails to register with a local law enforcement agency;

(b) Fails to notify the local law enforcement agency of a change of name, residence, employment or student status as required pursuant to NRS 179D.447;

(c) Provides false or misleading information to the Central Repository or a local law enforcement agency; or

(d) Otherwise violates the provisions of NRS 179D.010 to 179D.550, inclusive,

is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. An offender or sex offender who commits a second or subsequent violation of subsection 1 within 7 years after the first violation is guilty of a category C felony and shall be punished as provided in NRS 193.130. A court shall not grant probation to or suspend the sentence of a person convicted pursuant to this subsection.

3. If a local law enforcement agency is aware that an offender or sex offender in its jurisdiction has failed to comply with a provision of NRS 179D.010 to 179D.550, inclusive, the local law enforcement agency must take any appropriate action to ensure his compliance.

NEV. REV. STAT. ANN. § 193.130 (2009). Categories and punishment of felonies.

1. Except when a person is convicted of a category A felony, and except as otherwise provided by specific statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in force at the time of commission of the felony prescribed a different penalty. The minimum term of imprisonment that may be imposed must not exceed 40 percent of the maximum term imposed.

2. Except as otherwise provided by specific statute, for each felony committed on or after July 1, 1995:

(a) A category A felony is a felony for which a sentence of death or imprisonment in the state prison for life with or without the possibility of parole may be imposed, as provided by specific statute.

(b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute.

(c) A category C felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term

of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than $10,000, unless a greater fine is authorized or required by statute.

(d) A category D felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. In addition to any other penalty, the court may impose a fine of not more than $5,000, unless a greater fine is authorized or required by statute.

(e) A category E felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. Except as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100, upon sentencing a person who is found guilty of a category E felony, the court shall suspend the execution of the sentence and grant probation to the person upon such conditions as the court deems appropriate. Such conditions of probation may include, but are not limited to, requiring the person to serve a term of confinement of not more than 1 year in the county jail. In addition to any other penalty, the court may impose a fine of not more than $5,000, unless a greater penalty is authorized or required by statute.

NEV. REV. STAT. ANN. § 193.140 (2009). Punishment of gross misdemeanors.

Every person convicted of a gross misdemeanor shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such gross misdemeanor prescribed a different penalty.

NEV. REV. STAT. ANN. § 193.150 (2009). Punishment of misdemeanors.

1. Every person convicted of a misdemeanor shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than $1,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such misdemeanor prescribed a different penalty.

2. In lieu of all or a part of the punishment which may be imposed pursuant to subsection 1, the convicted person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed in NRS 176.087.

NEV. REV. STAT. ANN. § 193.162 (2009). Additional penalty: Felony committed by adult with assistance of child.

1. Except as otherwise provided in NRS 193.169 and 454.306, an adult who, with the assistance of a child:

(a) Commits a crime that is punishable as a category A or a category B felony shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

(b) Commits any felony other than a category A or a category B felony shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. An additional sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

4. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

5. As used in this section:

(a) "Adult" means a person who is 18 years of age or older.

(b) "Child" means a person who is less than 18 years of age.

NEV. REV. STAT. ANN. § 193.163 (2009). Additional penalty: Use of handgun containing metal-penetrating bullet in commission of crime.

1. Except as otherwise provided in NRS 193.169, any person who uses a handgun containing a metal-penetrating bullet in the commission of a crime shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

4. As used in this section, "metal-penetrating bullet" has the meaning ascribed to it in NRS 202.273.

NEV. REV. STAT. ANN. § 193.165 (2009). Additional penalty: Use of deadly weapon or tear gas in commission of crime; restriction on probation.

1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

3. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

4. The provisions of subsections 1, 2 and 3 do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

5. The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

(a) Murder;

(b) Kidnapping in the first degree;

(c) Sexual assault; or

(d) Robbery.

6. As used in this section, "deadly weapon" means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

NEV. REV. STAT. ANN. § 193.166 (2009). Additional penalty: Felony committed in violation of order for protection or order to restrict conduct; restriction on probation.

1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 6 of NRS 33.400 or subsection 5 of NRS 200.591, OR SUBSECTION 5 OF SECTION 3 OF THIS ACT, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS;

(e) A temporary or extended order issued pursuant to NRS 200.591; OR

(F) A TEMPORARY OR EXTENDED ORDER ISSUED PURSUANT TO SECTION 3 OF THIS ACT, shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a minimum term of not less than 1 year and a maximum term of not more than 20 years. If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information. The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

4. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, battery which results in substantial bodily harm, OR BATTERY WHICH IS COMMITTED BY STRANGULATION AS DESCRIBED IN NRS 200.481 OR 200.485, if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

5. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

NEV. REV. STAT. ANN. § 193.170 (2009). Prohibited act is misdemeanor when no penalty imposed.

Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor.

NEV. REV. STAT. ANN. § 193.330 (2009). Punishment for attempts.

1. An act done with the intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime. A person who attempts to commit a crime, unless a different penalty is prescribed by statute, shall be punished as follows:

(a) If the person is convicted of:

(1) Attempt to commit a category A felony, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years.

(2) Attempt to commit a category B felony for which the maximum term of imprisonment authorized by statute is greater than 10 years, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years.

(3) Attempt to commit a category B felony for which the maximum term of imprisonment authorized by statute is 10 years or less, for a category C felony as provided in NRS 193.130.

(4) Attempt to commit a category C felony, for a category D felony as provided in NRS 193.130, or for a gross misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment.

(5) Attempt to commit a category D felony, for a category E felony as provided in NRS 193.130, or for a gross misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment.

(6) Attempt to commit a category E felony, for a category E felony as provided in NRS 193.130, or for a gross misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $2,000, or by both fine and imprisonment.

(b) If the person is convicted of attempt to commit a misdemeanor, a gross misdemeanor or a felony for which a category is not designated by statute, by imprisonment for not more than one-half the longest term authorized by statute, or by a fine of not more than one-half the largest sum, prescribed upon conviction for the commission of the offense attempted, or by both fine and imprisonment.

2. Nothing in this section protects a person who, in an unsuccessful attempt to commit one crime, does commit another and different one, from the punishment prescribed for the crime actually committed. A person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime was consummated, unless the court in its discretion discharges the jury and directs the defendant to be tried for the crime itself.

NEV. REV. STAT. ANN. § 200.320 (2009). Kidnapping in first degree: Penalties.

A person convicted of kidnaping in the first degree is guilty of a category A felony and shall be punished:

1. Where the kidnaped person suffers substantial bodily harm during the act of kidnaping or the subsequent detention and confinement or in attempted escape or escape therefrom, by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(c) For a definite term of 40 years, with eligibility for parole beginning when a minimum of 15 years has been served.

2. Where the kidnaped person suffers no substantial bodily harm as a result of the kidnaping, by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or

(b) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.

NEV. REV. STAT. ANN. § 200.330 (2009). Kidnapping in second degree: Penalties.

A person convicted of kidnaping in the second degree is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $15,000.

NEV. REV. STAT. ANN. § 200.340 (2009). Penalty for aiding or abetting.

1. A person who aids and abets kidnaping in the first degree is guilty of a category A felony and shall be punished for kidnaping in the first degree as provided in NRS 200.320.

2. A person who aids and abets kidnaping in the second degree is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years.

NEV. REV. STAT. ANN. § 200.359 (2009). Detention, concealment or removal of child from person having lawful custody or from jurisdiction of court: Penalties; limitation on issuance of arrest warrant; restitution; exceptions.

1. A person having a limited right of custody to a child by operation of law or pursuant to an order, judgment or decree of any court, including a judgment or decree which grants another

person rights to custody or visitation of the child, or any parent having no right of custody to the child, who:

(a) In violation of an order, judgment or decree of any court willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child; or

(b) In the case of an order, judgment or decree of any court that does not specify when the right to physical custody or visitation is to be exercised, removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation,

is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. A parent who has joint legal custody of a child pursuant to NRS 125.465 shall not willfully conceal or remove the child from the custody of the other parent with the specific intent to deprive the other parent of the parent and child relationship. A person who violates this subsection shall be punished as provided in subsection 1.

3. If the mother of a child has primary physical custody pursuant to subsection 2 of NRS 126.031, the father of the child shall not willfully conceal or remove the child from the physical custody of the mother. If the father of a child has primary physical custody pursuant to subsection 2 of NRS 126.031, the mother of the child shall not willfully conceal or remove the child from the physical custody of the father. A person who violates this subsection shall be punished as provided in subsection 1.

4. Before an arrest warrant may be issued for a violation of this section, the court must find that:

(a) This is the home state of the child, as defined in NRS 125A.085; and

(b) There is cause to believe that the entry of a court order in a civil proceeding brought pursuant to chapter 125, 125A or 125C of NRS will not be effective to enforce the rights of the parties and would not be in the best interests of the child.

5. Upon conviction for a violation of this section, the court shall order the defendant to pay restitution for any expenses incurred in locating or recovering the child.

6. The prosecuting attorney may recommend to the judge that the defendant be sentenced as for a misdemeanor and the judge may impose such a sentence if he finds that:

(a) The defendant has no prior conviction for this offense and the child has suffered no substantial harm as a result of the offense; or

(b) The interests of justice require that the defendant be punished as for a misdemeanor.

7. A person who aids or abets any other person to violate this section shall be punished as provided in subsection 1.

8. This section does not apply to a person who detains, conceals or removes a child to protect the child from the imminent danger of abuse or neglect or to protect himself from imminent physical harm, and reported the detention, concealment or removal to a law enforcement agency or an

agency which provides child welfare services within 24 hours after detaining, concealing or removing the child, or as soon as the circumstances allowed. As used in this subsection:

(a) "Abuse or neglect" has the meaning ascribed to it in paragraph (a) of subsection 4 of NRS 200.508.

(b) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

NEV. REV. STAT. ANN. § 200.366 (2009). Sexual assault: Definition; penalties.

1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 25 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 35 years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,

is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

5. For the purpose of this section, "other sexual offense against a child" means any act committed by an adult upon a child constituting:

(a) Incest pursuant to NRS 201.180;

(b) Lewdness with a child pursuant to NRS 201.230;

(c) Sado-masochistic abuse pursuant to NRS 201.262; or

(d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

NEV. REV. STAT. ANN. § 200.508 (2009). Abuse, neglect or endangerment of child: Penalties; definitions.

1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years,

unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

2. A person who is responsible for the safety or welfare of a child and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that he delivers or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

4. As used in this section:

(a) "Abuse or neglect" means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070; , 432B.100; , 432B.110; , 432B.140; and 432B.150, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

(b) "Allow" means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that the child is abused or neglected.

(c) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) "Physical injury" means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

(e) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his normal range of performance or behavior.

NEV. REV. STAT. ANN. § 200.5083 (2009). Mutilation of genitalia of female child: Penalties; definitions.

1. A person who willfully:

(a) Mutilates, or aids, abets, encourages or participates in the mutilation of the genitalia of a female child; or

(b) Removes a female child from this state for the purpose of mutilating the genitalia of the child,

is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

2. It is not a defense that:

(a) The person engaging in the conduct prohibited by subsection 1 believes that the conduct is necessary or appropriate as a matter of custom, ritual or standard practice; or

(b) The child, the parent or legal guardian of the child, or another person legally responsible for the child has consented to the conduct prohibited by subsection 1.

3. As used in this section:

(a) "Child" means a person who is under 18 years of age.

(b) "Mutilates the genitalia of a female child" means the removal or infibulation in whole or in part of the clitoris, vulva, labia major or labia minor for nonmedical purposes.

NEV. REV. STAT. ANN. § 200.750 (2009). Penalties.

A person punishable pursuant to NRS 200.710; or 200.720 shall be punished for a category A felony by imprisonment in the state prison:

1. If the minor is 14 years of age or older, for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, and shall be further punished by a fine of not more than $100,000.

2. If the minor is less than 14 years of age, for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and shall be further punished by a fine of not more than $100,000.

NEV. REV. STAT. ANN. § 201.195 (2009). Solicitation of minor to engage in acts constituting crime against nature; penalties.

1. A person who incites, entices or solicits a minor to engage in acts which constitute the infamous crime against nature:

(a) If the minor actually engaged in such acts as a result and:

(1) The minor was less than 14 years of age, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

(2) The minor was 14 years of age or older, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served.

(b) If the minor did not engage in such acts:

(1) For the first offense, is guilty of a gross misdemeanor.

(2) For any subsequent offense, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served.

2. As used in this section, the "infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex. Any sexual penetration, however slight, is sufficient to complete the infamous crime against nature.

NEV. REV. STAT. ANN. § 207.010 (2009). Habitual criminals: Definition; punishment.

Unless the person is prosecuted pursuant to NRS 207.012 or 207.014, a person convicted in this State of:

(a) Any felony, who has previously been two times convicted, whether in this State or elsewhere, of any crime which under the laws of the situs of the crime or of this State would amount to a felony is a habitual criminal and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years.

(b) Any felony, who has previously been three times convicted, whether in this State or elsewhere, of any crime which under the laws of the situs of the crime or of this State would amount to a felony is a habitual criminal and shall be punished for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole;

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

2. It is within the discretion of the prosecuting attorney whether to include a count under this section in any information or file a notice of habitual criminality if an indictment is found. The trial judge may, at his discretion, dismiss a count under this section which is included in any indictment or information.

NEV. REV. STAT. ANN. § 207.012 (2009). Habitual felons: Definition; punishment.

1. A person who:

(a) Has been convicted in this State of a felony listed in subsection 2; and

(b) Before the commission of that felony, was twice convicted of any crime which under the laws of the situs of the crime or of this State would be a felony listed in subsection 2, whether the prior convictions occurred in this State or elsewhere, is a habitual felon and shall be punished for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole;

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

2. The district attorney shall include a count under this section in any information or shall file a notice of habitual felon if an indictment is found, if each prior conviction and the alleged offense committed by the accused constitutes a violation of subparagraph (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160, 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390, subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of NRS 200.450, subsection 5 of NRS 200.460, NRS 200.463, 200.464, 200.465, 200.467, 200.468, subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, NRS 200.710, 200.720, 201.230, 201.450, 202.170, subsection 2 of NRS 202.780, paragraph (b) of subsection 2 of NRS 202.820, PARAGRAPH (B) OF SUBSECTION 1 OR subsection 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060, subsection 4 of NRS 205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1 of NRS 212.090, NRS 453.3325, 453.333, 484.219, 484.3795 or 484.37955.

3. The trial judge may not dismiss a count under this section that is included in an indictment or information.

NEV. REV. STAT. ANN. § 207.260 (2009). Unlawful contact with child or person with mental illness.

1. A person who, without lawful authority, willfully and maliciously engages in a course of conduct with a child who is under 16 years of age and who is at least 5 years younger than the person which would cause a reasonable child of like age to feel terrorized, frightened, intimidated or harassed, and which actually causes the child to feel terrorized, frightened, intimidated or harassed, commits the crime of unlawful contact with a child.

2. A person who, without lawful authority, willfully and maliciously engages in a course of conduct with a person with mental illness which would cause a person with mental illness of like mental condition to feel terrorized, frightened, intimidated or harassed, and which actually causes the person with mental illness to feel terrorized, frightened, intimidated or harassed, commits the crime of unlawful contact with a person with mental illness.

3. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

4. Unless a greater penalty is provided by specific statute, a person who commits the crime of unlawful contact with a child or unlawful contact with a person with mental illness is guilty of:

(a) For the first offense, a gross misdemeanor.

(b) For the second and each subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

5. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) "Person with mental illness" means a person who has any mental dysfunction leading to impaired ability to maintain himself and to function effectively in his life situation without external support.

(c) "Without lawful authority" includes acts that are initiated or continued without the victim's consent. The term does not include acts that are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

NEW HAMPSHIRE

N.H. REV. STAT. ANN. § 632-A: 10-A (2010). Penalties.

Notwithstanding RSA 651:2, and except where an extended term is sought as provided in RSA 651:6:

I. A person convicted of aggravated felonious sexual assault under:

(a) RSA 632-A:2, I(l) shall be sentenced in accordance with subparagraph (b) and paragraphs II-V and may be sentenced to lifetime supervision under paragraph V.

(b) Any provision of RSA 632-A:2 shall be sentenced to a maximum sentence which is not to exceed 20 years and a minimum which is not to exceed 1/2 of the maximum.

II. If a court finds that a defendant has been previously convicted under RSA 632-A:2 or any other statute prohibiting the same conduct in another state, territory or possession of the United States, the defendant shall be sentenced to a maximum sentence which is not to exceed 40 years and a minimum which is not to exceed 1/2 of the maximum.

III. If the court finds that a defendant has been previously convicted of 2 or more offenses under RSA 632-A:2 or any other statute prohibiting the same conduct in another state, territory or possession of the United States, the defendant shall be sentenced to life imprisonment and shall not be eligible for parole at any time.

IV. In this section, the phrase "previously convicted" shall mean any conviction obtained by trial on the merits, or negotiated plea with the assistance of counsel and evidencing a knowing, intelligent and voluntary waiver of the defendant's rights, provided, however, that previous imprisonment is not required.

V. (a) When a defendant pleads or is found guilty of aggravated felonious sexual assault under RSA 632-A:2, I(l), the judge may include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision by the department of corrections. The defendant shall comply with the conditions of lifetime supervision which are imposed by the court or the department of corrections. Violation of any terms of lifetime supervisions shall be deemed contempt of court. The special sentence of lifetime supervision shall begin upon the release of the offender from incarceration, parole or probation.

(b) A person sentenced to lifetime supervision under subparagraph (a) may petition the court for release from lifetime supervision. The court shall grant a petition for release from a special sentence of lifetime supervision if:

(1) The person has not committed a crime for 15 years after his last conviction or release from incarceration, whichever occurs later; and

(2) The person is not likely to pose a threat to the safety of others if released from supervision.

(c) Prior to granting any petition pursuant to subparagraph V(b), the court shall provide notice to the county attorney who prosecuted the case, the victim advocate, and the victim or victim's family and permit those parties to be heard on the petition. If the court denies the offender's petition, the offender may not file another application pursuant to this paragraph for 5 years from the date of the denial and shall include a risk assessment prepared at the offender's expense.

N.H. REV. STAT. ANN. § 633: 1 (2010). Kidnapping.

I. A person is guilty of kidnapping if he knowingly confines another under his control with a purpose to:

(a) Hold him for ransom or as a hostage; or

(b) Avoid apprehension by a law enforcement official; or

(c) Terrorize him or some other person; or

(d) Commit an offense against him.

I-a. A person is guilty of kidnapping if the person knowingly takes, entices away, detains, or conceals any child under the age of 18 and unrelated to the person by consanguinity, or causes such child to be taken, enticed away, detained, or concealed, with the intent to detain or conceal such child from a parent, guardian, or other person having lawful physical custody of such child. This paragraph shall not apply to law enforcement personnel or department of health and human services personnel engaged in the conduct of their lawful duties.

II. Kidnapping is a class A felony unless the actor voluntarily releases the victim without serious bodily injury and in a safe place prior to trial, in which case it is a class B felony.

N.H. REV. STAT. ANN. § 639: 4 (2010). Non-Support.

I. A person is guilty of non-support if such person knowingly fails to provide support which such person is legally obliged to provide and which such person can provide to a spouse, child or other dependent. The fine, if any, shall be paid or applied in whole or in part to the support of such spouse, child or other dependent as the court may direct.

II. In this section, non-support shall be:

(a) A class B felony if the arrearage of support has remained unpaid for a cumulative period of more than one year;

(b) A class B felony if the amount of the arrearage is more than $10,000;

(c) A class B felony if the obligor has been previously convicted of non-support under this section or if the obligor has been convicted of a similar criminal nonsupport offense in another state and the arrearage of support in this state has remained unpaid for a cumulative period of more than one year; or

(d) A class A misdemeanor in all other cases.

N.H. REV. STAT. ANN. § 649-A: 3 (2010). Possession of Child Sexual Abuse Images.

I. No person shall knowingly:

(a) Buy, procure, possess, or control any visual representation of a child engaging in sexually explicit conduct; or

(b) Bring or cause to be brought into this state any visual representation of a child engaging in sexually explicit conduct.

II. An offense under this section shall be a class A felony if such person has had no previous convictions in this state or another jurisdiction for the conduct prohibited by paragraph I. Upon conviction of an offense under this section based on an indictment alleging that the person has been previously convicted of an offense under this section or a reasonably equivalent offense in another jurisdiction, the defendant may be sentenced to a maximum sentence not to exceed 20 years and a minimum sentence not to exceed 1/2 of the maximum sentence.

III. It shall be an affirmative defense to a charge of violating paragraph I of this section that the defendant:

(a) Possessed less than 3 images of any visual depiction proscribed by that paragraph; and

(b) Promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof:

(1) Took reasonable steps to destroy each such visual depiction; or

(2) Reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

N.H. REV. STAT. ANN. § 649-A: 3-A (2010). Distribution of Child Sexual Abuse Images.

I. No person shall:

(a) Knowingly sell, exchange, or otherwise transfer, or possess with intent to sell, exchange, or otherwise transfer any visual representation of a child engaging in or being engaged in sexually explicit conduct;

(b) Knowingly publish, exhibit, or otherwise make available any visual representation of a child engaging in or being engaged in sexually explicit conduct.

II. (a) If such person has had no previous convictions in this state or another state for the conduct prohibited by paragraph I, the defendant may be sentenced to a maximum sentence not to exceed 20 years and a minimum sentence not to exceed 1/2 of the maximum. Upon conviction of an

offense under this section based on an indictment alleging that the person has been previously convicted of an offense under this section or a reasonably equivalent offense in an out-of-state jurisdiction, the defendant may be sentenced to a maximum sentence not to exceed 30 years and a minimum sentence not to exceed 1/2 of the minimum.

(b) If such person has no previous convictions in this state or another state for the conduct prohibited in paragraph I, and is convicted under subparagraph I(b) with having less than 3 images or visual representations, the defendant will be guilty of a class B felony.

III. Nothing in this chapter shall be construed to limit any law enforcement agency from possessing or displaying or otherwise make available any images as may be necessary to the performance of a valid law enforcement function.

N.H. REV. STAT. ANN. § 649-A: 3-B (2010). Manufacture of Child Sexual Abuse Images.

I. No person shall knowingly create, produce, manufacture, or direct a visual representation of a child engaging in or being engaged in sexually explicit conduct, or participate in that portion of such visual representation that consists of a child engaging in or being engaged in sexually explicit conduct.

II. If such person has had no previous convictions in this state or another state for the conduct prohibited in this section, the defendant may be sentenced to a maximum sentence not to exceed 30 years and a minimum sentence not to exceed 1/2 of the maximum. Upon conviction of an offense under this section based on an indictment alleging that the person has been previously convicted of an offense under this section or a reasonably equivalent offense in an out-of-state jurisdiction, a person may be sentenced to life imprisonment or for such term as the court may order.

N.H. REV. STAT. ANN. § 649-B: 4 (2010). Certain Uses of Computer Services Prohibited.

I. No person shall knowingly utilize a computer on-line service, internet service, or local bulletin board service to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to commit any of the following:

(a) Any offense under RSA 632-A, relative to sexual assault and related offenses.

(b) Indecent exposure and lewdness under RSA 645:1.

(c) Endangering a child as defined in RSA 639:3, III.

II. (a) A person who violates the provisions of paragraph I shall be guilty of a class A felony if such person believed the child was under the age of 13, otherwise such person shall be guilty of a class B felony.

(b) A person convicted under paragraph I based on an indictment alleging that the person has been previously convicted of an offense under this section or a reasonably equivalent offense in an out-of-state jurisdiction shall be charged as a class A felony. If the indictment also alleges that

the person believed that the child was under the age of 13, the person may be sentenced to a maximum sentence not to exceed 20 years and a minimum sentence not to exceed 10 years.

(c) If the person has been previously convicted 2 or more times for an offense under this section or a reasonably equivalent statute in another state, the person may be sentenced to a maximum term not to exceed 30 years.

III. It shall not be a defense to a prosecution under this section that the victim was not actually a child so long as the person reasonably believed that the victim was a child.

N.H. REV. STAT. ANN. § 651: 2 (2010). Sentences and Limitations.

I. A person convicted of a felony or a Class A misdemeanor may be sentenced to imprisonment, probation, conditional or unconditional discharge, or a fine.

II. If a sentence of imprisonment is imposed, the court shall fix the maximum thereof which is not to exceed:

(a) Fifteen years for a class A felony,

(b) Seven years for a class B felony,

(c) One year for a class A misdemeanor,

(d) Life imprisonment for murder in the second degree, and, in the case of a felony only, a minimum which is not to exceed 1/2 of the maximum, or if the maximum is life imprisonment, such minimum term as the court may order.

II-a. A person convicted of murder in the first degree shall be sentenced as provided in RSA 630:1-a.

II-b. A person convicted of a second or subsequent offense for the felonious use of a firearm, as provided in RSA 650-A:1, shall, in addition to any punishment provided for the underlying felony, be given a minimum mandatory sentence of 3 years imprisonment. Neither the whole nor any part of the additional sentence of imprisonment hereby provided shall be served concurrently with any other term nor shall the whole or any part of such additional term of imprisonment be suspended. No action brought to enforce sentencing under this section shall be continued for sentencing, nor shall the provisions of RSA 651-A relative to parole apply to any sentence of imprisonment imposed.

II-c. [Repealed.]

II-d. A person convicted of manslaughter shall be sentenced as provided in RSA 630:2, II.

II-e. To the minimum sentence of every person who is sentenced to imprisonment for a maximum of more than one year shall be added a disciplinary period equal to 150 days for each year of the minimum term of the sentence, to be prorated for any part of the year. The presiding justice shall certify, at the time of sentencing, the minimum term of the sentence and the additional disciplinary period required under this paragraph. This additional disciplinary period may be

reduced for good conduct as provided in RSA 651-A:22. There shall be no addition to the sentence under this section for the period of pre-trial confinement for which credit against the sentence is awarded pursuant to RSA 651-A:23.

II-f. A person convicted of violating RSA 159:3-a, I shall be sentenced as provided in RSA 159:3-a, II and III.

II-g. If a person is convicted of a felony, an element of which is the possession, use or attempted use of a deadly weapon, and the deadly weapon is a firearm, such person may be sentenced to a maximum term of 20 years' imprisonment in lieu of any other sentence prescribed for the crime. The person shall be given a minimum mandatory sentence of not less than 3 years' imprisonment for a first offense and a minimum mandatory sentence of not less than 6 years' imprisonment if such person has been previously convicted of any state or federal offense for which the maximum penalty provided was imprisonment in excess of one year, and an element of which was the possession, use or attempted use of a firearm. Neither the whole nor any part of the minimum sentence imposed under this paragraph shall be suspended or reduced.

III. A person convicted of a class B misdemeanor may be sentenced to conditional or unconditional discharge, a fine, or other sanctions, which shall not include incarceration or probation but may include monitoring by the department of corrections if deemed necessary and appropriate.

III-a. A person convicted of a violation may be sentenced to conditional or unconditional discharge, or a fine.

IV. A fine may be imposed in addition to any sentence of imprisonment, probation, or conditional discharge. The limitations on amounts of fines authorized in subparagraphs (a) and (b) shall not include the amount of any civil penalty, the imposition of which is authorized by statute or by a properly adopted local ordinance, code, or regulation. The amount of any fine imposed on:

(a) Any individual may not exceed $4,000 for a felony, $2,000 for a class A misdemeanor, $1,200 for a class B misdemeanor, and $1,000 for a violation.

(b) A corporation or unincorporated association may not exceed $100,000 for a felony, $20,000 for a misdemeanor and $1,000 for a violation. A writ of execution may be issued by the court against the corporation or unincorporated association to compel payment of the fine, together with costs and interest.

(c) If a defendant has gained property through the commission of any felony, then in lieu of the amounts authorized in paragraphs (a) and (b), the fine may be an amount not to exceed double the amount of that gain.

V. (a) A person may be placed on probation if the court finds that such person is in need of the supervision and guidance that the probation service can provide under such conditions as the court may impose. The period of probation shall be for a period to be fixed by the court not to exceed 5 years for a felony and 2 years for a class A misdemeanor. Upon petition of the probation officer or the probationer, the period may be terminated sooner by the court if the conduct of the probationer warrants it.

(b) In cases of persons convicted of felonies or class A misdemeanors, or in cases of persons found to be habitual offenders within the meaning of RSA 259:39 and convicted of an offense

under RSA 262:23, the sentence may include, as a condition of probation, confinement to a person's place of residence for not more than one year in case of a class A misdemeanor or more than 5 years in case of a felony. Such home confinement may be monitored by a probation officer and may be supplemented, as determined by the department of corrections or by the county department of corrections, by electronic monitoring to verify compliance.

(c) Upon recommendation by the department of corrections or by the county department of corrections, the court may, as a condition of probation, order an incarceration-bound offender placed in an intensive supervision program as an alternative to incarceration, under requirements and restrictions established by the department of corrections or by the county department of corrections.

(d) Upon recommendation by the department of corrections or by the county department of corrections, the court may sentence an incarceration-bound offender to a special alternative incarceration program involving short term confinement followed by intensive community supervision.

(e) The department of corrections and the various county departments of corrections shall adopt rules governing eligibility for home confinement, intensive supervision and special alternative incarceration programs.

(f) Any offender placed in a home confinement, intensive supervision or special alternative incarceration program who violates the conditions or restrictions of probation shall be subject to immediate arrest by a probation officer or any authorized law enforcement officer and brought before the court for an expeditious hearing pending further disposition.

(g) The court may include, as a condition of probation, restitution to the victim as provided in RSA 651:62-67 or performance of uncompensated public service as provided in RSA 651:68-70.

(h) In cases of a person convicted of a felony or class A misdemeanor, a court may sentence such person to 7 consecutive 24-hour periods to be served at the state-operated 7-day multiple DWI offender intervention detention center program established under RSA 265-A:40, if the evidence demonstrates that alcohol was a contributing factor in the commission of the offense and provided that space is available in the program and such person pays the fees for the program in full prior to admission.

VI. (a) A person may be sentenced to a period of conditional discharge if such person is not imprisoned and the court is of the opinion that probationary supervision is unnecessary, but that the defendant's conduct should be according to conditions determined by the court. Such conditions may include:

(1) Restrictions on the defendant's travel, association, place of abode, such as will protect the victim of the crime or insure the public peace;

(2) An order requiring the defendant to attend counselling or any other mode of treatment the court deems appropriate;

(3) Restitution to the victim; and

(4) Performance of uncompensated public service as provided in RSA 651:68-70.

(b) The period of a conditional discharge shall be 3 years for a felony and one year for a misdemeanor or violation. However, if the court has required as a condition that the defendant make restitution or reparation to the victim of the defendant's offense or that the defendant perform uncompensated public service and that condition has not been satisfied, the court may, at any time prior to the termination of the above periods, extend the period for a felony by no more than 2 years and for a misdemeanor or violation by no more than one year in order to allow the defendant to satisfy the condition. During any period of conditional discharge the court may, upon its own motion or on petition of the defendant, discharge the defendant unconditionally if the conduct of the defendant warrants it. The court is not required to revoke a conditional discharge if the defendant commits an additional offense or violates a condition.

VI-a. [Repealed.]

VI-b. A person sentenced to conditional discharge under paragraph VI may apply for annulment of the criminal record under RSA 651:5.

VII. When a probation or a conditional discharge is revoked, the defendant may be fined, as authorized by paragraph IV, if a fine was not imposed in addition to the probation or conditional discharge. Otherwise the defendant shall be sentenced to imprisonment as authorized by paragraph II.

VIII. A person may be granted an unconditional discharge if the court is of the opinion that no proper purpose would be served by imposing any condition or supervision upon the defendant's release. A sentence of unconditional discharge is for all purposes a final judgment of conviction.

N.H. REV. STAT. ANN. § 651: 6 (2010). Extended Term of Imprisonment.

I. A convicted person may be sentenced according to paragraph III if the jury also finds beyond a reasonable doubt that such person:

(a) Based on the circumstances for which he or she is to be sentenced, has knowingly devoted himself or herself to criminal activity as a major source of livelihood;

(b) Has been subjected to a court-ordered psychiatric examination on the basis of which the jury finds that such person is a serious danger to others due to a gravely abnormal mental condition;

(c) Has manifested exceptional cruelty or depravity in inflicting death or serious bodily injury on the victim of the crime;

(d) Has committed an offense involving the use of force against a person with the intention of taking advantage of the victim's age or physical disability;

(e) Has committed or attempted to commit any of the crimes defined in RSA 631 or 632-A against a person under 13 years of age;

(f) Was substantially motivated to commit the crime because of hostility towards the victim's religion, race, creed, sexual orientation as defined in RSA 21:49, national origin or sex;

(g) Has knowingly committed or attempted to commit any of the crimes defined in RSA 631 where he or she knows the victim was, at the time of the commission of the crime, a law

enforcement officer, a paid firefighter, volunteer firefighter, on-call firefighter, or licensed emergency medical care provider as defined in RSA 153-A:2, V acting in the line of duty;

(h) Was an on-duty law enforcement officer at the time that he or she committed or attempted to commit any of the crimes defined in RSA 631;

(i) Has committed a crime listed in RSA 193-D:1 in a safe school zone under RSA 193-D;

(j) Possesses a radio device with the intent to use that device in the commission of robbery, burglary, theft, gambling, stalking, or a violation of any provision of RSA 318-B. In this section, the term "radio device" means any device capable of receiving a wireless transmission on any frequency allocated for law enforcement use, or any device capable of transmitting and receiving a wireless transmission;

(k) Has committed or attempted to commit negligent homicide as defined in RSA 630:3, I against a person under 13 years of age who was in the care of, or under the supervision of, the defendant at the time of the offense;

(l) Has committed or attempted to commit any of the crimes defined in RSA 637 or RSA 638 against a victim who is 65 years of age or older or who has a physical or mental disability and that in perpetrating the crime, the defendant intended to take advantage of the victim's age or a physical or mental condition that impaired the victim's ability to manage his or her property or financial resources or to protect his or her rights or interests;

(m) Has committed or attempted to commit aggravated felonious sexual assault in violation of RSA 632-A:2, I(l) or RSA 632-A:2, II where the defendant was 18 years of age or older at the time of the offense;

(n) Has committed or attempted to commit aggravated felonious sexual assault in violation of RSA 632-A:2, III, and one or more of the acts comprising the pattern of sexual assault was an offense under RSA 632-A:2, I(l) or RSA 632-A:2, II, or both, and the defendant was 18 years of age or older when the pattern of sexual assault began;

(o) Has purposely, knowingly, or recklessly with extreme indifference to the value of human life committed an act or acts constituting first degree assault as defined in RSA 631:1 against a person under 13 years of age where the serious bodily injury has resulted in brain damage or physical disability to the child that is likely to be permanent;

(p) Has committed murder as defined in RSA 630:1-b against a person under 13 years of age;

(q) Has knowingly committed any of the following offenses as a criminal street gang member, or for the benefit of, at the direction of, or in association with any criminal street gang, with the purpose to promote, further, or assist in any such criminal conduct by criminal street gang members:

(1) Violent crime as defined in RSA 651:5, XIII.

(2) A crime involving the distribution, sale, or manufacture of a controlled drug under RSA 318-B:2.

(3) Class A felony theft where the property stolen was a firearm.

(4) Unlawful sale of a pistol or a revolver.

(5) Witness tampering.

(6) Criminal street gang solicitation as defined in RSA 644:20; or

(r) Has committed an offense under RSA 637 where such person knowingly activated an audible alarm system to avoid detection or apprehension, or cause a distraction during the commission of the offense.

I-a. As used in this section:

(a) "Law enforcement officer" means a sheriff or deputy sheriff of any county, a state police officer, a constable or police officer of any city or town, an official or employee of any prison, jail, or corrections institution, a probation-parole officer, a juvenile probation and parole officer, or a conservation officer.

(b) "Criminal street gang member" means an individual to whom 2 or more of the following apply:

(1) Admits to criminal street gang membership;

(2) Is identified as a criminal street gang member by a law enforcement officer, parent, guardian, or documented reliable informant;

(3) Resides in or frequents a particular criminal street gang's area and adopts its style of dress, its use of hand or other signs, tattoos, or other physical markings, and associates with known criminal street gang members; or

(4) Has been arrested more than once in the company of individuals who are identified as criminal street gang members by law enforcement, for offenses that are consistent with usual criminal street gang activity.

(c) "Criminal street gang" means a formal or informal ongoing organization, association, or group of 3 or more persons, which has as one of its primary objectives or activities the commission of criminal activity, whose members share a common name, identifying sign, symbol, physical marking, style of dress, or use of hand sign, and whose members individually or collectively have engaged in the commission, attempted commission, solicitation to commit, or conspiracy to commit 2 or more the following offenses, or a reasonably equivalent offense in another jurisdiction, on separate occasions within the preceding 3 years:

(1) Violent crimes, as defined in RSA 651:5, XIII;

(2) Distribution, sale, or manufacture of a controlled drug in violation of RSA 318-B:2;

(3) Class A felony theft;

(4) Unlawful sale of a pistol or revolver; or

(5) Witness tampering.

II. A convicted person may be sentenced according to the terms of paragraph III if the court finds, and includes such findings in the record, that such person:

(a) Has twice previously been convicted in this state, or in another jurisdiction, on sentences in excess of one year;

(b) Has previously been convicted of a violation of RSA 630:3, II, RSA 265-A:3, I(b) or II(b), or any crime in any other jurisdiction involving driving or attempting to drive a motor vehicle under the influence of controlled drugs or intoxicating liquors, or both, and such person has committed a crime as defined under RSA 630:3, II or RSA 265-A:3, I(b) or II(b); or

(c) Has twice previously been convicted in this state or any other jurisdiction, for driving or attempting to drive a motor vehicle under the influence of intoxicating liquors or controlled drugs, or both, and such person has committed a crime as defined under RSA 630:3, II or RSA 265-A:3, I(b) or II(b).

III. If authorized by paragraph I or II, and if written notice of the possible application of this section is given the defendant at least 21 days prior to the commencement of jury selection for his or her trial, a defendant may be sentenced to an extended term of imprisonment. An extended term is, for a person convicted of:

(a) Any felony, other than murder or manslaughter, a minimum to be fixed by the court of not more than 10 years and a maximum to be fixed by the court of not more than 30 years;

(b) A misdemeanor, a minimum to be fixed by the court of not more than 2 years and a maximum to be fixed by the court of not more than 5 years;

(c) Manslaughter, a minimum to be fixed by the court of not more than 20 years and a maximum to be fixed by the court of not more than 40 years;

(d) Murder, life imprisonment;

(e) Two or more offenses under RSA 632-A:2, life imprisonment without parole;

(f) A third offense under RSA 632-A:3, life imprisonment; or

(g) Any of the crimes listed under RSA 651:6, I(j), a minimum to be fixed by the court of not less than 90 days and a maximum of not more than one year.

IV. If authorized by subparagraphs I(m), (n), or (o) and if notice of the possible application of this section is given to the defendant prior to the commencement of trial:

(a) There is a presumption that a person shall be sentenced to a minimum to be fixed by the court of not less than 25 years and a maximum of life imprisonment unless the court makes a determination that the goals of deterrence, rehabilitation, and punishment would not be served, based on the specific circumstances of the case, by such a sentence and the court makes specific written findings in support of the lesser sentence. Before the court can determine whether the presumption has been overcome, the court shall consider, but is not limited to, the following factors:

(1) Age of victim at time of offense.

(2) Age of the defendant at the time of the offense.

(3) Relationship between defendant and victim.

(4) Injuries to victim.

(5) Use of force, fear, threats, or coercion to the victim or another.

(6) Length of time defendant offended against victim.

(7) Number of times defendant offended against victim.

(8) Number of other victims.

(9) Acceptance of responsibility by defendant.

(10) Defendant's criminal history.

(11) Use of a weapon.

(12) Medical or psychological condition of the victim at the time of the assault.

(b) The sentence shall also include, in addition to any other penalties provided by law, a special sentence of lifetime supervision by the department of corrections. The defendant shall comply with the conditions of lifetime supervision which are imposed by the court or the department of corrections. Violation of any of the conditions of lifetime supervision shall be deemed contempt of court. The special sentence of lifetime supervision shall begin upon the offender's release from incarceration, parole, or probation. A defendant who is sentenced to lifetime supervision pursuant to this paragraph shall not be eligible for release from the lifetime supervision pursuant to RSA 632-A:10-a, V(b).

(c) Any decision by the superior court under subparagraph (a) may be reviewed by the sentence review division of the superior court at the request of the defendant or at the request of the state pursuant to RSA 651:58.

V. If authorized by subparagraph I(p) and if notice of the possible application of this section is given to the defendant prior to the commencement of trial, a person shall be sentenced to an extended term of imprisonment as follows: a minimum to be fixed by the court of not less than 35 years and a maximum of life imprisonment.

VI. A person shall be sentenced according to the terms of paragraph VII if the court finds, and includes such findings in the record, that such person:

(a) (1) Committed a violation of RSA 632-A:2, I(l), RSA 632-A:2, II, or RSA 632-A:2, III, in which one or more of the acts comprising the pattern of sexual assault was an offense under RSA 632-A:2, I(l) or RSA 632-A:2, II, or both, after having previously been convicted of an offense in violation of one of the aforementioned offenses or any other statute prohibiting the same conduct in another state, territory or possession of the United States, and

(2) The person committed the subsequent offense while released on bail on the earlier offense or the sentence for the earlier conviction involved a term of incarceration, probation, parole, or other supervised release; or

(b) (1) Committed a violation of RSA 631:1 after having previously been convicted of an offense in violation of RSA 631:1, or any other statute prohibiting the same conduct in another state, territory or possession of the United States, if the earlier offense also involved a victim under 13 years of age where the serious bodily injury resulted in brain damage or physical disability to the child that is likely to be permanent; and

(2) The person committed the subsequent offense while released on bail on the earlier offense or the sentence for the earlier conviction involved a term of incarceration, probation, parole, or other supervised release; or

(c) (1) Committed a violation of RSA 630:1-b after having previously been convicted of an offense in violation of RSA 630:1-b, or any other statute prohibiting the same conduct in another state, territory, or possession of the United States; and

(2) The person committed the subsequent offense while released on bail on the earlier offense or the sentence for the earlier conviction involved a term of incarceration, probation, parole, or other supervised release.

VII. If the court has made the findings authorized by RSA 651:6, VI, and if notice of the possible application of this section is given to the defendant prior to the commencement of trial, a person shall be sentenced to an extended term of imprisonment of life without parole.

N.H. REV. STAT. ANN. § 651-B: 2 (2010). Registration.

I. Every sexual offender or offender against children shall be registered with the department of safety, division of state police, as provided in this chapter.

II. Upon receipt of information pursuant to RSA 106-B:14 concerning the disposition of any charges against any sex offender or offender against children, the division shall register such person and shall include the relevant information in the SOR system.

III. Upon receipt from any out-of-state law enforcement agency of information that a sex offender or offender against children has moved to New Hampshire, the division shall register such person and shall include the relevant information in the SOR system.

IV. The information that a person is required to register on the public list as a sexual offender or offender against children, including his or her qualifying offense or offenses, shall be available to law enforcement through the offender's criminal record and motor vehicle record. If an offender's obligation to register terminates for any reason, the department shall notify the division of motor vehicles of the change and the offender's motor vehicle record shall no longer reflect that the person is required to register as a sexual offender or offender against children.

N.H. REV. STAT. ANN. § 651-B: 4-A (2010). Registration of Online Identifiers.

In addition to any other information a person who is required to register is required to provide pursuant to RSA 651-B:4, such person shall report any online identifier such person uses or intends to use. For purposes of this section, "online identifier" includes all of the following: electronic mail address, instant message screen name, user identification, user profile information, and chat or other Internet communication name or identity information. Such person shall report any changes to an existing online identifier, or the creation of any new online identifier to law enforcement before using the online identifier.

N.H. REV. STAT. ANN. § 651-B: 9 (2010). Penalty.

I. A sexual offender or offender against children who is required to register under this chapter and who negligently fails to comply with the requirements of this chapter shall be guilty of a misdemeanor.

II. A sexual offender or offender against children who is required to register under this chapter and who knowingly fails to comply with the requirements of this chapter shall be guilty of a class B felony. An offender who is required to register for a period of 10 years following his or her release, pursuant to RSA 651-B:6, II, shall be required to register for an additional 10 years from the date of conviction for violating this paragraph. The obligation to register for an additional 10 years from the date of conviction for violating this paragraph shall be consecutive to the registration period imposed pursuant to RSA 651-B:6 and shall be imposed even if the original registration period has elapsed.

III. A sexual offender or offender against children previously convicted pursuant to paragraph II who is required to register under this chapter and who knowingly fails to comply with the requirements of this chapter shall be guilty of a class A felony. An offender who is required to register for a period of 10 years following his or her release, pursuant to RSA 651-B:6, II, who is convicted for violating this paragraph shall be required to register for life.

IV. The penalties imposed under paragraphs I-III shall not apply to juveniles required to register pursuant to RSA 651-B:1, XI(a)(3) or (4). The court with jurisdiction over such juveniles may impose an appropriate disposition for a violation of this section.

V. Any person who violates the provisions of RSA 651-B:7 shall be guilty of a violation.

VI. A sexual offender or offender against children who knowingly provides false information in response to any of the requirements of this chapter shall be guilty of a class B felony.

VII. A person is guilty of a class B felony if the person has reason to believe that a sexual offender or offender against children is not complying, or has not complied, with the requirements of this chapter and who purposely assists the offender in eluding any law enforcement agency that is seeking to find the offender to question the offender about, or to arrest the offender for, his or her noncompliance with the requirements of this chapter, and engages in any of the following acts or omissions:

(a) Withholds information from, or does not notify, the law enforcement agency about the offender's noncompliance with the requirements of this chapter, and, if known, the whereabouts of the offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the offender;

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the offender;

(d) Provides information to the law enforcement agency regarding the offender which the person knows to be false information; or

(e) Warns the offender that the law enforcement agency is attempting to locate the offender.

[Paragraph VIII effective January 1, 2011.]

VIII. (a) Except as provided in subparagraph (b), any sexual offender or offender against children who is required to register under this chapter who is convicted of aggravated felonious sexual assault pursuant to RSA 632-A:2, or felonious sexual assault pursuant to RSA 632-A:3, or sexual assault pursuant to RSA 632-A:4, and who initiates contact with the victim of the offense at any time shall be guilty of a class A misdemeanor. In this paragraph, "contact" means any action to communicate with the victim either directly or indirectly, including, but not limited to, using any form of electronic communication, leaving items, or causing another to communicate in such fashion.

(b) Subparagraph (a) shall not apply to contact between a sexual offender or an offender against children and a victim where there is an ongoing relationship between the victim and the offender that existed prior to the commission of the offense and that necessitates contact between them, such as the shared custody of a child or an emergency involving a shared sibling or parent, provided that any contact by the offender shall be strictly limited to the immediate issue that needs to be communicated.

NEW JERSEY

N.J. STAT. ANN. § 2C:7-2 (2010). Registration of sex offenders; definition; requirements; penalties.

a. (1) A person who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for commission of a sex offense as defined in subsection b. of this section shall register as provided in subsections c. and d. of this section.

(2) A person who in another jurisdiction is required to register as a sex offender and (a) is enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school, or (b) is employed or carries on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall register in this State as provided in subsections c. and d. of this section.

(3) A person who fails to register as required under this act shall be guilty of a crime of the third degree.

b. For the purposes of this act a sex offense shall include the following:

(1) Aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these crimes if the court found that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior, regardless of the date of the commission of the offense or the date of conviction;

(2) A conviction, adjudication of delinquency, or acquittal by reason of insanity for aggravated sexual assault; sexual assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare of a child pursuant to paragraph (3) or (4) or subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-3 b. if the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1, criminal restraint pursuant to N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if the victim is a minor and the offender is not the parent of the victim; knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1; or an attempt to commit any of these enumerated offenses if the conviction, adjudication of delinquency or acquittal by reason of insanity is entered on or after the effective date [Oct. 31, 1994] of this act or the offender is serving a sentence of incarceration, probation, parole or other form of community supervision as a result of the offense or is confined following acquittal by reason of insanity or as a result of civil commitment on the effective date [Oct. 31, 1994] of this act;

(3) A conviction, adjudication of delinquency or acquittal by reason of insanity for an offense similar to any offense enumerated in paragraph (2) or a sentence on the basis of criteria similar to the criteria set forth in paragraph (1) of this subsection entered or imposed under the laws of the United States, this State or another state.

c. A person required to register under the provisions of this act shall do so on forms to be provided by the designated registering agency as follows:

(1) A person who is required to register and who is under supervision in the community on probation, parole, furlough, work release, or a similar program, shall register at the time the person is placed under supervision or no later than 120 days after the effective date of this act, whichever is later, in accordance with procedures established by the Department of Corrections, the Department of Human Services, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Administrative Office of the Courts, whichever is responsible for supervision;

(2) A person confined in a correctional or juvenile facility or involuntarily committed who is required to register shall register prior to release in accordance with procedures established by the Department of Corrections, the Department of Human Services or the Juvenile Justice Commission and, within 48 hours of release, shall also register with the chief law enforcement officer of the municipality in which the person resides or, if the municipality does not have a local police force, the Superintendent of State Police;

(3) A person moving to or returning to this State from another jurisdiction shall register with the chief law enforcement officer of the municipality in which the person will reside or, if the

municipality does not have a local police force, the Superintendent of State Police within 120 days of the effective date of this act or 10 days of first residing in or returning to a municipality in this State, whichever is later;

(4) A person required to register on the basis of a conviction prior to the effective date who is not confined or under supervision on the effective date of this act shall register within 120 days of the effective date [Oct. 31, 1994] of this act with the chief law enforcement officer of the municipality in which the person will reside or, if the municipality does not have a local police force, the Superintendent of State Police;

(5) A person who in another jurisdiction is required to register as a sex offender and who is enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school shall, within ten days of commencing attendance at such educational institution, register with the chief law enforcement officer of the municipality in which the educational institution is located or, if the municipality does not have a local police force, the Superintendent of State Police;

(6) A person who in another jurisdiction is required to register as a sex offender and who is employed or carries on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall, within ten days after commencing such employment or vocation, register with the chief law enforcement officer of the municipality in which the employer is located or where the vocation is carried on, as the case may be, or, if the municipality does not have a local police force, the Superintendent of State Police;

(7) In addition to any other registration requirements set forth in this section, a person required to register under this act who is enrolled at, employed by or carries on a vocation at an institution of higher education or other post-secondary school in this State shall, within ten days after commencing such attendance, employment or vocation, register with the law enforcement unit of the educational institution, if the institution has such a unit.

d. (1) Upon a change of address, a person shall notify the law enforcement agency with which the person is registered and shall re-register with the appropriate law enforcement agency no less than 10 days before he intends to first reside at his new address. Upon a change of employment or school enrollment status, a person shall notify the appropriate law enforcement agency no later than five days after any such change. A person who fails to notify the appropriate law enforcement agency of a change of address or status in accordance with this subsection is guilty of a crime of the fourth degree.

(2) A person required to register under this act shall provide the appropriate law enforcement agency with information as to whether the person has routine access to or use of a computer or any other device with Internet capability. A person who fails to notify the appropriate law enforcement agency of such information or of a change in the person's access to or use of a computer or other device with Internet capability or who provides false information concerning the person's access to or use of a computer or any other device with Internet capability is guilty of a crime of the fourth degree.

e. A person required to register under paragraph (1) of subsection b. of this section or under paragraph (3) of subsection b. due to a sentence imposed on the basis of criteria similar to the criteria set forth in paragraph (1) of subsection b. shall verify his address with the appropriate law

enforcement agency every 90 days in a manner prescribed by the Attorney General. A person required to register under paragraph (2) of subsection b. of this section or under paragraph (3) of subsection b. on the basis of a conviction for an offense similar to an offense enumerated in paragraph (2) of subsection b. shall verify his address annually in a manner prescribed by the Attorney General. One year after the effective date of this act, the Attorney General shall review, evaluate and, if warranted, modify pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) the verification requirement. Any person who knowingly provides false information concerning his place of residence or who fails to verify his address with the appropriate law enforcement agency or other entity, as prescribed by the Attorney General in accordance with this subsection, is guilty of a crime of the fourth degree.

f. Except as provided in subsection g. of this section, a person required to register under this act may make application to the Superior Court of this State to terminate the obligation upon proof that the person has not committed an offense within 15 years following conviction or release from a correctional facility for any term of imprisonment imposed, whichever is later, and is not likely to pose a threat to the safety of others.

g. A person required to register under this section who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for more than one sex offense as defined in subsection b. of this section or who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under subsection f. of this section to make application to the Superior Court of this State to terminate the registration obligation.

N.J. STAT. ANN. § 2C:13-1 (2010). Kidnapping.

a. Holding for ransom, reward or as a hostage. A person is guilty of kidnapping if he unlawfully removes another from the place where he is found or if he unlawfully confines another with the purpose of holding that person for ransom or reward or as a shield or hostage.

b. Holding for other purposes. A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period, with any of the following purposes:

(1) To facilitate commission of any crime or flight thereafter;

(2) To inflict bodily injury on or to terrorize the victim or another;

(3) To interfere with the performance of any governmental or political function; or

(4) To permanently deprive a parent, guardian or other lawful custodian of custody of the victim.

c. Grading of kidnapping. (1) Except as provided in paragraph (2) of this subsection, kidnapping is a crime of the first degree and upon conviction thereof, a person may, notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment between 15 and 30 years. If the actor releases the victim unharmed and in a safe place prior to apprehension, it is a crime of the second degree.

(2) Kidnapping is a crime of the first degree and upon conviction thereof, an actor shall be sentenced to a term of imprisonment by the court, if the victim of the kidnapping is less than 16 years of age and if during the kidnapping:

(a) A crime under N.J.S.2C:14-2 or subsection a. of N.J.S.2C:14-3 is committed against the victim;

(b) A crime under subsection b. of N.J.S.2C:24-4 is committed against the victim; or

(c) The actor sells or delivers the victim to another person for pecuniary gain other than in circumstances which lead to the return of the victim to a parent, guardian or other person responsible for the general supervision of the victim.

Notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, the term of imprisonment imposed under this paragraph shall be either a term of 25 years during which the actor shall not be eligible for parole, or a specific term between 25 years and life imprisonment, of which the actor shall serve 25 years before being eligible for parole; provided, however, that the crime of kidnapping under this paragraph and underlying aggravating crimes listed in subparagraph (a), (b) or (c) of this paragraph shall merge for purposes of sentencing. If the actor is convicted of the criminal homicide of a victim of a kidnapping under the provisions of chapter 11, any sentence imposed under provisions of this paragraph shall be served consecutively to any sentence imposed pursuant to the provisions of chapter 11.

d. "Unlawful" removal or confinement. A removal or confinement is unlawful within the meaning of this section and of sections 2C:13-2 and 2C:13-3, if it is accomplished by force, threat or deception, or, in the case of a person who is under the age of 14 or is incompetent, if it is accomplished without the consent of a parent, guardian or other person responsible for general supervision of his welfare.

e. It is an affirmative defense to a prosecution under paragraph (4) of subsection b. of this section, which must be proved by clear and convincing evidence, that:

(1) The actor reasonably believed that the action was necessary to preserve the victim from imminent danger to his welfare. However, no defense shall be available pursuant to this subsection if the actor does not, as soon as reasonably practicable but in no event more than 24 hours after taking a victim under his protection, give notice of the victim's location to the police department of the municipality where the victim resided, the office of the county prosecutor in the county where the victim resided, or the Division of Youth and Family Services in the Department of Children and Families;

(2) The actor reasonably believed that the taking or detaining of the victim was consented to by a parent, or by an authorized State agency; or

(3) The victim, being at the time of the taking or concealment not less than 14 years old, was taken away at his own volition by his parent and without purpose to commit a criminal offense with or against the victim.

f. It is an affirmative defense to a prosecution under paragraph (4) of subsection b. of this section that a parent having the right of custody reasonably believed he was fleeing from imminent physical danger from the other parent, provided that the parent having custody, as soon as reasonably practicable:

(1) Gives notice of the victim's location to the police department of the municipality where the victim resided, the office of the county prosecutor in the county where the victim resided, or the Division of Youth and Family Services in the Department of Children and Families; or

(2) Commences an action affecting custody in an appropriate court.

g. As used in subsections e. and f. of this section, "parent" means a parent, guardian or other lawful custodian of a victim.

N.J. STAT. ANN. § 2C:13-4 (2010). Interference with custody.

a. Custody of children. A person, including a parent, guardian or other lawful custodian, is guilty of interference with custody if he:

(1) Takes or detains a minor child with the purpose of concealing the minor child and thereby depriving the child's other parent of custody or parenting time with the minor child; or

(2) After being served with process or having actual knowledge of an action affecting marriage or custody but prior to the issuance of a temporary or final order determining custody and parenting time rights to a minor child, takes, detains, entices or conceals the child within or outside the State for the purpose of depriving the child's other parent of custody or parenting time, or to evade the jurisdiction of the courts of this State; or

(3) After being served with process or having actual knowledge of an action affecting the protective services needs of a child pursuant to Title 9 of the Revised Statutes in an action affecting custody, but prior to the issuance of a temporary or final order determining custody rights of a minor child, takes, detains, entices or conceals the child within or outside the State for the purpose of evading the jurisdiction of the courts of this State; or

(4) After the issuance of a temporary or final order specifying custody, joint custody rights or parenting time, takes, detains, entices or conceals a minor child from the other parent in violation of the custody or parenting time order.

Interference with custody is a crime of the second degree if the child is taken, detained, enticed or concealed: (i) outside the United States or (ii) for more than 24 hours. Otherwise, interference with custody is a crime of the third degree but the presumption of non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the third degree shall not apply.

b. Custody of committed persons. A person is guilty of a crime of the fourth degree if he knowingly takes or entices any committed person away from lawful custody when he is not privileged to do so. "Committed person" means, in addition to anyone committed under judicial warrant, any orphan, neglected or delinquent child, mentally defective or insane person, or other dependent or incompetent person entrusted to another's custody by or through a recognized social agency or otherwise by authority of law.

c. It is an affirmative defense to a prosecution under subsection a. of this section, which must be proved by clear and convincing evidence, that:

(1) The actor reasonably believed that the action was necessary to preserve the child from imminent danger to his welfare. However, no defense shall be available pursuant to this subsection if the actor does not, as soon as reasonably practicable but in no event more than 24 hours after taking a child under his protection, give notice of the child's location to the police department of the municipality where the child resided, the office of the county prosecutor in the county where the child resided, or the Division of Youth and Family Services in the Department of Children and Families;

(2) The actor reasonably believed that the taking or detaining of the minor child was consented to by the other parent, or by an authorized State agency; or

(3) The child, being at the time of the taking or concealment not less than 14 years old, was taken away at his own volition and without purpose to commit a criminal offense with or against the child.

d. It is an affirmative defense to a prosecution under subsection a. of this section that a parent having the right of custody reasonably believed he was fleeing from imminent physical danger from the other parent, provided that the parent having custody, as soon as reasonably practicable:

(1) Gives notice of the child's location to the police department of the municipality where the child resided, the office of the county prosecutor in the county where the child resided, or the Division of Youth and Family Services in the Department of Children and Families; or

(2) Commences an action affecting custody in an appropriate court.

e. The offenses enumerated in this section are continuous in nature and continue for so long as the child is concealed or detained.

f. (1) In addition to any other disposition provided by law, a person convicted under subsection a. of this section shall make restitution of all reasonable expenses and costs, including reasonable counsel fees, incurred by the other parent in securing the child's return.

(2) In imposing sentence under subsection a. of this section the court shall consider, in addition to the factors enumerated in chapter 44 of Title 2C of the New Jersey Statutes:

(a) Whether the person returned the child voluntarily; and

(b) The length of time the child was concealed or detained.

g. As used in this section, "parent" means a parent, guardian or other lawful custodian of a minor child.

N.J. STAT. ANN. § 2C:13-6 (2010). Luring, enticing child by various means, attempts; crime of second degree; subsequent offense, mandatory imprisonment; definitions.

a. A person commits a crime of the second degree if he attempts, via electronic or any other means, to lure or entice a child or one who he reasonably believes to be a child into a motor vehicle, structure or isolated area, or to meet or appear at any other place, with a purpose to commit a criminal offense with or against the child.

b. As used in this section:

"Child" means a person less than 18 years old.

"Electronic means" includes, but is not limited to, the Internet, which shall have the meaning set forth in N.J.S.2C:24-4.

"Structure" means any building, room, ship, vessel or airplane and also means any place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present.

c. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for attempted kidnapping under the provisions of N.J.S.2C:13-1.

d. A person convicted of a second or subsequent offense under this section shall be sentenced to a term of imprisonment. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory minimum term of one-third to one-half of the sentence imposed, or three years, whichever is greater, during which time the defendant shall not be eligible for parole. If the person is sentenced pursuant to N.J.S.2C:43-7, the court shall impose a minimum term of one-third to one-half of the sentence imposed, or five years, whichever is greater. The court may not suspend or make any other non-custodial disposition of any person sentenced as a second or subsequent offender pursuant to this section.

For the purposes of this section, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to this section, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to this section.

e. A person convicted of an offense under this section who has previously been convicted of a violation of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3 or N.J.S.2C:24-4 shall be sentenced to a term of imprisonment. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory minimum term of five years, during which time the defendant shall not be eligible for parole. The court may not suspend or make any other non-custodial disposition of any person sentenced pursuant to this section.

For the purposes of this subsection, an offense is considered a previous conviction of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3 or N.J.S.2C:24-4 if the actor has at any time been convicted under any of these sections or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to any of these sections.

f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction under this section shall not merge with a conviction of any other criminal offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of this section and any other criminal offense. The court may not suspend or make any other non-custodial disposition of any person sentenced pursuant to this section.

N.J. STAT. ANN. § 2C:14-2 (2010). Sexual assault.

a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The victim is less than 13 years old;

(2) The victim is at least 13 but less than 16 years old; and

(a) The actor is related to the victim by blood or affinity to the third degree, or

(b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or

(c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;

(3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;

(4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;

(5) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;

(6) The actor uses physical force or coercion and severe personal injury is sustained by the victim;

(7) The victim is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated.

Aggravated sexual assault is a crime of the first degree.

b. An actor is guilty of sexual assault if he commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

c. An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury;

(2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status;

(3) The victim is at least 16 but less than 18 years old and:

(a) The actor is related to the victim by blood or affinity to the third degree; or

(b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or

(c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;

(4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim.

Sexual assault is a crime of the second degree.

N.J. STAT. ANN. § 2C:14-6 (2010). Sentencing.

If a person is convicted of a second or subsequent offense under sections 2C:14-2 or 2C:14-3 a., the sentence imposed under those sections for the second or subsequent offense shall, unless the person is sentenced pursuant to the provisions of 2C:43-7, include a fixed minimum sentence of not less than 5 years during which the defendant shall not be eligible for parole. The court may not suspend or make any other non-custodial disposition of any person sentenced as a second or subsequent offender pursuant to this section. For the purpose of this section an offense is considered a second or subsequent offense, if the actor has at any time been convicted under sections 2C:14-2 or 2C:14-3 a. or under any similar statute of the United States, this state, or any other state for an offense that is substantially equivalent to sections 2C:14-2 or 2C:14-3 a.

N.J. STAT. ANN. § 2C:14-10 (2010). Additional penalties for sex offenders; collection; use.

a. In addition to any fine, fee, assessment or penalty authorized under the provisions of Title 2C of the New Jersey Statutes, a person convicted of a sex offense, as defined in section 2 of P.L. 1994, c. 133 (C. 2C:7-2), shall be assessed a penalty for each such offense not to exceed:

(1) $ 2,000, when the conviction is a crime of the first degree;

(2) $ 1,000, when the conviction is a crime of the second degree;

(3) $ 750, when the conviction is a crime of the third degree; and

(4) $ 500, when the conviction is a crime of the fourth degree.

b. All penalties provided for in this section shall be collected as provided for collection of fines and restitutions in section 3 of P.L. 1979, c. 396 (C. 2C:46-4), and shall be forwarded to the Department of the Treasury as provided in subsection c. of this section.

c. All moneys collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in the "Sex Crime Victim Treatment Fund" established in the State Treasury by section 2 of P.L. 2005, c. 73 (C. 52:4B-43.2).

N.J. STAT. ANN. § 2C:24-4 (2010). Endangering welfare of children.

a. Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child, or who causes the child harm that would make the child an abused or neglected child as defined in R.S. 9:6-1, R.S. 9:6-3 and P.L. 1974, c. 119, § 1 (C. 9:6-8.21) is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this subsection to a child under the age of 16 is guilty of a crime of the third degree.

b. (1) As used in this subsection:

"Child" means any person under 16 years of age.

"Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

"Prohibited sexual act" means

(a) Sexual intercourse; or

(b) Anal intercourse; or

(c) Masturbation; or

(d) Bestiality; or

(e) Sadism; or

(f) Masochism; or

(g) Fellatio; or

(h) Cunnilingus;

(i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction; or

(j) Any act of sexual penetration or sexual contact as defined in N.J.S. 2C:14-1.

"Reproduction" means, but is not limited to, computer generated images.

(2) (Deleted by amendment, P.L. 2001, c. 291).

(3) A person commits a crime of the second degree if he causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance. If the person is a parent, guardian or other person legally charged with the care or custody of the child, the person shall be guilty of a crime of the first degree.

(4) Any person who photographs or films a child in a prohibited sexual act or in the simulation of such an act or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act is guilty of a crime of the second degree.

(5)(a) Any person who knowingly receives for the purpose of selling or who knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers or agrees to offer, through any means, including the Internet, any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, is guilty of a crime of the second degree.

(b) Any person who knowingly possesses or knowingly views any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, including on the Internet, is guilty of a crime of the fourth degree.

(6) For purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 16 in any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction shall be rebuttably presumed to be under the age of 16. If the child who is depicted as engaging in, or who is caused to engage in, a prohibited sexual act or simulation of a prohibited sexual act is under the age of 16, the actor shall be strictly liable and it shall not be a defense that the actor did not know that the child was under the age of 16, nor shall it be a defense that the actor believed that the child was 16 years of age or older, even if such a mistaken belief was reasonable.

N.J. STAT. ANN. § 2C:25-30 (2010). Violations, penalties.

Except as provided below, a violation by the defendant of an order issued pursuant to this act shall constitute an offense under subsection b. of N.J.S. 2C:29-9 and each order shall so state. All contempt proceedings conducted pursuant to N.J.S. 2C:29-9 involving domestic violence orders, other than those constituting indictable offenses, shall be heard by the Family Part of the Chancery Division of the Superior Court. All contempt proceedings brought pursuant to P.L.1991, c.261 (C.2C:25-17 et seq.) shall be subject to any rules or guidelines established by the Supreme Court to guarantee the prompt disposition of criminal matters. Additionally, and notwithstanding the term of imprisonment provided in N.J.S. 2C:43-8, any person convicted of a second or subsequent nonindictable domestic violence contempt offense shall serve a minimum term of not less than 30 days. Orders entered pursuant to paragraphs (3), (4), (5), (8) and (9) of subsection b. of section 13 of this act shall be excluded from enforcement under subsection b. of N.J.S. 2C:29-9; however, violations of these orders may be enforced in a civil or criminal action initiated by the plaintiff or by the court, on its own motion, pursuant to applicable court rules.

N.J. STAT. ANN. § 2C:25-34 (2010). Domestic violence restraining orders, central registry.

The Administrative Office of the Courts shall establish and maintain a central registry of all persons who have had domestic violence restraining orders entered against them, all persons who have been charged with a crime or offense involving domestic violence, and all persons who have been charged with a violation of a court order involving domestic violence. All records made pursuant to this section shall be kept confidential and shall be released only to:

a. A public agency authorized to investigate a report of domestic violence;

b. A police or other law enforcement agency investigating a report of domestic violence, or conducting a background investigation involving a person's application for a firearm permit or employment as a police or law enforcement officer or for any other purpose authorized by law or the Supreme Court of the State of New Jersey;

c. A court, upon its finding that access to such records may be necessary for determination of an issue before the court;

d. A surrogate, in that person's official capacity as deputy clerk of the Superior Court, in order to prepare documents that may be necessary for a court to determine an issue in an adoption proceeding; or

e. The Division of Youth and Family Services in the Department of Children and Families when the division is conducting a background investigation involving:

(1) an allegation of child abuse or neglect, to include any adult member of the same household as the individual who is the subject of the abuse or neglect allegation; or

(2) an out-of-home placement for a child being placed by the Division of Youth and Family Services, to include any adult member of the prospective placement household.

Any individual, agency, surrogate or court which receives from the Administrative Office of the Courts the records referred to in this section shall keep such records and reports, or parts thereof, confidential and shall not disseminate or disclose such records and reports, or parts thereof; provided that nothing in this section shall prohibit a receiving individual, agency, surrogate or court from disclosing records and reports, or parts thereof, in a manner consistent with and in furtherance of the purpose for which the records and reports or parts thereof were received.

Any individual who disseminates or discloses a record or report, or parts thereof, of the central registry, for a purpose other than investigating a report of domestic violence, conducting a background investigation involving a person's application for a firearm permit or employment as a police or law enforcement officer, making a determination of an issue before the court, conducting a background investigation as specified in subsection e. of this section, or for any other purpose other than that which is authorized by law or the Supreme Court of the State of New Jersey, shall be guilty of a crime of the fourth degree.

N.J. STAT. ANN. § 2C:43-3 (2010). Fines and restitutions.

A person who has been convicted of an offense may be sentenced to pay a fine, to make restitution, or both, such fine not to exceed:

a. (1) $ 200,000.00 when the conviction is of a crime of the first degree;

(2) $ 150,000.00 when the conviction is of a crime of the second degree;

b. (1) $ 15,000.00 when the conviction is of a crime of the third degree;

(2) $ 10,000.00 when the conviction is of a crime of the fourth degree;

c. $ 1,000.00, when the conviction is of a disorderly persons offense;

d. $ 500.00, when the conviction is of a petty disorderly persons offense;

e. Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this section the term "gain" means the amount of money or the value of property derived by the offender and "loss" means the amount of value separated from the victim or the amount of any payment owed to the victim and avoided or evaded and includes any reasonable and necessary expense incurred by the owner in recovering or replacing lost, stolen or damaged property, or recovering any payment avoided or evaded, and, with respect to property of a research facility, includes the cost of repeating an interrupted or invalidated experiment or loss of profits. The term "victim" shall mean a person who suffers a personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime committed against that person, or in the case of a homicide, the nearest relative of the victim. The terms "gain" and "loss" shall also mean, where appropriate, the amount of any tax, fee, penalty and interest avoided, evaded, or otherwise unpaid or improperly retained or disposed of;

f. Any higher amount specifically authorized by another section of this code or any other statute;

g. Up to twice the amounts authorized in subsection a., b., c. or d. of this section, in the case of a second or subsequent conviction of any tax offense defined in Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, as amended and supplemented, or of any offense defined in chapter 20 or 21 of this code;

h. In the case of violations of chapter 35, any higher amount equal to three times the street value of the controlled dangerous substance or controlled substance analog. The street value for purposes of this section shall be determined pursuant to subsection e. of N.J.S.2C:44-2.

The restitution ordered paid to the victim shall not exceed the victim's loss, except that in any case involving the failure to pay any State tax, the amount of restitution to the State shall be the full amount of the tax avoided or evaded, including full civil penalties and interest as provided by law. In any case where the victim of the offense is any department or division of State government, the court shall order restitution to the victim. Any restitution imposed on a person shall be in addition to any fine which may be imposed pursuant to this section.

N.J. STAT. ANN. § 2C:43-3.6 (2010). Additional penalty for sex offense for deposit in Sexual Assault Nurse Examiner Program Fund.

a. In addition to any fine, fee, assessment or penalty authorized under the provisions of Title 2C of the New Jersey Statutes, a person convicted of a sex offense, as defined in section 2 of P.L. 1994, c. 133 (C. 2C:7-2), shall be assessed a penalty of $ 800 for each such offense.

b. All penalties provided for in this section, collected as provided for the collection of fines and restitutions in section 3 of P.L. 1979, c. 396 (C. 2C:46-4), shall be forwarded to the Department of the Treasury to be deposited in the "Statewide Sexual Assault Nurse Examiner Program Fund" established pursuant to section 12 of P.L. 2001, c. 81 (C. 52:4B-59).

N.J. STAT. ANN. § 2C:43-3.7 (2010). Surcharge for certain sexual offenders to fund grants, programs, certain.

In addition to any other penalty, fine or charge imposed pursuant to law, a person convicted of an act of aggravated sexual assault or sexual assault under N.J.S. 2C:14-2, or aggravated criminal sexual contact or criminal sexual contact under N.J.S. 2C:14-3, shall be subject to a surcharge in the amount of $ 100 payable to the Treasurer of the State of New Jersey for use by the Department of Community Affairs to fund programs and grants for the prevention of violence against women.

N.J. STAT. ANN. § 2C:43-3.8 (2010). Offenses involving computer criminal activities; penalties; "Computer Crime Prevention Fund".

a. In addition to any disposition authorized by this Title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, every person convicted of or adjudicated delinquent for a violation of subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-4, N.J.S.2C:34-3, or an offense involving computer criminal activity in violation of any provision of chapter 20 of this title shall be assessed for each such offense a penalty fixed at:

(a) $ 2,000 in the case of a crime of the first degree;

(b) $ 1,000 in the case of a crime of the second degree;

(c) $ 750 in the case of a crime of the third degree;

(d) $ 500 in the case of a crime of the fourth degree;

(e) $ 250 in the case of a disorderly persons or petty disorderly persons offense.

b. All penalties provided for in this section shall be collected as provided for collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), and shall be forwarded to the Department of the Treasury as provided in subsection c. of this section.

c. All moneys collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in a nonlapsing revolving fund to be known as the "Computer Crime Prevention Fund." Moneys in the fund shall be appropriated by the Legislature to the Department of Law and Public Safety on an annual basis for the purposes of investigating and prosecuting computer-related crime, and funding continuing educational programs on high technology crimes and the 24-hour toll-free computer crime hotline telephone service established pursuant to section 3 of P.L.1998, c.134 (C.52:17B-193) and publicizing thereof, as well as other programs designed to enhance public awareness of computer-related crime, including but not limited to use of the Internet to facilitate sexual predatory acts, cyber-stalking and cyberbullying, online child

pornography, threats of violence in schools or other institutions, Internet fraud, and unauthorized intrusions into computer systems.

d. There is created in the Department of Treasury a non-lapsing fund entitled the "Computer Crime Prevention Fund." The fund shall be the depository for assessments collected pursuant to subsection a. of this section, to be appropriated and used in accordance with the purposes set forth in subsection c. of this section.

N.J. STAT. ANN. § 2C:43-6 (2010). Sentence of imprisonment for crime; ordinary terms; mandatory terms.

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

(1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years;

(2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years;

(3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between three years and five years;

(4) In the case of a crime of the fourth degree, for a specific term which shall be fixed by the court and shall not exceed 18 months.

b. As part of a sentence for any crime, where the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors, as set forth in subsections a. and b. of 2C:44-1, or the court finds that the aggravating factor set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under subsection b. or d. of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b. or c. of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b., e. or g. of N.J.S.2C:39-9, or of a crime under any of the following sections: 2C:11-3, 2C:11-4, 2C:12-1 b., 2C:13-1, 2C:14-2 a., 2C:14-3 a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39-1 f., shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to 2C:44-1 f.(1) except in cases of crimes of the fourth degree.

A person who has been convicted of an offense enumerated by this subsection and who used or possessed a firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of a firearm as defined in 2C:44-3 d., shall be sentenced by the court to an extended term as authorized by 2C:43-7 c., notwithstanding that extended terms are ordinarily discretionary with the court.

d. The court shall not impose a mandatory sentence pursuant to subsection c. of this section, 2C:43-7 c. or 2C:44-3 d., unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

e. A person convicted of a third or subsequent offense involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any other provision of this code, or under any of the provisions of Title 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes, as amended and supplemented, shall be sentenced to a term of imprisonment by the court. This shall not preclude an application for and imposition of an extended term of imprisonment under N.J.S.2C:44-3 if the provisions of that section are applicable to the offender.

f. A person convicted of manufacturing, distributing, dispensing or possessing with intent to distribute any dangerous substance or controlled substance analog under N.J.S.2C:35-5, of maintaining or operating a controlled dangerous substance production facility under N.J.S.2C:35-4, of employing a juvenile in a drug distribution scheme under N.J.S.2C:35-6, leader of a narcotics trafficking network under N.J.S.2C:35-3, or of distributing, dispensing or possessing with intent to distribute on or near school property or buses under section 1 of P.L.1987, c.101 (C.2C:35-7), who has been previously convicted of manufacturing, distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog, shall upon application of the prosecuting attorney be sentenced by the court to an extended term as authorized by subsection c. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court. The term of imprisonment shall, except as may be provided in N.J.S.2C:35-12, include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, not less than seven years if the person is convicted of a violation of N.J.S.2C:35-6, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The court shall not impose an extended term pursuant to this subsection unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish the ground therefor by a preponderance of the evidence. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

For the purpose of this subsection, a previous conviction exists where the actor has at any time been convicted under chapter 35 of this title or Title 24 of the Revised Statutes or under any

similar statute of the United States, this State, or any other state for an offense that is substantially equivalent to N.J.S.2C:35-3, N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of P.L.1987, c.101 (C.2C:35-7).

g. Any person who has been convicted under subsection a. of N.J.S.2C:39-4 or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1 b., N.J.S.2C:13-1, N.J.S.2C:14-2 a., N.J.S.2C:14-3 a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a machine gun or assault firearm shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at 10 years for a crime of the first or second degree, five years for a crime of the third degree, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to paragraph (1) of subsection f. of N.J.S.2C:44-1 for crimes of the first degree.

A person who has been convicted of an offense enumerated in this subsection and who used or possessed a machine gun or assault firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of any firearm as defined in subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an extended term as authorized by subsection d. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court.

h. The court shall not impose a mandatory sentence pursuant to subsection g. of this section, subsection d. of N.J.S.2C:43-7 or N.J.S.2C:44-3, unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a machine gun or assault firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

i. A person who has been convicted under paragraph (6) of subsection b. of 2C:12-1 of causing bodily injury while eluding shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between one-third and one-half of the sentence imposed by the court. The minimum term established by this subsection shall not prevent the court from imposing a presumptive term of imprisonment pursuant to paragraph (1) of subsection f. of 2C:44-1.

N.J. STAT. ANN. § 2C:43-6.4 (2010). Special sentence of parole supervision for life.

a. Notwithstanding any provision of law to the contrary, a judge imposing sentence on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4, endangering the welfare of a child pursuant to paragraph (3) of subsection b. of N.J.S.2C:24-4, luring or an attempt to commit any of these

offenses shall include, in addition to any sentence authorized by this Code, a special sentence of parole supervision for life.

b. The special sentence of parole supervision for life required by this section shall commence immediately upon the defendant's release from incarceration. If the defendant is serving a sentence of incarceration for another offense at the time he completes the custodial portion of the sentence imposed on the present offense, the special sentence of parole supervision for life shall not commence until the defendant is actually released from incarceration for the other offense. Persons serving a special sentence of parole supervision for life shall remain in the legal custody of the Commissioner of Corrections, shall be supervised by the Division of Parole of the State Parole Board, shall be subject to the provisions and conditions set forth in subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) and sections 15 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.63 and 30:4-123.65), and shall be subject to conditions appropriate to protect the public and foster rehabilitation. Such conditions may include the requirement that the person comply with the conditions set forth in subsection f. of this section concerning use of a computer or other device with access to the Internet. If the defendant violates a condition of a special sentence of parole supervision for life, the defendant shall be subject to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and 30:4-123.65), and for the purpose of calculating the limitation on time served pursuant to section 21 of P.L.1979, c.441 (C.30:4-123.65) the custodial term imposed upon the defendant related to the special sentence of parole supervision for life shall be deemed to be a term of life imprisonment. When the court suspends the imposition of sentence on a defendant who has been convicted of any offense enumerated in subsection a. of this section, the court may not suspend imposition of the special sentence of parole supervision for life, which shall commence immediately, with the Division of Parole of the State Parole Board maintaining supervision over that defendant, including the defendant's compliance with any conditions imposed by the court pursuant to N.J.S.2C:45-1, in accordance with the provisions of this subsection. Nothing contained in this subsection shall prevent the court from at any time proceeding under the provisions of N.J.S.2C:45-1 through 2C:45-4 against any such defendant for a violation of any conditions imposed by the court when it suspended imposition of sentence, or prevent the Division of Parole from proceeding under the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) against any such defendant for a violation of any conditions of the special sentence of parole supervision for life, including the conditions imposed by the court pursuant to N.J.S.2C:45-1.

In any such proceeding by the Division of Parole, the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) authorizing revocation and return to prison shall be applicable to such a defendant, notwithstanding that the defendant may not have been sentenced to or served any portion of a custodial term for conviction of an offense enumerated in subsection a. of this section.

c. A person sentenced to a term of parole supervision for life may petition the Superior Court for release from that parole supervision. The judge may grant a petition for release from a special sentence of parole supervision for life only upon proof by clear and convincing evidence that the person has not committed a crime for 15 years since the last conviction or release from incarceration, whichever is later, and that the person is not likely to pose a threat to the safety of others if released from parole supervision. Notwithstanding the provisions of section 22 of P.L.1979, c.441 (C.30:4-123.66), a person sentenced to a term of parole supervision for life may be released from that parole supervision term only by court order as provided in this subsection.

d. A person who violates a condition of a special sentence imposed pursuant to this section without good cause is guilty of a crime of the fourth degree. Notwithstanding any other law to the contrary, a person sentenced pursuant to this subsection shall be sentenced to a term of imprisonment, unless the court is clearly convinced that the interests of justice so far outweigh the need to deter this conduct and the interest in public safety that a sentence to imprisonment would be a manifest injustice. Nothing in this subsection shall preclude subjecting a person who violates any condition of a special sentence of parole supervision for life to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) pursuant to the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

e. A person who, while serving a special sentence of parole supervision for life imposed pursuant to this section, commits a violation of N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:11-5, subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, section 1 of P.L.1993, c.291 (C.2C:13-6), N.J.S.2C:14-2, N.J.S.2C:14-3, N.J.S.2C:24-4, N.J.S.2C:18-2 when the offense is a crime of the second degree, or subsection a. of N.J.S.2C:39-4 shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7, which term shall, notwithstanding the provisions of N.J.S.2C:43-7 or any other law, be served in its entirety prior to the person's resumption of the term of parole supervision for life.

f. The special sentence of parole supervision for life required by this section may include any of the following Internet access conditions:

(1) Prohibit the person from accessing or using a computer or any other device with Internet capability without the prior written approval of the court except the person may use a computer or any other device with Internet capability in connection with that person's employment or search for employment with the prior approval of the person's parole officer;

(2) Require the person to submit to periodic unannounced examinations of the person's computer or any other device with Internet capability by a parole officer, law enforcement officer or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment or device to conduct a more thorough inspection;

(3) Require the person to submit to the installation on the person's computer or device with Internet capability, at the person's expense, one or more hardware or software systems to monitor the Internet use; and

(4) Require the person to submit to any other appropriate restrictions concerning the person's use or access of a computer or any other device with Internet capability.

N.J. STAT. ANN. § 2C:43-6.6 (2010). Internet access conditions for certain sex offenders; fourth degree crime.

a. In the case of a person who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for the commission of a sex offense as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to register as provided in subsections c. and d. of section 2 of P.L.1994, c.133 (C.2C:7-2), or who is serving a special sentence of community or parole supervision for life as provided in section 2 of P.L.1994, c.130 (C.2C:43-6.4), or who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for a violation of

N.J.S.2C:34-3, and where the trier of fact makes a finding that a computer or any other device with Internet capability was used to facilitate the commission of the crime the court shall, in addition to any other disposition, order the following Internet access conditions:

(1) Prohibit the person from accessing or using a computer or any other device with Internet capability without the prior written approval of the court except, if such person is on probation or parole, the person may use a computer or any other device with Internet capability in connection with that person's employment or search for employment with the prior approval of the person's probation or parole officer;

(2) Require the person to submit to periodic unannounced examinations of the person's computer or any other device with Internet capability by a probation officer, parole officer, law enforcement officer or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment or device to conduct a more thorough inspection;

(3) Require the person to submit to the installation on the person's computer or device with Internet capability, at the person's expense, one or more hardware or software systems to monitor the Internet use; and

(4) Require the person to submit to any other appropriate restrictions concerning the person's use or access of a computer or any other device with Internet capability.

b. A person who fails to comply with the Internet access conditions set forth in this section shall be guilty of a crime of the fourth degree.

c. The appropriate agency heads shall promulgate guidelines which set forth standards to guide agency action in regard to the specific Internet access conditions which may be imposed on a person pursuant to the provisions of this act.

d. The Attorney General or the County Prosecutor may petition the court to impose restrictions pursuant to this section upon any person who is required to register as provided in section 2 of P.L.1994, c.133 (C.2C:7-2) for a sex offense set forth in paragraph (3) of subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2).

N.J. STAT. ANN. § 2C:43-7 (2010). Sentence of imprisonment for crime; extended terms.

a. In the cases designated in section 2C:44-3, a person who has been convicted of a crime may be sentenced, and in the cases designated in subsection e. of section 2 of P.L. 1994, c. 130 (C. 2C:43-6.4), in subsection b. of section 2 of P.L. 1995, c. 126 (C. 2C:43-7.1) and in the cases designated in section 1 of P.L. 1997, c. 410 (C. 2C:44-5.1), a person who has been convicted of a crime shall be sentenced, to an extended term of imprisonment, as follows:

(1) In case of aggravated manslaughter sentenced under subsection c. of N.J.S. 2C:11-4; or kidnapping when sentenced as a crime of the first degree under paragraph (1) of subsection c. of 2C:13-1; or aggravated sexual assault if the person is eligible for an extended term pursuant to the provisions of subsection g. of N.J.S. 2C:44-3 for a specific term of years which shall be between 30 years and life imprisonment;

(2) Except for the crime of murder and except as provided in paragraph (1) of this subsection, in the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 20 years and life imprisonment;

(3) In the case of a crime of the second degree, for a term which shall be fixed by the court between 10 and 20 years;

(4) In the case of a crime of the third degree, for a term which shall be fixed by the court between five and 10 years;

(5) In the case of a crime of the fourth degree pursuant to 2C:43-6 c., 2C:43-6 g. and 2C:44-3 d. for a term of five years, and in the case of a crime of the fourth degree pursuant to any other provision of law for a term which shall be fixed by the court between three and five years;

(6) In the case of the crime of murder, for a specific term of years which shall be fixed by the court between 35 years and life imprisonment, of which the defendant shall serve 35 years before being eligible for parole;

(7) In the case of kidnapping under paragraph (2) of subsection c. of 2C:13-1, for a specific term of years which shall be fixed by the court between 30 years and life imprisonment, of which the defendant shall serve 30 years before being eligible for parole.

b. As part of a sentence for an extended term and notwithstanding the provisions of 2C:43-9, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a. during which the defendant shall not be eligible for parole or a term of 25 years during which time the defendant shall not be eligible for parole where the sentence imposed was life imprisonment; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. In the case of a person sentenced to an extended term pursuant to 2C:43-6 c., 2C:43-6 f. and 2C:44-3 d., the court shall impose a sentence within the ranges permitted by 2C:43-7 a.(2), (3), (4) or (5) according to the degree or nature of the crime for which the defendant is being sentenced, which sentence shall include a minimum term which shall, except as may be specifically provided by N.J.S.2C:43-6 f., be fixed at or between one-third and one-half of the sentence imposed by the court or five years, whichever is greater, during which the defendant shall not be eligible for parole. Where the sentence imposed is life imprisonment, the court shall impose a minimum term of 25 years during which the defendant shall not be eligible for parole, except that where the term of life imprisonment is imposed on a person convicted for a violation of N.J.S. 2C:35-3, the term of parole ineligibility shall be 30 years.

d. In the case of a person sentenced to an extended term pursuant to N.J.S. 2C:43-6 g., the court shall impose a sentence within the ranges permitted by N.J.S. 2C:43-7 a.(2), (3), (4) or (5) according to the degree or nature of the crime for which the defendant is being sentenced, which sentence shall include a minimum term which shall be fixed at 15 years for a crime of the first or second degree, eight years for a crime of the third degree, or five years for a crime of the fourth degree during which the defendant shall not be eligible for parole. Where the sentence imposed is life imprisonment, the court shall impose a minimum term of 25 years during which the defendant shall not be eligible for parole, except that where the term of life imprisonment is imposed on a person convicted of a violation of N.J.S. 2C:35-3, the term of parole eligibility shall be 30 years.

N.J. STAT. ANN. § 2C:43-7.1 (2010). Life imprisonment without parole.

a. Life Imprisonment Without Parole. A person convicted of a crime under any of the following: N.J.S. 2C:11-3; subsection a. of N.J.S. 2C:11-4; a crime of the first degree under N.J.S. 2C:13-1, paragraphs (3) through (6) of subsection a. of N.J.S. 2C:14-2; N.J.S.2C:15-1; or section 1 of P.L. 1993, c. 221 (C. 2C:15-2), who has been convicted of two or more crimes that were committed on prior and separate occasions, regardless of the dates of the convictions, under any of the foregoing sections or under any similar statute of the United States, this State, or any other state for a crime that is substantially equivalent to a crime under any of the foregoing sections, shall be sentenced to a term of life imprisonment by the court, with no eligibility for parole.

b. Extended Term for Repeat Violent Offenders. A person shall be sentenced to an extended term of imprisonment pursuant to N.J.S. 2C:43-7 if:

(1) The person is convicted of any of the following crimes: a crime of the second degree under N.J.S. 2C:11-4; a crime of the second or third degree under subsection b. of N.J.S. 2C:12-1; a crime of the second degree under N.J.S. 2C:13-1; a crime under N.J.S. 2C:14-3 for aggravated criminal sexual contact under any of the circumstances set forth in paragraphs (3) through (6) of subsection a. of N.J.S. 2C:14-2; a crime of the second degree under N.J.S. 2C:15-1; a crime of the second degree under N.J.S. 2C:18-2; or a crime of the second degree under N.J.S.2C:39-4 for possession of a weapon with the purpose of using it unlawfully against the person of another, and the person has been convicted of any of the foregoing crimes or any of the crimes enumerated in subsection a. of this section or under any similar statute of the United States, this State, or any other state for a crime that is substantially equivalent to a crime enumerated in this subsection or in subsection a. of this section committed on two or more prior and separate occasions regardless of the dates of the convictions; or

(2) The person is convicted of a crime enumerated in subsection a. of this section, does not have two or more prior convictions that require sentencing under subsection a. and has two or more prior convictions that would require sentencing under paragraph (1) of this subsection if the person had been convicted of a crime enumerated in paragraph (1).

c. The provisions of this section shall not apply unless the prior convictions are for crimes committed on separate occasions and unless the crime for which the defendant is being sentenced was committed either within 10 years of the date of the defendant's last release from confinement for commission of any crime or within 10 years of the date of the commission of the most recent of the crimes for which the defendant has a prior conviction.

d. The court shall not impose a sentence of imprisonment pursuant to this section, unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to the defendant of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue. Prior convictions shall be defined and proven in accordance with N.J.S. 2C:44-4.

e. For purposes of this section, a term of life shall mean the natural life of a person sentenced pursuant to this section. Except that a defendant who is at least 70 years of age and who has served at least 35 years in prison pursuant to a sentence imposed under this section shall be released on parole if the full Parole Board determines that the defendant is not a danger to the safety of any other person or the community.

N.J. STAT. ANN. § 2C:43-7.2 (2010). Mandatory service of 85% of sentence for certain offenses.

a. A court imposing a sentence of incarceration for a crime of the first or second degree enumerated in subsection d. of this section shall fix a minimum term of 85% of the sentence imposed, during which the defendant shall not be eligible for parole.

b. The minimum term required by subsection a. of this section shall be fixed as a part of every sentence of incarceration imposed upon every conviction of a crime enumerated in subsection d. of this section, whether the sentence of incarceration is determined pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any other provision of law, and shall be calculated based upon the sentence of incarceration actually imposed. The provisions of subsection a. of this section shall not be construed or applied to reduce the time that must be served before eligibility for parole by an inmate sentenced to a mandatory minimum period of incarceration. Solely for the purpose of calculating the minimum term of parole ineligibility pursuant to subsection a. of this section, a sentence of life imprisonment shall be deemed to be 75 years.

c. Notwithstanding any other provision of law to the contrary and in addition to any other sentence imposed, a court imposing a minimum period of parole ineligibility of 85 percent of the sentence pursuant to this section shall also impose a five-year term of parole supervision if the defendant is being sentenced for a crime of the first degree, or a three-year term of parole supervision if the defendant is being sentenced for a crime of the second degree. The term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court pursuant to subsection a. of this section unless the defendant is serving a sentence of incarceration for another crime at the time he completes the sentence of incarceration imposed pursuant to subsection a., in which case the term of parole supervision shall commence immediately upon the defendant's release from incarceration. During the term of parole supervision the defendant shall remain in release status in the community in the legal custody of the Commissioner of the Department of Corrections and shall be supervised by the State Parole Board as if on parole and shall be subject to the provisions and conditions of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

d. The court shall impose sentence pursuant to subsection a. of this section upon conviction of the following crimes or an attempt or conspiracy to commit any of these crimes:

(1) N.J.S.2C:11-3, murder;

(2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;

(3) N.J.S.2C:11-5, vehicular homicide;

(4) subsection b. of N.J.S.2C:12-1, aggravated assault;

(5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11), disarming a law enforcement officer;

(6) N.J.S.2C:13-1, kidnapping;

(7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;

(8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of subsection c. of N.J.S.2C:14-2, sexual assault;

(9) N.J.S.2C:15-1, robbery;

(10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;

(11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated arson;

(12) N.J.S.2C:18-2, burglary;

(13) subsection a. of N.J.S.2C:20-5, extortion;

(14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1), booby traps in manufacturing or distribution facilities;

(15) N.J.S.2C:35-9, strict liability for drug induced deaths;

(16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;

(17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or possessing chemical weapons, biological agents or nuclear or radiological devices; or

(18) N.J.S.2C:41-2, racketeering, when it is a crime of the first degree.

e. (Deleted by amendment, P.L.2001, c.129).

NEW MEXICO

N.M. STAT. ANN. § 30-1-6 (2010). Classified crimes defined.

A. A crime is a felony if it is so designated by law or if upon conviction thereof a sentence of death or of imprisonment for a term of one year or more is authorized.

B. A crime is a misdemeanor if it is so designated by law or if upon conviction thereof a sentence of imprisonment in excess of six months but less than one year is authorized.

C. A crime is a petty misdemeanor if it is so designated by law or if upon conviction thereof a sentence of imprisonment for six months or less is authorized.

N.M. STAT. ANN. § 30-6-1 (2010). Abandonment or abuse of a child.

A. As used in this section:

(1) "child" means a person who is less than eighteen years of age;

(2) "neglect" means that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parents, guardian or custodian or their neglect or refusal, when able to do so, to provide them; and

(3) "negligently" refers to criminal negligence and means that a person knew or should have known of the danger involved and acted with a reckless disregard for the safety or health of the child.

B. Abandonment of a child consists of the parent, guardian or custodian of a child intentionally leaving or abandoning the child under circumstances whereby the child may or does suffer neglect. A person who commits abandonment of a child is guilty of a misdemeanor, unless the abandonment results in the child's death or great bodily harm, in which case the person is guilty of a second degree felony.

C. A parent, guardian or custodian who leaves an infant less than ninety days old in compliance with the Safe Haven for Infants Act [24-22-1 NMSA 1978] shall not be prosecuted for abandonment of a child.

D. Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be:

(1) placed in a situation that may endanger the child's life or health;

(2) tortured, cruelly confined or cruelly punished; or

(3) exposed to the inclemency of the weather.

E. A person who commits abuse of a child that does not result in the child's death or great bodily harm is, for a first offense, guilty of a third degree felony and for second and subsequent offenses is guilty of a second degree felony. If the abuse results in great bodily harm to the child, the person is guilty of a first degree felony.

F. A person who commits negligent abuse of a child that results in the death of the child is guilty of a first degree felony.

G. A person who commits intentional abuse of a child twelve to eighteen years of age that results in the death of the child is guilty of a first degree felony.

H. A person who commits intentional abuse of a child less than twelve years of age that results in the death of the child is guilty of a first degree felony resulting in the death of a child.

I. Evidence that demonstrates that a child has been knowingly, intentionally or negligently allowed to enter or remain in a motor vehicle, building or any other premises that contains chemicals and equipment used or intended for use in the manufacture of a controlled substance shall be deemed prima facie evidence of abuse of the child.

J. Evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of methamphetamine shall be deemed prima facie evidence of abuse of the child.

K. A person who leaves an infant less than ninety days old at a hospital may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the hospital.

N.M. STAT. ANN. § 30-6A-3 (2010). Sexual exploitation of children.

A. It is unlawful for a person to intentionally possess any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a fourth degree felony.

B. It is unlawful for a person to intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a third degree felony.

C. It is unlawful for a person to intentionally cause or permit a child under eighteen years of age to engage in any prohibited sexual act or simulation of such an act if that person knows, has reason to know or intends that the act may be recorded in any obscene visual or print medium or performed publicly. A person who violates the provisions of this subsection is guilty of a third degree felony, unless the child is under the age of thirteen, in which event the person is guilty of a second degree felony.

D. It is unlawful for a person to intentionally manufacture any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a second degree felony.

E. It is unlawful for a person to intentionally manufacture any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act. A person who violates the provisions of this subsection is guilty of a fourth degree felony.

F. It is unlawful for a person to intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act. A person who violates the provisions of this subsection is guilty of a third degree felony.

G. The penalties provided for in this section shall be in addition to those set out in Section 30-9-11 NMSA 1978.

N.M. STAT. ANN. § 30-9-13 (2010). Criminal sexual contact of a minor.

A. Criminal sexual contact of a minor is the unlawful and intentional touching of or applying force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one's intimate parts. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

B. Criminal sexual contact of a minor in the second degree consists of all criminal sexual contact of the unclothed intimate parts of a minor perpetrated:

(1) on a child under thirteen years of age; or

(2) on a child thirteen to eighteen years of age when:

(a) the perpetrator is in a position of authority over the child and uses that authority to coerce the child to submit;

(b) the perpetrator uses force or coercion that results in personal injury to the child;

(c) the perpetrator uses force or coercion and is aided or abetted by one or more persons; or

(d) the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact of a minor in the second degree is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of Sections 31-18-17, 31-18-25 and 31-18-26 NMSA 1978.

C. Criminal sexual contact of a minor in the third degree consists of all criminal sexual contact of a minor perpetrated:

(1) on a child under thirteen years of age; or

(2) on a child thirteen to eighteen years of age when:

(a) the perpetrator is in a position of authority over the child and uses this authority to coerce the child to submit;

(b) the perpetrator uses force or coercion which results in personal injury to the child;

(c) the perpetrator uses force or coercion and is aided or abetted by one or more persons; or

(d) the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact of a minor in the third degree is guilty of a third degree felony for a sexual offense against a child.

D. Criminal sexual contact of a minor in the fourth degree consists of all criminal sexual contact:

(1) not defined in Subsection C of this section, of a child thirteen to eighteen years of age perpetrated with force or coercion; or

(2) of a minor perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.

Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

N.M. STAT. ANN. § 30-37-3.2 (2010). Child solicitation by electronic communication device.

A. Child solicitation by electronic communication device consists of a person knowingly and intentionally soliciting a child under sixteen years of age, by means of an electronic communication device, to engage in sexual intercourse, sexual contact or in a sexual or obscene performance, or to engage in any other sexual conduct when the perpetrator is at least four years older than the child.

B. Whoever commits child solicitation by electronic communication device is guilty of a:

(1) fourth degree felony if the child is at least thirteen but under sixteen years of age; or

(2) third degree felony if the child is under thirteen years of age.

C. Whoever commits child solicitation by electronic communication device and also appears for, attends or is present at a meeting that the person arranged pursuant to the solicitation is guilty of a:

(1) third degree felony if the child is at least thirteen but under sixteen years of age; or

(2) second degree felony if the child is under thirteen years of age.

D. In a prosecution for child solicitation by electronic communication device, it is not a defense that the intended victim of the defendant was a peace officer posing as a child under sixteen years of age.

E. For purposes of determining jurisdiction, child solicitation by electronic communication device is committed in this state if an electronic communication device transmission either originates or is received in this state.

F. As used in this section, "electronic communication device" means a computer, video recorder, digital camera, fax machine, telephone, cellular telephone, pager, audio equipment or any other device that can produce an electronically generated image, message or signal.

N.M. STAT. ANN. § 31-18-15 (2010). Sentencing authority; noncapital felonies; basic sentences and fines; parole authority; meritorious deductions.

A. If a person is convicted of a noncapital felony, the basic sentence of imprisonment is as follows:

(1) for a first degree felony resulting in the death of a child, life imprisonment;

(2) for a first degree felony for aggravated criminal sexual penetration, life imprisonment;

(3) for a first degree felony, eighteen years imprisonment;

(4) for a second degree felony resulting in the death of a human being, fifteen years imprisonment;

(5) for a second degree felony for a sexual offense against a child, fifteen years imprisonment;

(6) for a second degree felony, nine years imprisonment;

(7) for a third degree felony resulting in the death of a human being, six years imprisonment;

(8) for a third degree felony for a sexual offense against a child, six years imprisonment;

(9) for a third degree felony, three years imprisonment; or

(10) for a fourth degree felony, eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act [31-18-12 NMSA 1978].

C. The court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. The period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act [31-18-12 NMSA 1978].

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16, 31-18-16.1 [repealed] or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act [31-18-12 NMSA 1978].

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

(1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars ($ 17,500);

(2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars ($ 17,500);

(3) for a first degree felony, fifteen thousand dollars ($ 15,000);

(4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars ($ 12,500);

(5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars ($ 12,500);

(6) for a second degree felony, ten thousand dollars ($ 10,000);

(7) for a third degree felony resulting in the death of a human being, five thousand dollars ($ 5,000);

(8) for a third degree felony for a sexual offense against a child, five thousand dollars ($ 5,000); or

(9) for a third or fourth degree felony, five thousand dollars ($ 5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense, as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to those provisions or if the court provides the offender with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners.

N.M. STAT. ANN. § 31-18-15.1 (2010). Alteration of basic sentence; mitigating or aggravating circumstances; procedure.

A. The court shall hold a sentencing hearing to determine if mitigating or aggravating circumstances exist and take whatever evidence or statements it deems will aid it in reaching a decision to alter a basic sentence. The judge may alter the basic sentence as prescribed in Section 31-18-15 NMSA 1978 upon:

(1) a finding by the judge of any mitigating circumstances surrounding the offense or concerning the offender; or

(2) a finding by a jury or by the judge beyond a reasonable doubt of any aggravating circumstances surrounding the offense or concerning the offender.

B. When the determination of guilt or innocence for the underlying offense is made by a jury, the original trial jury shall determine whether aggravating circumstances exist. If the offender waives a jury trial for the underlying offense, the offender retains the right to a jury determination of aggravating circumstances. If the offender waives a jury determination of aggravating circumstances, the basic sentence may be altered upon a finding by the judge beyond a reasonable doubt of any aggravating circumstances surrounding the offense or concerning the offender.

C. For the purpose of this section, the following shall not be considered aggravating circumstances:

(1) the use of a firearm, as provided in Section 31-18-16 NMSA 1978;

(2) a prior felony conviction, as provided in Section 31-18-17 NMSA 1978;

(3) the commission of a crime motivated by hate, as provided in the Hate Crimes Act [31-18B-1 NMSA 1978]; or

(4) any evidence relating to the proof of an essential element of the offense.

D. Not less than five days prior to trial or a sentencing proceeding pursuant to a plea agreement, the state shall give notice that it intends to seek an increase to an offender's basic sentence based upon aggravating circumstances. The notice shall state the aggravating circumstances upon which the sentence increase is sought.

E. Presentation of evidence or statements regarding an alleged aggravating circumstance shall be made as soon as practicable following the determination of guilt or innocence.

F. If the judge determines to alter the basic sentence, the judge shall issue a brief statement of reasons for the alteration and incorporate that statement in the record of the case.

G. The amount of the alteration of the basic sentence for noncapital felonies shall be determined by the judge. However, in no case shall the alteration exceed one-third of the basic sentence; provided that when the offender is a serious youthful offender or a youthful offender, the judge may reduce the sentence by more than one-third of the basic sentence.

N.M. STAT. ANN. § 31-18-17 (2010). Habitual offenders; alteration of basic sentence.

A. A person convicted of a noncapital felony in this state whether within the Criminal Code [30-1-1 NMSA 1978] or the Controlled Substances Act [30-31-1 NMSA 1978] or not who has incurred one prior felony conviction that was part of a separate transaction or occurrence or conditional discharge under Section 31-20-13 NMSA 1978 is a habitual offender and his basic sentence shall be increased by one year. The sentence imposed pursuant to this subsection shall not be suspended or deferred, unless the court makes a specific finding that the prior felony conviction and the instant felony conviction are both for nonviolent felony offenses and that justice will not be served by imposing a mandatory sentence of imprisonment and that there are substantial and compelling reasons, stated on the record, for departing from the sentence imposed pursuant to this subsection.

B. A person convicted of a noncapital felony in this state whether within the Criminal Code [30-1-1 NMSA 1978] or the Controlled Substances Act [30-31-1 NMSA 1978] or not who has incurred two prior felony convictions that were parts of separate transactions or occurrences or conditional discharge under Section 31-20-13 NMSA 1978 is a habitual offender and his basic sentence shall be increased by four years. The sentence imposed by this subsection shall not be suspended or deferred.

C. A person convicted of a noncapital felony in this state whether within the Criminal Code [30-1-1 NMSA 1978] or the Controlled Substances Act [30-31-1 NMSA 1978] or not who has incurred three or more prior felony convictions that were parts of separate transactions or occurrences or conditional discharge under Section 31-20-13 NMSA 1978 is a habitual offender and his basic sentence shall be increased by eight years. The sentence imposed by this subsection shall not be suspended or deferred.

D. As used in this section, "prior felony conviction" means:

(1) a conviction, when less than ten years have passed prior to the instant felony conviction since the person completed serving his sentence or period of probation or parole for the prior felony, whichever is later, for a prior felony committed within New Mexico whether within the Criminal Code [30-1-1 NMSA 1978] or not, but not including a conviction for a felony pursuant to the provisions of Section 66-8-102 NMSA 1978; or

(2) a prior felony, when less than ten years have passed prior to the instant felony conviction since the person completed serving his sentence or period of probation or parole for the prior felony, whichever is later, for which the person was convicted other than an offense triable by court martial if:

(a) the conviction was rendered by a court of another state, the United States, a territory of the United States or the commonwealth of Puerto Rico;

(b) the offense was punishable, at the time of conviction, by death or a maximum term of imprisonment of more than one year; or

(c) the offense would have been classified as a felony in this state at the time of conviction.

E. As used in this section, "nonviolent felony offense" means application of force, threatened use of force or a deadly weapon was not used by the offender in the commission of the offense.

N.M. STAT. ANN. § 31-18-23 (2010). Three violent felony convictions; mandatory life imprisonment; exception.

A. When a defendant is convicted of a third violent felony, and each violent felony conviction is part of a separate transaction or occurrence, and at least the third violent felony conviction is in New Mexico, the defendant shall, in addition to the sentence imposed for the third violent conviction, be punished by a sentence of life imprisonment. The life imprisonment sentence shall be subject to parole pursuant to the provisions of Section 31-21-10 NMSA 1978.

B. The sentence of life imprisonment shall be imposed after a sentencing hearing, separate from the trial or guilty plea proceeding resulting in the third violent felony conviction, pursuant to the provisions of Section 31-18-24 NMSA 1978.

C. For the purpose of this section, a violent felony conviction incurred by a defendant before the defendant reaches the age of eighteen shall not count as a violent felony conviction.

D. When a defendant has a felony conviction from another state, the felony conviction shall be considered a violent felony for the purposes of the Criminal Sentencing Act [31-18-12 NMSA 1978] if that crime would be considered a violent felony in New Mexico.

E. As used in the Criminal Sentencing Act [31-18-12 NMSA 1978]:

(1) "great bodily harm" means an injury to the person that creates a high probability of death or that causes serious disfigurement or that results in permanent loss or impairment of the function of any member or organ of the body; and

(2) "violent felony" means:

(a) murder in the first or second degree, as provided in Section 30-2-1 NMSA 1978;

(b) shooting at or from a motor vehicle resulting in great bodily harm, as provided in Subsection B of Section 30-3-8 NMSA 1978;

(c) kidnapping resulting in great bodily harm inflicted upon the victim by the victim's captor, as provided in Subsection B of Section 30-4-1 NMSA 1978;

(d) criminal sexual penetration, as provided in Subsection C or D or Paragraph (5) or (6) of Subsection E of Section 30-9-11 NMSA 1978; and

(e) robbery while armed with a deadly weapon resulting in great bodily harm as provided in Section 30-16-2 NMSA 1978 and Subsection A of Section 30-1-12 NMSA 1978.

N.M. STAT. ANN. § 31-18-25 (2010). Two violent sexual offense convictions; mandatory life imprisonment; exception.

A. When a defendant is convicted of a second violent sexual offense, and each violent sexual offense conviction is part of a separate transaction or occurrence, and at least the second violent sexual offense conviction is in New Mexico, the defendant shall, in addition to the punishment imposed for the second violent sexual offense conviction, be punished by a sentence of life

imprisonment. The life imprisonment sentence shall be subject to parole pursuant to the provisions of Section 31-21-10 NMSA 1978.

B. Notwithstanding the provisions of Subsection A of this section, when a defendant is convicted of a second violent sexual offense, and each violent sexual offense conviction is part of a separate transaction or occurrence, and the victim of each violent sexual offense was less than thirteen years of age at the time of the offense, and at least the second violent sexual offense conviction is in New Mexico, the defendant shall be punished by a sentence of life imprisonment without the possibility of parole.

C. The sentence of life imprisonment shall be imposed after a sentencing hearing, separate from the trial or guilty plea proceeding resulting in the second violent sexual offense conviction, pursuant to the provisions of Section 31-18-26 NMSA 1978.

D. For the purposes of this section, a violent sexual offense conviction incurred by a defendant before he reaches the age of eighteen shall not count as a violent sexual offense conviction.

E. When a defendant has a felony conviction from another state, the felony conviction shall be considered a violent sexual offense for the purposes of the Criminal Sentencing Act [31-18-12 NMSA 1978] if the crime would be considered a violent sexual offense in New Mexico.

F. As used in the Criminal Sentencing Act [31-18-12 NMSA 1978], "violent sexual offense" means:

(1) criminal sexual penetration in the first degree, as provided in Subsection C [D] of Section 30-9-11 NMSA 1978; or

(2) criminal sexual penetration in the second degree, as provided in Subsection D [E] of Section 30-9-11 NMSA 1978.

N.M. STAT. ANN. § 31-19-1 (2010). Sentencing authority[;] misdemeanors; imprisonment and fines; probation.

A. Where the defendant has been convicted of a crime constituting a misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term less than one year or to the payment of a fine of not more than one thousand dollars ($ 1,000) or to both such imprisonment and fine in the discretion of the judge.

B. Where the defendant has been convicted of a crime constituting a petty misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term not to exceed six months or to the payment of a fine of not more than five hundred dollars ($ 500) or to both such imprisonment and fine in the discretion of the judge.

C. When the court has deferred or suspended sentence, it shall order the defendant placed on supervised or unsupervised probation for all or some portion of the period of deferment or suspension.

N.M. STAT. ANN. § 31-20-5.2 (2010). Sex offenders; period of probation; terms and conditions of probation.

A. When a district court defers imposition of a sentence for a sex offender, or suspends all or any portion of a sentence for a sex offender, the district court shall include a provision in the judgment and sentence that specifically requires the sex offender to serve an indeterminate period of supervised probation for a period of not less than five years and not in excess of twenty years. A sex offender's period of supervised probation may be for a period of less than twenty years if, at a review hearing provided for in Subsection B of this section, the state is unable to prove that the sex offender should remain on probation. Prior to placing a sex offender on probation, the district court shall conduct a hearing to determine the terms and conditions of supervised probation for the sex offender. The district court may consider any relevant factors, including:

(1) the nature and circumstances of the offense for which the sex offender was convicted or adjudicated;

(2) the nature and circumstances of a prior sex offense committed by the sex offender;

(3) rehabilitation efforts engaged in by the sex offender, including participation in treatment programs while incarcerated or elsewhere;

(4) the danger to the community posed by the sex offender; and

(5) a risk and needs assessment regarding the sex offender, developed by the sex offender management board of the New Mexico sentencing commission or another appropriate entity, to be used by appropriate district court personnel.

B. A district court shall review the terms and conditions of a sex offender's supervised probation at two and one-half year intervals. When a sex offender has served the initial five years of supervised probation, the district court shall also review the duration of the sex offender's supervised probation at two and one-half year intervals. When a sex offender has served the initial five years of supervised probation, at each review hearing the state shall bear the burden of proving to a reasonable certainty that the sex offender should remain on probation.

C. The district court may order a sex offender placed on probation to abide by reasonable terms and conditions of probation, including:

(1) being subject to intensive supervision by a probation officer of the corrections department;

(2) participating in an outpatient or inpatient sex offender treatment program;

(3) a probationary agreement by the sex offender not to use alcohol or drugs;

(4) a probationary agreement by the sex offender not to have contact with certain persons or classes of persons; and

(5) being subject to alcohol testing, drug testing or polygraph examinations used to determine if the sex offender is in compliance with the terms and conditions of his probation.

D. The district court shall notify the sex offender's counsel of record of an upcoming probation hearing for a sex offender, and the sex offender's counsel of record shall represent the sex offender at the probation hearing. When a sex offender's counsel of record provides the court with good cause that the counsel of record should not represent the sex offender at the probation hearing and the sex offender is subsequently unable to obtain counsel, the district court shall notify the chief public defender of the upcoming probation hearing and the chief public defender shall make representation available to the sex offender at that hearing.

E. If the district court finds that a sex offender has violated the terms and conditions of his probation, the district court may revoke his probation or may order additional terms and conditions of probation.

F. As used in this section, "sex offender" means a person who is convicted of, pleads guilty to or pleads nolo contendere to any one of the following offenses:

(1) kidnapping, as provided in Section 30-4-1 NMSA 1978, when committed with intent to inflict a sexual offense upon the victim;

(2) criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978;

(3) criminal sexual contact of a minor in the second or third degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children in the second degree, as provided in Section 30-6A-3 NMSA 1978; or

(5) sexual exploitation of children by prostitution in the first or second degree, as provided in Section 30-6A-4 NMSA 1978.

N.M. STAT. ANN. § 31-21-10.1 (2010). Sex offenders; period of parole; terms and conditions of parole.

A. If the district court sentences a sex offender to a term of incarceration in a facility designated by the corrections department, the district court shall include a provision in the judgment and sentence that specifically requires the sex offender to serve an indeterminate period of supervised parole for a period of:

(1) not less than five years and not in excess of twenty years for the offense of kidnapping when committed with intent to inflict a sexual offense upon the victim, criminal sexual penetration in the third degree, criminal sexual contact of a minor in the fourth degree or sexual exploitation of children in the second degree; or

(2) not less than five years and up to the natural life of the sex offender for the offense of aggravated criminal sexual penetration, criminal sexual penetration in the first or second degree, criminal sexual contact of a minor in the second or third degree or sexual exploitation of children by prostitution in the first or second degree.

A sex offender's period of supervised parole may be for a period of less than the maximum if, at a review hearing provided for in Subsection C of this section, the state is unable to prove that the sex offender should remain on parole.

B. Prior to placing a sex offender on parole, the board shall conduct a hearing to determine the terms and conditions of supervised parole for the sex offender. The board may consider any relevant factors, including:

(1) the nature and circumstances of the offense for which the sex offender was incarcerated;

(2) the nature and circumstances of a prior sex offense committed by the sex offender;

(3) rehabilitation efforts engaged in by the sex offender, including participation in treatment programs while incarcerated or elsewhere;

(4) the danger to the community posed by the sex offender; and

(5) a risk and needs assessment regarding the sex offender, developed by the sex offender management board of the New Mexico sentencing commission or another appropriate entity, to be used by appropriate parole board personnel.

C. When a sex offender has served the initial five years of supervised parole, and at two and one-half year intervals thereafter, the board shall review the duration of the sex offender's supervised parole. At each review hearing, the attorney general shall bear the burden of proving by clear and convincing evidence that the sex offender should remain on parole.

D. The board may order a sex offender released on parole to abide by reasonable terms and conditions of parole, including:

(1) being subject to intensive supervision by a parole officer of the corrections department;

(2) participating in an outpatient or inpatient sex offender treatment program;

(3) a parole agreement by the sex offender not to use alcohol or drugs;

(4) a parole agreement by the sex offender not to have contact with certain persons or classes of persons; and

(5) being subject to alcohol testing, drug testing or polygraph examinations used to determine if the sex offender is in compliance with the terms and conditions of the sex offender's parole.

E. The board shall require electronic real-time monitoring of every sex offender released on parole for the entire time the sex offender is on parole. The electronic monitoring shall use global positioning system monitoring technology or any successor technology that would give continuous information on the sex offender's whereabouts and enable law enforcement and the corrections department to determine the real-time position of a sex offender to a high level of accuracy.

F. The board shall notify the chief public defender of an upcoming parole hearing for a sex offender pursuant to Subsection C of this section, and the chief public defender shall make representation available to the sex offender at the parole hearing.

G. If the board finds that a sex offender has violated the terms and conditions of parole, the board may revoke the sex offender's parole or may modify the terms and conditions of parole.

H. The provisions of this section shall apply to all sex offenders, except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act [31-21-22 NMSA 1978].

I. As used in this section, "sex offender" means a person who is convicted of, pleads guilty to or pleads nolo contendere to any one of the following offenses:

(1) kidnapping, as provided in Section 30-4-1 NMSA 1978, when committed with intent to inflict a sexual offense upon the victim;

(2) aggravated criminal sexual penetration or criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978;

(3) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children in the second degree, as provided in Section 30-6A-3 NMSA 1978; or

(5) sexual exploitation of children by prostitution in the first or second degree, as provided in Section 30-6A-4 NMSA 1978.

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N.Y. CORRECT. LAW § 168-F (2010). Duty to register and to verify.

1. Any sex offender shall, (a) at least ten calendar days prior to discharge, parole, release to post-release supervision or release from any state or local correctional facility, hospital or institution where he or she was confined or committed, or, (b) at the time sentence is imposed for any sex offender released on probation or discharged upon payment of a fine, conditional discharge or unconditional discharge, register with the division on a form prepared by the division.

2. For a sex offender required to register under this article on each anniversary of the sex offender's initial registration date during the period in which he is required to register under this section the following applies:

(a) The sex offender shall mail the verification form to the division within ten calendar days after receipt of the form.

(b) The verification form shall be signed by the sex offender, and state that he still resides at the address last reported to the division.

(b-1) If the sex offender has been given a level three designation, such offender shall sign the verification form, and state that he or she still is employed at the address last reported to the division.

(b-2) If the sex offender has been given a level three designation, he or she shall personally appear at the law enforcement agency having jurisdiction within twenty days of the first anniversary of the sex offender's initial registration and every year thereafter during the period of registration for the purpose of providing a current photograph of such offender. The law enforcement agency having jurisdiction shall photograph the sex offender and shall promptly forward a copy of such photograph to the division. For purposes of this paragraph, if such sex offender is confined in a state or local correctional facility, the local law enforcement agency having jurisdiction shall be the warden, superintendent, sheriff or other person in charge of the state or local correctional facility.

(b-3) If the sex offender has been given a level one or level two designation, he or she shall personally appear at the law enforcement agency having jurisdiction within twenty days of the third anniversary of the sex offender's initial registration and every three years thereafter during the period of registration for the purpose of providing a current photograph of such offender. The law enforcement agency having jurisdiction shall photograph the sex offender and shall promptly forward a copy of such photograph to the division. For purposes of this paragraph, if such sex offender is confined in a state or local correctional facility, the local law enforcement agency having jurisdiction shall be the warden, superintendent, sheriff or other person in charge of the state or local correctional facility.

(c) If the sex offender fails to mail the signed verification form to the division within ten calendar days after receipt of the form, he or she shall be in violation of this section unless he proves that he or she has not changed his or her residence address.

(c-1) If the sex offender, to whom a notice has been mailed at the last reported address pursuant to paragraph b of subdivision one of section one hundred sixty-eight-b of this article, fails to personally appear at the law enforcement agency having jurisdiction, as provided in paragraph (b-2) or (b-3) of this subdivision, within twenty days of the anniversary of the sex offender's initial registration, or an alternate later date scheduled by the law enforcement agency having jurisdiction, he or she shall be in violation of this section. The duty to personally appear for such updated photograph shall be temporarily suspended during any period in which the sex offender is confined in any hospital or institution, and such sex offender shall personally appear for such updated photograph no later than ninety days after release from such hospital or institution, or an alternate later date scheduled by the law enforcement agency having jurisdiction.

3. The provisions of subdivision two of this section shall be applied to a sex offender required to register under this article except that such sex offender designated as a sexual predator or having been given a level three designation must personally verify his or her address with the local law enforcement agency every ninety calendar days after the date of release or commencement of parole or post-release supervision, or probation, or release on payment of a fine, conditional discharge or unconditional discharge. The duty to personally verify shall be temporarily suspended during any period in which the sex offender is confined to any state or local correctional facility, hospital or institution and shall immediately recommence on the date of the sex offender's release.

4. Any sex offender shall register with the division no later than ten calendar days after any change of address, internet accounts with internet access providers belonging to such offender,

internet identifiers that such offender uses, or [fig 1] his or her status of enrollment, attendance, employment or residence at any institution of higher education. A fee of ten dollars, as authorized by subdivision eight of section one hundred sixty-eight-b of this article, shall be submitted by the sex offender each time such offender registers any change of address or any change of his or her status of enrollment, attendance, employment or residence at any institution of higher education. Any failure or omission to submit the required fee shall not affect the acceptance by the division of the change of address or change of status.

5. The duty to register under the provisions of this article shall not be applicable to any sex offender whose conviction was reversed upon appeal or who was pardoned by the governor.

6. Any nonresident worker or nonresident student, as defined in subdivisions fourteen and fifteen of section one hundred sixty-eight-a of this article, shall register his or her current address and the address of his or her place of employment or educational institution attended with the division within ten calendar days after such nonresident worker or nonresident student commences employment or attendance at an educational institution in the state. Any nonresident worker or nonresident student shall notify the division of any change of residence, employment or educational institution address no later than ten days after such change. The division shall notify the law enforcement agency where the nonresident worker is employed or the educational institution is located that a nonresident worker or nonresident student is present in that agency's jurisdiction.

N.Y. CORRECT. LAW § 168-T (2010). Penalty.

Any sex offender required to register or to verify pursuant to the provisions of this article who fails to register or verify in the manner and within the time periods provided for [fig 1] in this article shall be guilty of a class E felony upon conviction for the first offense, and upon conviction for a second or subsequent offense shall be guilty of a class D felony. Any sex offender who violates the provisions of section one hundred sixty-eight-v of this article shall be guilty of a class A misdemeanor upon conviction for the first offense, and upon conviction for a second or subsequent offense shall be guilty of a class D felony. Any such failure to register or verify may also be the basis for revocation of parole pursuant to section two hundred fifty-nine-i of the executive law or the basis for revocation of probation pursuant to article four hundred ten of the criminal procedure law.

N.Y. PENAL LAW § 60.01 (2010). Authorized dispositions; generally.

1. Applicability. Except as otherwise specified in this article, when the court imposes sentence upon a person convicted of an offense, the court must impose a sentence prescribed by this section.

2. Revocable dispositions.

(a) The court may impose a revocable sentence as herein specified:
(i) the court, where authorized by article sixty-five, may sentence a person to a period of probation or to a period of conditional discharge as provided in that article; or
(ii) the court, where authorized by article eighty-five, may sentence a person to a term of intermittent imprisonment as provided in that article.

(b) A revocable sentence shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with the provisions of the article under which it was imposed, but for all other purposes shall be deemed to be a final judgment of conviction.

(c) In any case where the court imposes a sentence of probation, conditional discharge, or a sentence of intermittent imprisonment, it may also impose a fine authorized by article eighty.

(d) In any case where the court imposes a sentence of imprisonment not in excess of sixty days, for a misdemeanor or not in excess of six months for a felony or in the case of a sentence of intermittent imprisonment not in excess of four months, it may also impose a sentence of probation or conditional discharge provided that the term of probation or conditional discharge together with the term of imprisonment shall not exceed the term of probation or conditional discharge authorized by article sixty-five of this chapter. The sentence of imprisonment shall be a condition of and run concurrently with the sentence of probation or conditional discharge.

3. Other dispositions. When a person is not sentenced as specified in subdivision two, or when a sentence specified in subdivision two is revoked, the sentence of the court must be as follows:

(a) A term of imprisonment; or

(b) A fine authorized by article eighty, provided, however, that when the conviction is of a class B felony or of any felony defined in article two hundred twenty, the sentence shall not consist solely of a fine; or

(c) Both imprisonment and a fine; or

(d) Where authorized by section 65.20, unconditional discharge as provided in that section; or

(e) Following revocation of a sentence of conditional discharge imposed pursuant to section 65.05 of this chapter or paragraph (d) of subdivision two of this section, probation as provided in section 65.00 of this chapter or to the sentence of imprisonment and probation as provided for in paragraph (d) of subdivision two of this section.

4. In any case where a person has been sentenced to a period of probation imposed pursuant to section 65.00 of this chapter, if the part of the sentence that provides for probation is revoked, the court must sentence such person to imprisonment or to the sentence of imprisonment and probation as provided for in paragraph (d) of subdivision two of this section.

N.Y. PENAL LAW § 60.35 (2010). Mandatory surcharge, sex offender registration fee, DNA databank fee, supplemental sex offender victim fee and crime victim assistance fee required in certain cases.

1. (a) Except as provided in section eighteen hundred nine of the vehicle and traffic law and section 27.12 of the parks, recreation and historic preservation law, whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a felony, a misdemeanor, or a violation, as these terms are defined in section 10.00 of this chapter, there shall be levied at sentencing a mandatory surcharge, sex offender registration fee, DNA databank fee and a crime victim assistance fee in addition to any sentence required or permitted by law, in accordance with the following schedule:

(i) a person convicted of a felony shall pay a mandatory surcharge of [fig 1] three hundred [fig 2] dollars and a crime victim assistance fee of [fig 3] twenty-five dollars;

(ii) a person convicted of a misdemeanor shall pay a mandatory surcharge of one hundred [fig 1] seventy-five dollars and a crime victim assistance fee of [fig 2] twenty-five dollars;

(iii) a person convicted of a violation shall pay a mandatory surcharge of [fig 1] ninety-five dollars and a crime victim assistance fee of [fig 2] twenty-five dollars;

(iv) a person convicted of a sex offense as defined by subdivision two of section one hundred sixty-eight-a of the correction law or a sexually violent offense as defined by subdivision three of section one hundred sixty-eight-a of the correction law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a sex offender registration fee of fifty dollars.

(v) a person convicted of a designated offense as defined by subdivision seven of section nine hundred ninety-five of the executive law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a DNA databank fee of fifty dollars.

(b) When the felony or misdemeanor conviction in subparagraphs (i), (ii) or (iv) of paragraph (a) of this subdivision results from an offense contained in article one hundred thirty of this chapter, incest in the third, second or first degree as defined in [fig 1] sections 255.25, 255.26 and 255.27 of this chapter or an offense contained in article two hundred sixty-three of this chapter, the person convicted shall pay a supplemental sex offender victim fee of one thousand dollars in addition to the mandatory surcharge and any other fee.

2. Where a person is convicted of two or more crimes or violations committed through a single act or omission, or through an act or omission which in itself constituted one of the crimes or violations and also was a material element of the other, the court shall impose a mandatory surcharge and a crime victim assistance fee, and where appropriate a supplemental sex offender victim fee, in accordance with the provisions of this section for the crime or violation which carries the highest classification, and no other sentence to pay a mandatory surcharge [fig 1] , crime victim assistance fee or supplemental sex offender victim fee required by this section shall be imposed. Where a person is convicted of two or more sex offenses or sexually violent offenses, as defined by subdivisions two and three of section one hundred sixty-eight-a of the correction law, committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the court shall impose only one sex offender registration fee. Where a person is convicted of two or more designated offenses, as defined by subdivision seven of section nine hundred ninety-five of the executive law, committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the court shall impose only one DNA databank fee.

3. The mandatory surcharge, sex offender registration fee, DNA databank fee [fig 1] , crime victim assistance fee, and supplemental sex offender victim fee provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge [fig 2] , crime victim assistance fee, and supplemental sex offender victim fee, the collecting authority shall determine the amount of mandatory surcharge [fig 3] , crime victim assistance fee, and supplemental sex offender victim fee collected and, if it is an administrative tribunal, or a town or village justice court, it shall then pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. Within the first ten days of the month following collection of the sex offender registration fee and DNA databank fee, the collecting authority shall determine the amount of the sex offender registration fee and DNA databank fee collected

and, if it is an administrative tribunal, or a town or village justice court, it shall then pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund. If such collecting authority is any other court of the unified court system, it shall, within such period, pay such money attributable to the mandatory surcharge or crime victim assistance fee to the state commissioner of taxation and finance to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. If such collecting authority is any other court of the unified court system, it shall, within such period, pay such money attributable to the sex offender registration fee and the DNA databank fee to the state commissioner of taxation and finance to the credit of the general fund.

4. Any person who has paid a mandatory surcharge, sex offender registration fee, DNA databank fee [fig 1] , a crime victim assistance fee or a supplemental sex offender victim fee under the authority of this section based upon a conviction that is subsequently reversed or who paid a mandatory surcharge, sex offender registration fee, DNA databank fee [fig 2] , a crime victim assistance fee or supplemental sex offender victim fee under the authority of this section which is ultimately determined not to be required by this section shall be entitled to a refund of such mandatory surcharge, sex offender registration fee, DNA databank fee [fig 3] , crime victim assistance fee or supplemental sex offender victim fee upon application to the state comptroller. The state comptroller shall require such proof as is necessary in order to determine whether a refund is required by law.

5. [Until Sept 1, 2011]

(a) When a person who is convicted of a crime or violation and sentenced to a term of imprisonment has failed to pay the mandatory surcharge, sex offender registration fee, DNA databank fee [fig 1] , crime victim assistance fee or supplemental sex offender victim fee required by this section, the clerk of the court that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such person during his or her term of imprisonment from moneys to the credit of an inmates' fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law. Such moneys attributable to the mandatory surcharge or crime victim assistance fee shall be paid over to the state comptroller to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law and such moneys attributable to the sex offender registration fee or DNA databank fee shall be paid over to the state comptroller to the credit of the general fund, except that any such moneys collected which are surcharges, sex offender registration fees, DNA databank fees [fig 2] , crime victim assistance fees or supplemental sex offender victim fees levied in relation to convictions obtained in a town or village justice court shall be paid within thirty days after the receipt thereof by the superintendent or municipal official of the facility to the justice of the court in which the conviction was obtained. For the purposes of collecting such mandatory surcharge, sex offender registration fee, DNA databank fee [fig 3] , crime victim assistance fee, and supplemental sex offender victim fee, the state shall be legally entitled to the money to the credit of an inmates' fund or money which is earned by an inmate in a work release program. For purposes of this subdivision, the term "inmates' fund" shall mean moneys in the possession of an inmate at the time of his or her admission into such facility, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with such superintendent or municipal official.

(b) The incarceration fee provided for in subdivision two of section one hundred eighty-nine of the correction law shall not be assessed or collected if any order of restitution or reparation, fine, mandatory surcharge, sex offender registration fee, DNA databank fee [fig 1] , crime victim assistance fee or supplemental sex offender victim fee remains unpaid. In such circumstances, any monies which may lawfully be withheld from the compensation paid to a prisoner for work performed while housed in a general confinement facility in satisfaction of such an obligation shall first be applied toward satisfaction of such obligation.

5. [Eff Sept 1, 2011] When a person who is convicted of a crime or violation and sentenced to a term of imprisonment has failed to pay the mandatory surcharge, sex offender registration fee, DNA databank fee [fig 1] , crime victim assistance fee or supplemental sex offender victim fee required by this section, the clerk of the court that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such person during his or her term of imprisonment from moneys to the credit of an inmates' fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law. Such moneys attributable to the mandatory surcharge or crime victim assistance fee shall be paid over to the state comptroller to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law and such moneys attributable to the sex offender registration fee or DNA databank fee shall be paid over to the state comptroller to the credit of the general fund, except that any such moneys collected which are surcharges, sex offender registration fees, DNA databank fees [fig 2] , crime victim assistance fees or supplemental sex offender victim fees levied in relation to convictions obtained in a town or village justice court shall be paid within thirty days after the receipt thereof by the superintendent or municipal official of the facility to the justice of the court in which the conviction was obtained. For the purposes of collecting such mandatory surcharge, sex offender registration fee, DNA databank fee [fig 3] , crime victim assistance fee and supplemental sex offender victim fee, the state shall be legally entitled to the money to the credit of an inmates' fund or money which is earned by an inmate in a work release program. For purposes of this subdivision, the term "inmates' fund" shall mean moneys in the possession of an inmate at the time of his or her admission into such facility, funds earned by himor her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with such superintendent or municipal official.

6. Notwithstanding any other provision of this section, where a person has made restitution or reparation pursuant to section 60.27 of this [fig 1] article, such person shall not be required to pay a mandatory surcharge or a crime victim assistance fee.

7. Notwithstanding the provisions of subdivision one of section 60.00 of this [fig 1] article, the provisions of subdivision one of this section shall not apply to a violation under any law other than this chapter.

8. Subdivision one of section 130.10 of the criminal procedure law notwithstanding, at the time that the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee is imposed a town or village court may, and all other courts shall, issue and cause to be served upon the person required to pay the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, a summons directing that such person appear before the court regarding the payment of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, if after sixty days from the date it was imposed it remains unpaid. The designated date of appearance on the

summons shall be set for the first day court is in session falling after the sixtieth day from the imposition of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee. The summons shall contain the information required by subdivision two of section 130.10 of the criminal procedure law except that in substitution for the requirement of paragraph (c) of such subdivision the summons shall state that the person served must appear at a date, time and specific location specified in the summons if after sixty days from the date of issuance the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee remains unpaid. The court shall not issue a summons under this subdivision to a person who is being sentenced to a term of confinement in excess of sixty days in jail or in the department of correctional services. The mandatory surcharges, sex offender registration fee and DNA databank fees, crime victim assistance fees and supplemental sex offender victim fees for those persons shall be governed by the provisions of section 60.30 of [fig 1] this article.

9. Notwithstanding the provisions of subdivision one of this section, in the event a proceeding is in a town or village court, such court shall add an additional five dollars to the surcharges imposed by such subdivision one.

10. The provisions of this section shall apply to sentences imposed upon a youthful offender finding; provided, however that the court shall not impose the sex offender registration fee, DNA databank fee or supplemental sex offender victim fee, as defined in subparagraphs (iv) and (v) of paragraph (a) and paragraph (b) of subdivision one of this section, for an offense in which the conviction was substituted with a youthful offender finding.

N.Y. PENAL LAW § 70.00 (2010). Sentence of imprisonment for felony.

1. [Until Sept 1, 2011, as amended L 2004, ch 738, § 28 and L 2007, ch 7, § 36] Indeterminate sentence. Except as provided in subdivisions four, five and six of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.

1. [Eff Sept 1, 2011, as amended L 2004, ch 738, § 29 and L 2007, ch 7, § 37] Indeterminate sentence. Except as provided in subdivisions four and five of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.

2. Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows:

(a) For a class A felony, the term shall be life imprisonment;

(b) For a class B felony, the term shall be fixed by the court, and shall not exceed twenty-five years; [fig 1]

(c) For a class C felony, the term shall be fixed by the court, and shall not exceed fifteen years;

(d) For a class D felony, the term shall be fixed by the court, and shall not exceed seven years; and

(e) For a class E felony, the term shall be fixed by the court, and shall not exceed four years.

3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence shall be at least one year and shall be fixed as follows:

(a) In the case of a class A felony, the minimum period shall be fixed by the court and specified in the sentence.

(i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that (A) where a sentence, other than a sentence of death or life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and, (B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or convicted of aggravated murder as defined in section 125.26 of this chapter, the sentence shall be life imprisonment without parole, and, (C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.

(ii) For a class A-II felony, such minimum period shall not be less than three years nor more than eight years four months, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

(b) For [fig 1] any other felony, the minimum period shall be fixed by the court and specified in the sentence and shall be not less than one year nor more than one-third of the maximum term imposed.

4. Alternative definite sentence for class D [fig 1] and E [fig 2] felonies. When a person, other than a second or persistent felony offender, is sentenced for a class D or class E felony, [fig 3] and the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose an indeterminate or determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

5. Life imprisonment without parole. Notwithstanding any other provision of law, a defendant sentenced to life imprisonment without parole shall not be or become eligible for parole or conditional release. For purposes of commitment and custody, other than parole and conditional release, such sentence shall be deemed to be an indeterminate sentence. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of murder in the first degree as defined in section 125.27 of this chapter and in accordance with the procedures provided by law for imposing a sentence for such crime. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of terrorism as defined in section 490.25 of this chapter, where the specified offense the defendant committed is a class A-I felony;

the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter; or the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter; provided, however, that nothing in this subdivision shall preclude or prevent a sentence of death when the defendant is also convicted of the crime of murder in the first degree as defined in section 125.27 of this chapter. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or for the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter.

6. [Repealed eff Sept 1, 2011] Determinate sentence. [fig 1] Except as provided in subdivision four of this section and subdivisions two and four of section 70.02, when a person is sentenced as a violent felony offender pursuant to section 70.02 or as a second violent felony offender pursuant to section 70.04 or as a second felony offender on a conviction for a violent felony offense pursuant to section 70.06, the court must impose a determinate sentence of imprisonment in accordance with the provisions of such sections and such sentence shall include, as a part thereof, a period of post-release supervision in accordance with section 70.45.

N.Y. PENAL LAW § 70.02 (2010). Sentence of imprisonment for a violent felony offense.

1. [As amended L 2005, chs 764 and 765] Definition of a violent felony offense. A violent felony offense is a class B violent felony offense, a class C violent felony offense, a class D violent felony offense, or a class E violent felony offense, defined as follows:

(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, criminal sexual act in the first degree as defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.

(b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a); aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the

second degree as defined in section 130.67, assault on a peace officer, police officer, fireman or emergency medical services professional as defined in section 120.08, gang assault in the second degree as defined in section 120.06, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12, criminal sale of a firearm with the aid of a minor as defined in section 265.14, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15, hindering prosecution of terrorism in the second degree as defined in section 490.30, and criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37.

(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, rape in the second degree as defined in section 130.30, criminal sexual act in the second degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, criminal possession of a weapon in the third degree as defined in subdivision [fig 1] five, six, seven or eight of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, and aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18.

(d) Class E violent felony offenses: an attempt to commit any of the felonies of criminal possession of a weapon in the third degree as defined in subdivision [fig 1] five, six, seven or eight of section 265.02 as a lesser included offense of that section as defined in section 220.20 of the criminal procedure law, persistent sexual abuse as defined in section 130.53, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, falsely reporting an incident in the second degree as defined in section 240.55 and placing a false bomb or hazardous substance in the second degree as defined in section 240.61.

2. Authorized sentence.

(a) [Until Sept 1, 2011] Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of a class B or class C violent felony offense must be a determinate sentence of imprisonment which shall be in whole or half years. The term of such sentence must be in accordance with the provisions of subdivision three of this section.

(a) [Eff Sept 1, 2011] The sentence imposed upon a person who stands convicted of a class B or class C violent felony offense must be an indeterminate sentence of imprisonment. Except as provided in subdivision five of section 60.05, the maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such sentence must be in accordance with subdivision four of this section.

(b) [As amended L 2005, chs 764 and 765] Except as provided in [fig 1] paragraph (b-1) of this subdivision, [fig 2] subdivision six of section 60.05 and subdivision four of this section, the sentence imposed upon a person who stands convicted of a class D violent felony offense, other than the offense of criminal possession of a weapon in the third degree as defined in subdivision four, five, seven or eight of section 265.02 or criminal sale of a firearm in the third degree as defined in section 265.11, must be in accordance with the applicable provisions of this chapter relating to sentencing for class D felonies provided, however, that where a sentence of imprisonment is imposed which requires a commitment to the state department of correctional services, such sentence shall be a determinate sentence in accordance with paragraph (c) of subdivision three of this section.

(b-1) Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of the class D violent felony offense of menacing a police officer or peace officer as defined in section 120.18 of this chapter must be a determinate sentence of imprisonment.

(c) Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in subdivision four, five, seven or eight of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11 or the class E violent felonies of attempted criminal possession of a weapon in the third degree as defined in subdivision four, five, seven or eight of section 265.02 must be a sentence to a determinate period of imprisonment, or, in the alternative, a definite sentence of imprisonment for a period of no less than one year, except that:

(i) the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime; and

(ii) the court may apply the provisions of paragraphs (b) and (c) of subdivision four of this section when imposing a sentence upon a person who has previously been convicted of a class A misdemeanor defined in this chapter in the five years immediately preceding the commission of the offense.

3. Term of sentence. The term of a determinate sentence for a violent felony offense must be fixed by the court as follows:

(a) For a class B felony, the term must be at least five years and must not exceed twenty-five years, provided, however, that the term must be: (i) at least ten years and must not exceed thirty years where the sentence is for the crime of aggravated assault upon a police officer or peace officer as defined in section 120.11 of this chapter; and (ii) at least ten years and must not exceed thirty years where the sentence is for the crime of aggravated manslaughter in the first degree as defined in section 125.22 of this chapter;

(b) For a class C felony, the term must be at least three and one-half years and must not exceed fifteen years, provided, however, that the term must be: (i) at least seven years and must not exceed twenty years where the sentence is for the crime of aggravated manslaughter in the second degree as defined in section 125.21 of this chapter; (ii) at least seven years and must not exceed twenty years where the sentence is for the crime of attempted aggravated assault upon a police

officer or peace officer as defined in section 120.11 of this chapter; and (iii) at least three and one-half years and must not exceed twenty years where the sentence is for the crime of aggravated criminally negligent homicide as defined in section 125.11 of this chapter;

(c) For a class D felony, the term must be at least two years and must not exceed seven years, provided, however, that the term must be at least two years and must not exceed eight years where the sentence is for the crime of menacing a police officer or peace officer as defined in section 120.18 of this chapter; and

(d) For a class E felony, the term must be at least one and one-half years and must not exceed four years.

4. (a) Except as provided in paragraph (b) of this [fig 1] subdivision, where a plea of guilty to a class D violent felony offense is entered pursuant to section 220.10 or 220.30 of the criminal procedure law in satisfaction of an indictment charging the defendant with an armed felony, as defined in subdivision forty-one of section 1.20 of the criminal procedure law, the court must impose [fig 2] a determinate sentence of imprisonment [fig 3] .

(b) In any case in which the provisions of paragraph (a) [fig 1] of this subdivision or the provisions of subparagraph (ii) of paragraph (c) of subdivision two of this section apply, the court may impose a sentence other than [fig 2] a determinate sentence of imprisonment, or a definite sentence of imprisonment for a period of no less than one year, if it finds that the alternate sentence is consistent with public safety and does not deprecate the seriousness of the crime and that one or more of the following factors exist:

(i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or

(ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or

(iii) possible deficiencies in proof of the defendant's commission of an armed felony.

(c) The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making a determination pursuant to paragraph (b) [fig 1] of this subdivision, and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that [fig 2] a determinate sentence of imprisonment should not be imposed pursuant to the provisions of such paragraph (b), it shall make a statement on the record of the facts and circumstances upon which such determination is based. A transcript of the court's statement, which shall set forth the recommendation of the district attorney, shall be forwarded to the state division of criminal justice services along with a copy of the accusatory instrument.

N.Y. PENAL LAW § 70.04 (2010). Sentence of imprisonment for second violent felony offender.

1. Definiton of second violent felony offender.

(a) A second violent felony offender is a person who stands convicted of a violent felony offense as defined in subdivision one of section 70.02 after having previously been subjected to a predicate violent felony conviction as defined in paragraph (b) of this subdivision.

(b) For the purpose of determining whether a prior conviction is a predicate violent felony conviction the following criteria shall apply:

(i) The conviction must have been in this state of a class A felony (other than one defined in article two hundred twenty) or of a violent felony offense as defined in subdivision one of section 70.02, or of an offense defined by the penal law in effect prior to September first, nineteen hundred sixty-seven, which includes all of the essential elements of any such felony, or in any other jurisdiction of an offense which includes all of the essential elements of any such felony for which a sentence to a term of imprisonment in excess of one year or a sentence of death was authorized and is authorized in this state irrespective of whether such sentence was imposed;

(ii) Sentence upon such prior conviction must have been imposed before commission of the present felony;

(iii) Suspended sentence, suspended execution of sentence, a sentence of probation, a sentence of conditional discharge or of unconditional discharge, and a sentence of certification to the care and custody of the division of substance abuse services, shall be deemed to be a sentence;

(iv) Except as provided in subparagraph (v) of this paragraph, sentence must have been imposed not more than ten years before commission of the felony of which the defendant presently stands convicted;

(v) In calculating the ten year period under subparagraph (iv), any period of time during which the person was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration;

(vi) An offense for which the defendant has been pardoned on the ground of innocence shall not be deemed a predicate violent felony conviction.

2. [Until Sept 1, 2011] Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second violent felony offender the court must impose a determinate sentence of imprisonment which shall be in whole or half years. Except where sentence is imposed in accordance with the provisions of section 70.10, the term of such sentence must be in accordance with the provisions of subdivision three of this section.

2. [Eff Sept 1, 2011] Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second violent felony offender the court must impose an indeterminate sentence of imprisonment. Except where sentence is imposed in accordance with the provisions of section 70.10, the maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such section must be in accordance with subdivision four of this section.

3. [Until Sept 1, 2011] Term of sentence. The term of a determinate sentence for a second violent felony offender must be fixed by the court as follows:

(a) For a class B felony, the term must be at least ten years and must not exceed twenty-five years;

(b) For a class C felony, the term must be at least seven years and must not exceed fifteen years; and

(c) For a class D felony, the term must be at least five years and must not exceed seven years.

(d) For a class E felony, the term must be at least three years and must not exceed four years.

3. [Eff Sept 1, 2011] Maximum term of sentence. The maximum term of an indeterminate sentence for a second violent felony offender must be fixed by the court as follows:

(a) For a class B felony, the term must be at least twelve years and must not exceed twenty-five years;

(b) For a class C felony, the term must be at least eight years and must not exceed fifteen years; and

(c) For a class D felony, the term must be at least five years and must not exceed seven years.

(d) For a class E felony, the term must be at least four years.

N.Y. PENAL LAW § 70.05 (2010). Sentence of imprisonment for juvenile offender.

1. Indeterminate sentence. A sentence of imprisonment for a felony committed by a juvenile offender shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section. The court shall further provide that where a juvenile offender is under placement pursuant to article three of the family court act, any sentence imposed pursuant to this section which is to be served consecutively with such placement shall be served in a facility designated pursuant to subdivision four of section 70.20 of this article prior to service of the placement in any previously designated facility.

2. Maximum term of sentence. The maximum term of an indeterminate sentence for a juvenile offender shall be at least three years and the term shall be fixed as follows:

(a) For the class A felony of murder in the second degree, the term shall be life imprisonment;

(b) For the class A felony of arson in the first degree, or for the class A felony of kidnapping in the first degree the term shall be fixed by the court, and shall be at least twelve years but shall not exceed fifteen years;

(c) For a class B felony, the term shall be fixed by the court, and shall not exceed ten years;

(d) For a class C felony, the term shall be fixed by the court, and shall not exceed seven years; and

(e) For a class D felony, the term shall be fixed by the court and shall not exceed four years.

3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence for a juvenile offender shall be specified in the sentence as follows:

(a) For the class A felony of murder in the second degree, the minimum period of imprisonment shall be fixed by the court and shall be not less than five years but shall not exceed nine years provided, however, that where the sentence is for an offense specified in subdivision one or two of section 125.25 of this chapter and the defendant was fourteen or fifteen years old at the time of

such offense, the minimum period of imprisonment shall be not less than seven and one-half years but shall not exceed fifteen years;

(b) For the class A felony of arson in the first degree, or for the class A felony of kidnapping in the first degree, the minimum period of imprisonment shall be fixed by the court and shall be not less than four years but shall not exceed six years; and

(c) For a class B [fig 1] , C or D felony, the minimum period of imprisonment shall be fixed by the court at one-third of the maximum term imposed.

N.Y. PENAL LAW § 70.06 (2010). Sentence of imprisonment for second felony offender.

1. Definition of second felony offender.

(a) A second felony offender is a person, other than a second violent felony offender as defined in section 70.04, who stands convicted of a felony defined in this chapter, other than a class A-I felony, after having previously been subjected to one or more predicate felony convictions as defined in paragraph (b) of this subdivision.

(b) For the purpose of determining whether a prior conviction is a predicate felony conviction the following criteria shall apply:

(i) The conviction must have been in this state of a felony, or in any other jurisdiction of an offense for which a sentence to a term of imprisonment in excess of one year or a sentence of death was authorized and is authorized in this state irrespective of whether such sentence was imposed;

(ii) Sentence upon such prior conviction must have been imposed before commission of the present felony;

(iii) Suspended sentence, suspended execution of sentence, a sentence of probation, a sentence of conditional discharge or of unconditional discharge, and a sentence of certification to the care and custody of the division of substance abuse services, shall be deemed to be a sentence;

(iv) Except as provided in subparagraph (v) of this paragraph, sentence must have been imposed not more than ten years before commission of the felony of which the defendant presently stands convicted;

(v) In calculating the ten year period under subparagraph (iv), any period of time during which the person was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration;

(vi) An offense for which the defendant has been pardoned on the ground of innocence shall not be deemed a predicate felony conviction.

2. [Until Sept 1, 2011 as amended L 2007, ch 7, § 38] Authorized sentence. Except as provided in subdivision five or six of this section, or as provided in subdivision five of section 70.80 of this article, when the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second felony offender the court must impose an indeterminate sentence of imprisonment. The maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such sentence must be in accordance with subdivision four of this section.

2. [Eff Sept 1, 2011, as amended L 2007, ch 7, § 39] Authorized sentence. Except as provided in subdivision five of this section, or as provided in subdivision five of section 70.80 of this article, when the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second felony offender the court must impose an indeterminate sentence of imprisonment. The maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such sentence must be in accordance with subdivision four of this section.

3. [Until Sept 1, 2011, as amended L 2007, ch 7, § 38] Maximum term of sentence. Except as provided in subdivision five or six of this section, or as provided in subdivision five of section 70.80 of this article, the maximum term of an indeterminate sentence for a second felony offender must be fixed by the court as follows:

(a) For a class A-II felony, the term must be life imprisonment;

(b) For a class B felony, the term must be at least nine years and must not exceed twenty-five years;

(c) For a class C felony, the term must be at least six years and must not exceed fifteen years;

(d) For a class D felony, the term must be at least four years and must not exceed seven years; and

(e) For a class E felony, the term must be at least three years and must not exceed four years; provided, however, that where the sentence is for the class E felony offense specified in section 240.32 of this chapter, the maximum term must be at least three years and must not exceed five years.

3. [Eff Sept 1, 2011, as amended L 2007, ch 7, § 39] Maximum term of sentence. Except as provided in subdivision five of this section, or as provided in subdivision five of section 70.80 of this article, the maximum term of an indeterminate sentence for a second felony offender must be fixed by the court as follows:

(a) For a class A-II felony, the term must be life imprisonment;

(b) For a class B felony, the term must be at least nine years and must not exceed twenty-five years;

(c) For a class C felony, the term must be at least six years and must not exceed fifteen years;

(d) For a class D felony, the term must be at least four years and must not exceed seven years; and

(e) For a class E felony, the term must be at least three years and must not exceed four years.

4. Minimum period of imprisonment

(a) The minimum period of imprisonment for a second felony offender convicted of a class A-II felony must be fixed by the court at no less than six years and not to exceed twelve and one-half years and must be specified in the sentence, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory

sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

(b) Except as provided in paragraph (a), the minimum period of imprisonment under an indeterminate sentence for a second felony offender must be fixed by the court at one-half of the maximum term imposed and must be specified in the sentence.

5. [Repealed]

6. [Repealed Sept 1, 2011] Determinate sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second felony offender and the sentence to be imposed on such person is for a violent felony offense, as defined in subdivision one of section 70.02, the court must impose a determinate sentence of imprisonment the term of which must be fixed by the court as follows:

(a) For a class B violent felony offense, the term must be at least eight years and must not exceed twenty-five years;

(b) For a class C violent felony offense, the term must be at least five years and must not exceed fifteen years;

(c) For a class D violent felony offense, the term must be at least three years and must not exceed seven years; and

(d) For a class E violent felony offense, the term must be at least two years and must not exceed four years.

7. [Repealed Sept 1, 2011] Notwithstanding any other provision of law, in the case of a person sentenced for a specified offense or offenses as defined in subdivision five of section 410.91 of the criminal procedure law, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of this article, a class A felony offense or a class B felony offense, and is not [fig 1] under the jurisdiction of or awaiting delivery to the department of correctional services, the court may direct that such sentence be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed in section 410.91 of the criminal procedure law.

N.Y. PENAL LAW § 70.07 (2010). Sentence of imprisonment for second child sexual assault felony offender.

1. A person who stands convicted of a felony offense for a sexual assault against a child, having been subjected to a predicate felony conviction for [fig 1] a sexual assault against a child, must be sentenced in accordance with the provisions of subdivision four or five of this section.

2. A "sexual assault against a child" means a felony offense, other than persistent sexual abuse as defined in section 130.53 of this chapter, (a) the essential elements of which include the commission or attempted commission of sexual conduct, as defined in subdivision ten of section 130.00 of this chapter, (b) committed or attempted to be committed against a child less than fifteen years old.

3. For purposes of determining whether a person has been subjected to a predicate felony conviction under this section, the criteria set forth in paragraph (b) of subdivision one of section 70.06 shall apply provided however that for purposes of this subdivision, the terms "ten year" or "ten years", as provided in subparagraphs (iv) and (v) of paragraph (b) of subdivision one of such section 70.06, shall be "fifteen year" or "fifteen years". The provisions of section 400.19 of the criminal procedure law shall govern the procedures that must be followed to determine whether a person who stands convicted of a sexual assault against a child has been previously subjected to a predicate felony conviction for such a sexual assault and whether such offender was eighteen years of age or older at the time of the commission of the predicate felony.

4. Where the court has found pursuant to subdivision three of this section that a person who stands convicted of a felony offense defined in article one hundred thirty of this chapter for the commission or attempted commission of a sexual assault against a child has been subjected to a predicate felony conviction for a sexual assault against a child, the court shall sentence the defendant as follows:

(a) where the defendant stands convicted of such sexual assault against a child and such conviction is for a class A-II or class B felony offense, and the predicate conviction for such sexual assault against a child is for a class A-II, class B or class C felony offense, the court shall impose an indeterminate sentence of imprisonment, the maximum term of which shall be life and the minimum period of which shall be at least fifteen years and no more than twenty-five years;

(b) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class C felony offense, and the predicate conviction for such sexual assault against a child is for a class A-II, class B or class C felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least twelve years and must not exceed thirty years; provided however, that if the court determines that a longer sentence is warranted, the court shall set forth on the record the reasons for such determination and, in lieu of imposing such sentence of imprisonment, may impose an indeterminate sentence of imprisonment, the maximum term of which shall be life and the minimum period of which shall be at least fifteen years and no more than twenty-five years;

(c) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class B felony offense, and the predicate conviction for such sexual assault against a child is for a class D or class E felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least twelve years and must not exceed thirty years;

(d) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class C felony offense, and the predicate conviction for such sexual assault against a child is for a class D or class E felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least ten years and must not exceed twenty-five years;

(e) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class D felony offense, and the predicate conviction for such sexual assault against a child is for a felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least five years and must not exceed fifteen years; and

(f) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class E felony offense, and the predicate conviction for such sexual assault against a child

is for a felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least four years and must not exceed twelve years.

5. Notwithstanding subdivision four of this section, where the court has found pursuant to subdivision three of this section that a person: (a) stands convicted of a felony offense defined in article one hundred thirty of this chapter for the commission or attempted commission of a sexual assault against a child; and (b) has been subjected to a predicate felony conviction for sexual assault against a child as defined in subdivision two of this section; and (c) who was under the age of eighteen years at the time of the commission of such predicate felony offense, then the court may, in lieu of the sentence authorized by subdivision four of this section, sentence the defendant to a term of imprisonment in accordance with the sentence authorized for the instant felony offense pursuant to subdivision three of section 70.04 of this article. The court shall set forth on the record the reasons for such determination.

N.Y. PENAL LAW § 70.08 (2010). Sentence of imprisonment for persistent violent felony offender; criteria.

1. Definition of persistent violent felony offender.

(a) A persistent violent felony offender is a person who stands convicted of a violent felony offense as defined in subdivision one of section 70.02 or the offense of predatory sexual assault as defined in section 130.95 of this chapter or the offense of predatory sexual assault against a child as defined in section 130.96 of this chapter, after having previously been subjected to two or more predicate violent felony convictions as defined in paragraph (b) of subdivision one of section 70.04 of this article.

(b) For the purpose of determining whether a person has two or more predicate violent felony convictions, the criteria set forth in paragraph (b) of subdivision one of section 70.04 shall apply.

2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a persistent violent felony offender the court must impose an indeterminate sentence of imprisonment, the maximum term of which shall be life imprisonment. The minimum period of imprisonment under such sentence must be in accordance with subdivision three of this section.

3. [Until Sept 1, 2011, as amended by L 2006, ch 107, § 7] Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate life sentence for a persistent violent felony offender must be fixed by the court as follows:

(a) For the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, the minimum period must be twenty-five years;

(a-1) For a class B felony, the minimum period must be at least twenty years and must not exceed twenty-five years;

(b) For a class C felony, the minimum period must be at least sixteen years and must not exceed twenty-five years;

(c) For a class D felony, the minimum period must be at least twelve years and must not exceed twenty-five years.

3. [Eff Sept 1, 2011, as amended by L 2006, ch 107, § 8] Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate life sentence for a persistent violent felony offender must be fixed by the court as follows:

(a) For the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, the minimum period must be twenty-five years;

(a-1) For a class B felony, the minimum period must be at least ten years and must not exceed twenty-five years;

(b) For a class C felony, the minimum period must be at least eight years and must not exceed twenty-five years;

(c) For a class D felony, the minimum period must be at least six years and must not exceed twenty-five years.

N.Y. PENAL LAW § 70.10 (2010). Sentence of imprisonment for persistent felony offender.

1. Definition of persistent felony offender.

(a) A persistent felony offender is a person, other than a persistent violent felony offender as defined in section 70.08, who stands convicted of a felony after having previously been convicted of two or more felonies, as provided in paragraphs (b) and (c) of this subdivision.

(b) A previous felony conviction within the meaning of paragraph (a) of this subdivision is a conviction of a felony in this state, or of a crime in any other jurisdiction, provided:

(i) that a sentence to a term of imprisonment in excess of one year, or a sentence to death, was imposed therefor; and

(ii) that the defendant was imprisoned under sentence for such conviction prior to the commission of the present felony; and

(iii) that the defendant was not pardoned on the ground of innocence [fig 1] ; and

(iv) that such conviction was for a felony offense other than persistent sexual abuse, as defined in section 130.53 of this chapter.

(c) For the purpose of determining whether a person has two or more previous felony convictions, two or more convictions of crimes that were committed prior to the time the defendant was imprisoned under sentence for any of such convictions shall be deemed to be only one conviction.

2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a persistent felony offender, and when it is of the opinion that the history and character of the defendant and the nature and circumstances of his criminal conduct indicate that extended incarceration and life-time supervision will best serve the public interest, the court, in lieu of imposing the sentence of imprisonment authorized by section 70.00, 70.02, 70.04 [fig 1] , 70.06 or subdivision five of section 70.80 for the crime of which such person presently stands convicted, may impose the sentence of imprisonment authorized by that section

for a class A-I felony. In such event the reasons for the court's opinion shall be set forth in the record.

N.Y. PENAL LAW § 70.15 (2010). Sentences of imprisonment for misdemeanors and violation.

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed one year; provided, however, that a sentence of imprisonment imposed upon a conviction of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 must be for a period of no less than one year when the conviction was the result of a plea of guilty entered in satisfaction of an indictment or any count thereof charging the defendant with the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02, except that the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a felony or a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime.

2. Class B misdemeanor. A sentence of imprisonment for a class B misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed three months.

3. Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime.

4. Violation. A sentence of imprisonment for a violation shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed fifteen days.

In the case of a violation defined outside this chapter, if the sentence is expressly specified in the law or ordinance that defines the offense and consists solely of a fine, no term of imprisonment shall be imposed.

N.Y. PENAL LAW § 70.25 (2010). Concurrent and consecutive terms of imprisonment.

1. Except as provided in subdivisions two, two-a and five of this section, when multiple sentences of imprisonment are imposed on a person at the same time, or when a person who is subject to any undischarged term of imprisonment imposed at a previous time by a court of this state is sentenced to an additional term of imprisonment, the sentence or sentences imposed by the court shall run either concurrently or consecutively with respect to each other and the undischarged term or terms in such manner as the court directs at the time of sentence. If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run as follows:

(a) [Until Sept 1, 2011] An indeterminate or determinate sentence shall run concurrently with all other terms; and

(a) [Eff Sept 1, 2011] An indeterminate sentence shall run concurrently with all other terms; and

(b) A definite sentence shall run concurrently with any sentence imposed at the same time and shall be consecutive to any other term.

2. When more than one sentence of imprisonment is imposed on a person for two or more offenses committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the sentences, except if one or more of such sentences is for a violation of section 270.20 of this chapter, must run concurrently.

2-a. [Until Sept 1, 2011, as amended L 2004, ch 738, § 33, L 2007, ch 7, § 40 and L 2009, ch 495, § 1] When an indeterminate or determinate sentence of imprisonment is imposed pursuant to section 70.04, 70.06, 70.07, 70.08, 70.10, subdivision three or four of section 70.70, subdivision three or four of section 70.71 or subdivision five of section 70.80 of this article, or is imposed for a class A-I felony pursuant to section 70.00 of this article, and such person is subject to an undischarged indeterminate or determinate sentence of imprisonment imposed prior to the date on which the present crime was committed, the court must impose a sentence to run consecutively with respect to such undischarged sentence.

2-a. [Eff Sept 1, 2011, as amended L 2004, ch 738, § 34, L 2007, ch 7, § 41 and L 2009, ch 495, § 2] When an indeterminate or determinate sentence of imprisonment is imposed pursuant to section 70.04, 70.06, 70.07, 70.08, 70.10, subdivision three or four of section 70.70, subdivision three or four of section 70.71 or subdivision five of section 70.80 of this article, or is imposed for a class A-I felony pursuant to section 70.00 of this article, and such person is subject to an undischarged indeterminate sentence of imprisonment imposed prior to the date on which the present crime was committed, the court must impose a sentence to run consecutively with respect to such undischarged sentence.

2-b. [Until Sept 1, 2011] When a person is convicted of a violent felony offense committed after arraignment and while released on recognizance or bail, but committed prior to the imposition of sentence on a pending felony charge, and if an indeterminate or determinate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds either mitigating circumstances that bear directly upon the manner in which the crime was committed or, where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based.

2-b. [Eff Sept 1, 2011] When a person is convicted of a violent felony offense committed after arraignment and while released on recognizance or bail, but committed prior to the imposition of sentence on a pending felony charge, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court

may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds either mitigating circumstances that bear directly upon the manner in which the crime was committed or, where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based.

2-c. When a person is convicted of bail jumping in the second degree as defined in section 215.56 or bail jumping in the first degree as defined in section 215.57 committed after arraignment and while released on recognizance or bail in connection with a pending indictment or information charging one or more felonies, at least one of which he is subsequently convicted, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds mitigating circumstances that bear directly upon the manner in which the crime was committed. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based.

2-d. When a person is convicted of escape in the second degree as defined in section 205.10 or escape in the first degree as defined in section 205.15 committed after issuance of a securing order, as defined in subdivision five of section 500.10 of the criminal procedure law, in connection with a pending indictment or information charging one or more felonies, at least one of which he is subsequently convicted, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds mitigating circumstances that bear directly upon the manner in which the crime was committed. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based.

2-e. Whenever a person is convicted of course of sexual conduct against a child in the first degree as defined in section 130.75 or course of sexual conduct against a child in the second degree as defined in section 130.80 and any other crime under article one hundred thirty committed against the same child and within the period charged under section 130.75 or 130.80, the sentences must run concurrently.

2-f. Whenever a person is convicted of facilitating a sex offense with a controlled substance as defined in section 130.90 of this chapter, the sentence imposed by the court for such offense may be ordered to run consecutively to any sentence imposed upon conviction of an offense defined in article one hundred thirty of this chapter arising from the same criminal transaction.

2-g. Whenever a person is convicted of unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of this chapter, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of this chapter, or unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of this chapter, or any attempt to commit any of such offenses, and such person is also convicted, with respect to such unlawful methamphetamine laboratory, of unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of this chapter, the sentences must run concurrently.

3. Where consecutive definite sentences of imprisonment are not prohibited by subdivision two of this section and are imposed on a person for offenses which were committed as parts of a single incident or transaction, the aggregate of the terms of such sentences shall not exceed one year.

4. When a person, who is subject to any undischarged term of imprisonment imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state, the sentence or sentences imposed by the court of this state, subject to the provisions of subdivisions one, two and three of this section, shall run either concurrently or consecutively with respect to such undischarged term in such manner as the court directs at the time of sentence. If the court of this state does not specify the manner in which a sentence imposed by it is to run, the sentence or sentences shall run consecutively.

5. (a) [Until Sept 1, 2011] Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite, indeterminate or determinate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any undischarged term of imprisonment to which the defendant was subject and for which he was confined at the time of the assault.

(a) [Eff Sept 1, 2011] Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite or indeterminate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any undischarged term of imprisonment to which the defendant was subject and for which he was confined at the time of the assault.

(b) [Until Sept 1, 2011] Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite, indeterminate or determinate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any term of imprisonment which was previously imposed or which may be prospectively imposed where the person was confined within a detention facility at the time of the assault upon a charge which culminated in such sentence of imprisonment.

(b) [Eff Sept 1, 2011] Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite or indeterminate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any term of imprisonment which was previously imposed or which may be prospectively imposed where the person was confined within a detention facility at the time of the assault upon a charge which culminated in such sentence of imprisonment.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, a term of imprisonment imposed upon a conviction to assault in the second degree as defined in subdivision

seven of section 120.05 of this chapter may run concurrently to any other term of imprisonment, in the interest of justice, provided the court sets forth in the record its reasons for imposing a concurrent sentence. Nothing in this section shall require the imposition of a sentence of imprisonment where it is not otherwise required by law.

N.Y. PENAL LAW § 70.30 (2010). Calculation of terms of imprisonment.

1. [Until Sept 1, 2011] Indeterminate or determinate sentences. An indeterminate or determinate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the state department of correctional services. Where a person is under more than one indeterminate or determinate sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the time served under imprisonment on any of the sentences shall be credited against the minimum periods of all the concurrent indeterminate sentences and against the terms of all the concurrent determinate sentences. The maximum term or terms of the indeterminate sentences and the term or terms of the determinate sentences shall merge in and be satisfied by discharge of the term which has the longest unexpired time to run;

(b) If the defendant is serving two or more indeterminate sentences which run consecutively, the minimum periods of imprisonment are added to arrive at an aggregate minimum period of imprisonment equal to the sum of all the minimum periods, and the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms, provided, however, that both the aggregate maximum term and the aggregate minimum period of imprisonment shall be subject to the limitations set forth in paragraphs (e) and (f) of this subdivision, where applicable;

(c) If the defendant is serving two or more determinate sentences of imprisonment which run consecutively, the terms of the determinate sentences are added to arrive at an aggregate maximum term of imprisonment, provided, however, that the aggregate maximum term of imprisonment shall be subject to the limitations set forth in paragraphs (e) and (f) of this subdivision, where applicable.

(d) If the defendant is serving one or more indeterminate sentences of imprisonment and one or more determinate sentence of imprisonment which run consecutively, the minimum term or terms of the indeterminate sentence or sentences and the term or terms of the determinate sentence or sentences are added to arrive at an aggregate maximum term of imprisonment, provided, however, (i) that in no event shall the aggregate maximum so calculated be less than the term or maximum term of imprisonment of the sentence which has the longest unexpired time to run; and (ii) that the aggregate maximum term of imprisonment shall be subject to the limitations set forth in paragraphs (e) and (f) of this subdivision, where applicable.

(e) (i) Except as provided in subparagraph (ii), (iii), (iv), (v), (vi) or (vii) of this paragraph, the aggregate maximum term of consecutive sentences, all of which are indeterminate sentences or all of which are determinate sentences, imposed for two or more crimes, other than two or more crimes that include a class A felony, committed prior to the time the person was imprisoned under any of such sentences shall, if it exceeds twenty years, be deemed to be twenty years, unless one of the sentences was imposed for a class B felony, in which case the aggregate maximum term shall, if it exceeds thirty years, be deemed to be thirty years. Where the aggregate maximum term of two or more indeterminate consecutive sentences is reduced by calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the

aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced;

(ii) Where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, imposed for two or more crimes, other than two or more crimes that include a class A felony, committed prior to the time the person was imprisoned under any of such sentences, exceeds twenty years, and none of the sentences was imposed for a class B felony, the following rules shall apply:

(A) if the aggregate maximum term of the determinate sentence or sentences exceeds twenty years, the defendant shall be deemed to be serving to [serving a] 1 a determinate sentence of twenty years.

(B) if the aggregate maximum term of the determinate sentence or sentences is less than twenty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be twenty years. In such instances, the minimum sentence shall be deemed to be ten years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater.

(iii) Where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, imposed for two or more crimes, other than two or more crimes that include a class A felony, commmitted [committed] 2 prior to the time the person was imprisoned under any of such sentences, exceeds thirty years, and one of the sentences was imposed for a class B felony, the following rules shall apply:

(A) if the aggregate maximum term of the determinate sentence or sentences exceeds thirty years, the defendant shall be deemed to be serving a determinate sentence of thirty years;

(B) if the aggregate maximum term of the determinate sentence or sentences is less than thirty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be thirty years. In such instances, the minimum sentence shall be deemed to be fifteen years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater.

(iv) Notwithstanding subparagraph (i) of this paragraph, the aggregate maximum term of consecutive sentences, all of which are indeterminate sentences or all of which are determinate sentences, imposed for the conviction of two violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds forty years, be deemed to be forty years;

(v) Notwithstanding subparagraphs (ii) and (iii) of this paragraph, where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, and where such sentences are imposed for the conviction of two violent felony offenses committed prior to the time the person was imprisoned under any such sentences and where one of which is a class B violent felony offense, the following rules shall apply:

(A) if the aggregate maximum term of the determinate sentence or sentences exceeds forty years, the defendant shall be deemed to be serving a determinate sentence of forty years;

(B) if the aggregate maximum term of the determinate sentence or sentences is less than forty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be forty years. In such instances, the minimum sentence shall be deemed to be twenty years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater.

(vi) Notwithstanding subparagraphs (i) and (iv) of this paragraph, the aggregate maximum term of consecutive sentences, all of which are indeterminate or all of which are determinate sentences, imposed for the conviction of three or more violent felony offenses committed prior to

the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds fifty years, be deemed to be fifty years;

(vii) Notwithstanding subparagraphs (ii), (iii) and (v) of this paragraph, where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, and where such sentences are imposed for the conviction of three or more violent felony offenses committed prior to the time the person was imprisoned under any such sentences and one of which is a class B violent felony offense, the following rules shall apply:

(A) if the aggregate maximum term of the determinate sentence or sentences exceeds fifty years, the defendant shall be deemed to be serving a determinate sentence of fifty years.

(B) if the aggregate maximum term of the determinate sentence or sentences is less than fifty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be fifty years. In such instances, the minimum sentence shall be deemed to be twenty-five years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater.

(viii) Notwithstanding any provision of this subdivision to the contrary where a person is serving two or more consecutive sentences, one or more of which is an indeterminate sentence and one or more of which is a determinate sentence, and if he would be eligible for a reduction provision pursuant to this subdivision if the maximum term or aggregate maximum term of the indeterminate sentence or sentences were added to the term or aggregate maximum term of the determinate sentence or sentences, the person shall be deemed to be eligible for the applicable reduction provision and the rules set forth in this subdivision shall apply.

(f) The aggregate maximum term of consecutive sentences imposed upon a juvenile offender for two or more crimes, not including a class A felony, committed before he has reached the age of sixteen, shall, if it exceeds ten years, be deemed to be ten years. If consecutive indeterminate sentences imposed upon a juvenile offender include a sentence for the class A felony of arson in the first degree or for the class A felony of kidnapping in the first degree, then the aggregate maximum term of such sentences shall, if it exceeds fifteen years, be deemed to be fifteen years. Where the aggregate maximum term of two or more consecutive sentences is reduced by a calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced.

1. [Eff Sept 1, 2011] Indeterminate sentences. An indeterminate or determinate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the state department of correctional services. Where a person is under more than one indeterminate sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the time served under imprisonment on any of the sentences shall be credited against the minimum periods of all the concurrent sentences, and the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run;

(b) If the sentences run consecutively, the minimum periods of imprisonment are added to arrive at an aggregate minimum period of imprisonment equal to the sum of all the minimum periods, and the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms, provided, however, that both the aggregate maximum term and the aggregate minimum period of imprisonment shall be subject to the limitations set forth in paragraphs (c) and (d) of this subdivision, where applicable;

(c) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the aggregate maximum term of consecutive sentences imposed for two or more crimes, other than two or more crimes that include a class A felony, committed prior to the time the person was imprisoned under any of such sentences shall, if it exceeds twenty years, be deemed to be twenty years, unless one of the sentences was imposed for a class B felony, in which case the aggregate maximum term shall, if it exceeds thirty years, be deemed to be thirty years. Where the aggregate maximum term of two or more consecutive sentences is reduced by calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced;

(ii) Notwithstanding subparagraph (i) of this paragraph, the aggregate maximum term of consecutive sentences imposed for the conviction of two violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds forty years, be deemed to be forty years;

(iii) Notwithstanding subparagraphs (i) and (ii) of this paragraph, the aggregate maximum term of consecutive sentences imposed for the conviction of three or more violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds fifty years, be deemed to be fifty years;

(d) The aggregate maximum term of consecutive sentences imposed upon a juvenile offender for two or more crimes, not including a class A felony, committed before he has reached the age of sixteen, shall, if it exceeds ten years, be deemed to be ten years. If consecutive indeterminate sentences imposed upon a juvenile offender include a sentence for the class A felony of arson in the first degree or for the class A felony of kidnapping in the first degree, then the aggregate maximum term of such sentences shall, if it exceeds fifteen years, be deemed to be fifteen years. Where the aggregate maximum term of two or more consecutive sentences is reduced by a calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced.

2. Definite sentences. A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. Where a person is under more than one definite sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently and are to be served in a single institution, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run;

(b) If the sentences run consecutively and are to be served in a single institution, the terms are added to arrive at an aggregate term and are satisfied by discharge of such aggregate term, or by service of two years imprisonment plus any term imposed for an offense committed while the person is under the sentences, whichever is less;

(c) If the sentences run concurrently and are to be served in more than one institution, the term of each such sentence shall be credited with the portion of any concurrent term served after that sentence was imposed;

(d) If the sentences run consecutively and are to be served in more than one institution, the aggregate of the time served in all of the institutions shall not exceed two years plus any term imposed for an offense committed while the person is under the sentences.

2-a. Undischarged imprisonment in other jurisdiction. Where a person who is subject to an undischarged term of imprisonment imposed at a previous time by a court of another jurisdiction is sentenced to an additional term or terms of imprisonment by a court of this state, to run concurrently with such undischarged term, such additional term or terms shall be deemed to commence when the said person is returned to the custody of the appropriate official of such other jurisdiction where the undischarged term of imprisonment is being served. If the additional term or terms imposed shall run consecutively to the said undischarged term, such additional term or terms shall commence when the prisoner is received in the appropriate institution as provided in subdivisions one and two of this section. The term or terms of such imprisonment shall be calculated and such other pertinent provisions of this section applied in the same manner as where a person is under more than one sentence in this state as provided in this section.

3. [Until Sept 1, 2011] The term of a definite sentence, a determinate sentence, or the maximum term of an indeterminate sentence imposed on a person shall be credited with and diminished by the amount of time the person spent in custody prior to the commencement of such sentence as a result of the charge that culminated in the sentence. In the case of an indeterminate sentence, if the minimum period of imprisonment has been fixed by the court or by the board of parole, the credit shall also be applied against the minimum period. The credit herein provided shall be calculated from the date custody under the charge commenced to the date the sentence commences and shall not include any time that is credited against the term or maximum term of any previously imposed sentence or period of post-release supervision to which the person is subject. Where the charge or charges culminate in more than one sentence, the credit shall be applied as follows:

(a) If the sentences run concurrently, the credit shall be applied against each such sentence;

(b) If the sentences run consecutively, the credit shall be applied against the aggregate term or aggregate maximum term of the sentences and against the aggregate minimum period of imprisonment.

In any case where a person has been in custody due to a charge that culminated in a dismissal or an acquittal, the amount of time that would have been credited against a sentence for such charge, had one been imposed, shall be credited against any sentence that is based on a charge for which a warrant or commitment was lodged during the pendency of such custody.

3. [Eff Sept 1, 2011] Jail time. The term of a definite sentence or the maximum term of an indeterminate sentence imposed on a person shall be credited with and diminished by the amount of time the person spent in custody prior to the commencement of such sentence as a result of the charge that culminated in the sentence. In the case of an indeterminate sentence, if the minimum period of imprisonment has been fixed by the court or by the board of parole, the credit shall also be applied against the minimum period. The credit herein provided shall be calculated from the date custody under the charge commenced to the date the sentence commences and shall not include any time that is credited against the term or maximum term of any previously imposed sentence to which the person is subject. Where the charge or charges culminate in more than one sentence, the credit shall be applied as follows:

(a) If the sentences run concurrently, the credit shall be applied against each such sentence;

(b) If the sentences run consecutively, the credit shall be applied against the aggregate term or aggregate maximum term of the sentences and against the aggregate minimum period of imprisonment.

In any case where a person has been in custody due to a charge that culminated in a dismissal or an acquittal, the amount of time that would have been credited against a sentence for such charge, had one been imposed, shall be credited against any sentence that is based on a charge for which a warrant or commitment was lodged during the pendency of such custody.

4. [Until Sept 1, 2011] Good behavior time. Time allowances earned for good behavior, pursuant to the provisions of the correction law, shall be computed and applied as follows:

(a) In the case of a person serving an indeterminate or determinate sentence, the total of such allowances shall be calculated as provided in section eight hundred three of the correction law and the allowances shall be applied as provided in paragraph (b) of subdivision one of section 70.40;

(b) In the case of a person serving a definite sentence, the total of such allowances shall not exceed one-third of his term or aggregate term and the allowances shall be applied as a credit against such term.

4. [Eff Sept 1, 2011] Good behavior time. Time allowances earned for good behavior, pursuant to the provisions of the correction law, shall be computed and applied as follows:

(a) In the case of a person serving an indeterminate sentence, the total of such allowances shall not exceed one-third of his maximum or aggregate maximum term and the allowances shall be applied as provided in subdivision one (b) of section 70.40;

(b) In the case of a person serving a definite sentence, the total of such allowances shall not exceed one-third of his term or aggregate term and the allowances shall be applied as a credit against such term.

5. Time served under vacated sentence. When a sentence of imprisonment that has been imposed on a person is vacated and a new sentence is imposed on such person for the same offense, or for an offense based upon the same act, the new sentence shall be calculated as if it had commenced at the time the vacated sentence commenced, and all time credited against the vacated sentence shall be credited against the new sentence. In any case where a vacated sentence also includes a period of post-release supervision, all time credited against the period of post-release supervision shall be credited against the period of post-release supervision included with the new sentence. In the event a period of post-release supervision is not included with the new sentence, such period shall be credited against the new sentence.

6. Escape. When a person who is serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of correctional services, to an institution under the jurisdiction of that department. Any time spent by such person in custody from the date of escape to the date the sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:

(a) That such custody was due to an arrest or surrender based upon the escape; or

(b) That such custody arose from an arrest on another charge which culminated in a dismissal or an acquittal; or

(c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.

7. [Expires Sept 1, 2011] Absconding from temporary release or furlough program. When a person who is serving a sentence of imprisonment is permitted to leave an institution to participate in a program of work release or furlough program as such term is defined in section six hundred thirty-one of the correction law, or in the case of an institution under the jurisdiction of the state department of correctional services or a facility under the jurisdiction of the state division for youth to participate in a program of temporary release, fails to return to the institution or facility at or before the time prescribed for his return, such failure shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of correctional services or a facility under the jurisdiction of the state division for youth to an institution under the jurisdiction of that department or a facility under the jurisdiction of that division. Any time spent by such person in an institution from the date of his failure to return to the date his sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:

(a) That such incarceration was due to an arrest or surrender based upon the failure to return; or

(b) That such incarceration arose from an arrest on another charge which culminated in a dismissal or an acquittal; or

(c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.

N.Y. PENAL LAW § 70.80 (2010). Sentences of imprisonment for conviction of a felony sex offense.

1. Definitions.

(a) For the purposes of this section, a "felony sex offense" means a conviction of any felony defined in article one hundred thirty of this chapter, including a sexually motivated felony, or patronizing a prostitute in the first degree as defined in section 230.06 of this chapter, incest in the second degree as defined in section 255.26 of this chapter, or incest in the first degree as defined in section 255.27 of this chapter, or a felony attempt or conspiracy to commit any of the above.

(b) A felony sex offense shall be deemed a "violent felony sex offense" if it is for an offense defined as a violent felony offense in section 70.02 of this article, or for a sexually motivated felony as defined in section 130.91 of this chapter where the specified offense is a violent felony offense as defined in section 70.02 of this article.

(c) For the purposes of this section, a "predicate felony sex offender" means a person who stands convicted of any felony sex offense as defined in paragraph (a) of this subdivision, other than a

class A-I felony, after having previously been subjected to one or more predicate felony convictions as defined in subdivision one of section 70.06 or subdivision one of section 70.04 of this article.

(d) For purposes of this section, a "violent felony offense" is any felony defined in subdivision one of section 70.02 of this article, and a "non-violent felony offense" is any felony not defined therein.

2. In imposing a sentence within the authorized statutory range for any felony sex offense, the court may consider all relevant factors set forth in section 1.05 of this chapter, and in particular, may consider the defendant's criminal history, if any, including any history of sex offenses; any mental illness or mental abnormality from which the defendant may suffer; the defendant's ability or inability to control his sexual behavior; and, if the defendant has difficulty controlling such behavior, the extent to which that difficulty may pose a threat to society.

3. Except as provided by subdivision four, five, six, seven or eight of this section, or when a defendant is being sentenced for a conviction of the class A-II felonies of predatory sexual assault and predatory sexual assault against a child as defined in sections 130.95 and 130.96 of this chapter, or for any class A-I sexually motivated felony for which a life sentence or a life without parole sentence must be imposed, a sentence imposed upon a defendant convicted of a felony sex offense shall be a determinate sentence. The determinate sentence shall be imposed by the court in whole or half years, and shall include as a part thereof a period of post-release supervision in accordance with subdivision two-a of section 70.45 of this article. Persons eligible for sentencing under section 70.07 of this article governing second child sexual assault felonies shall be sentenced under such section and paragraph (j) of subdivision two-a of section 70.45 of this article.

4. (a) Sentences of imprisonment for felony sex offenses. Except as provided in subdivision five, six, seven, or eight of this section, the term of the determinate sentence must be fixed by the court as follows:

(i) for a class B felony, the term must be at least five years and must not exceed twenty-five years;

(ii) for a class C felony, the term must be at least three and one-half years and must not exceed fifteen years;

(iii) for a class D felony, the term must be at least two years and must not exceed seven years; and

(iv) for a class E felony, the term must be at least one and one-half years and must not exceed four years.

(b) Probation. The court may sentence a defendant convicted of a class D or class E felony sex offense to probation in accordance with the provisions of section 65.00 of this title.

(c) Alternative definite sentences for class D and class E felony sex offenses. If the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class D or class E felony sex offense, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

5. Sentence of imprisonment for a predicate felony sex offender.

(a) Applicability. This subdivision shall apply to a predicate felony sex offender who stands convicted of a non-violent felony sex offense and who was previously convicted of one or more felonies.

(b) Non-violent predicate felony offense. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a predicate felony sex offender, and the person's predicate conviction was for a non-violent felony offense, the court must impose a determinate sentence of imprisonment, the term of which must be fixed by the court as follows:

(i) for a class B felony, the term must be at least eight years and must not exceed twenty-five years;

(ii) for a class C felony, the term must be at least five years and must not exceed fifteen years;

(iii) for a class D felony, the term must be at least three years and must not exceed seven years; and

(iv) for a class E felony, the term must be at least two years and must not exceed four years.

(c) Violent predicate felony offense. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a predicate felony sex offender, and the person's predicate conviction was for a violent felony offense, the court must impose a determinate sentence of imprisonment, the term of which must be fixed by the court as follows:

(i) for a class B felony, the term must be at least nine years and must not exceed twenty-five years;

(ii) for a class C felony, the term must be at least six years and must not exceed fifteen years;

(iii) for a class D felony, the term must be at least four years and must not exceed seven years; and

(iv) for a class E felony, the term must be at least two and one-half years and must not exceed four years.

(d) A defendant who stands convicted of a non-violent felony sex offense, other than a class A-I or class A-II felony, who is adjudicated a persistent felony offender under section 70.10 of this article, shall be sentenced pursuant to the provisions of section 70.10 or pursuant to this subdivision.

6. Sentence of imprisonment for a violent felony sex offense. Except as provided in subdivisions seven and eight of this section, a defendant who stands convicted of a violent felony sex offense must be sentenced pursuant to the provisions of section 70.02, section 70.04, subdivision six of section 70.06, section 70.08, or section 70.10 of this article, as applicable.

7. Sentence for a class A felony sex offense. When a person stands convicted of a sexually motivated felony pursuant to section 130.91 of this chapter and the specified offense is a class A felony, the court must sentence the defendant in accordance with the provisions of:

(a) section 60.06 of this chapter and section 70.00 of this article, as applicable, if such offense is a class A-I felony; and

(b) section 70.00, 70.06 or 70.08 of this article, as applicable, if such offense is a class A-II felony.

8. Whenever a juvenile offender stands convicted of a felony sex offense, he or she must be sentenced pursuant to the provisions of sections 60.10 and 70.05 of this chapter.

9. Every determinate sentence for a felony sex offense, as defined in paragraph (a) of subdivision one of this section, imposed pursuant to any section of this article, shall include as a part thereof a period of post-release supervision in accordance with subdivision two-a of section 70.45 of this article.

N.Y. PENAL LAW § 80.00 (2010). Fine for felony.

1. A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding the higher of

a. five thousand dollars; or

b. double the amount of the defendant's gain from the commission of the crime; or

c. if the conviction is for any felony defined in article two hundred twenty or two hundred twenty-one of this chapter, according to the following schedule:
(i) for A-I felonies, one hundred thousand dollars;
(ii) for A-II felonies, fifty thousand dollars;
(iii) for B felonies, thirty thousand dollars;
(iv) for C felonies, fifteen thousand dollars.

When imposing a fine pursuant to the provisions of this paragraph, the court shall consider the profit gained by defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which defendant engaged, its impact on any victims, and defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support.

2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed.

3. When the court imposes a fine for a felony pursuant to paragraph b of subdivision one of this section, the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support such a finding or to permit adequate consideration of the matters specified in paragraph c of subdivision one of this section, the court may conduct a hearing upon such issues.

4. Exception. The provisions of this section shall not apply to a corporation.

5. All moneys in excess of five thousand dollars received or collected in payment of a fine imposed pursuant to paragraph c of subdivision one of this section are the property of the state and the state comptroller shall deposit all such fines to the rehabilitative alcohol and substance treatment fund established pursuant to section ninety-seven-cc of the state finance law.

6. Notwithstanding any inconsistent provision of subdivision one of this section a sentence to pay a fine for a felony set forth in the vehicle and traffic law shall be a sentence to pay an amount fixed by the court in accordance with the provisions of the law that defines the crime.

7. When the court imposes a fine pursuant to section 145.22 or 145.23 of this chapter, the court shall direct that no less than ten percent of such fine be credited to the state cemetery vandalism restoration and administration fund created pursuant to section ninety-seven-r of the state finance law.

N.Y. PENAL LAW § 80.05 (2010). Fine for misdemeanors and violation.

1. Class A misdemeanor. A sentence to pay a fine for a class A misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding one thousand dollars, provided, however, that a sentence imposed for a violation of section 215.80 of this chapter may include a fine in an amount equivalent to double the value of the property unlawfully disposed of in the commission of the crime.

2. Class B misdemeanor. A sentence to pay a fine for a class B misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding five hundred dollars.

3. Unclassified misdemeanor. A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, in accordance with the provisions of the law or ordinance that defines the crime.

4. Violation. A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding two hundred fifty dollars.

In the case of a violation defined outside this chapter, if the amount of the fine is expressly specified in the law or ordinance that defines the offense, the amount of the fine shall be fixed in accordance with that law or ordinance.

5. Alternative sentence. If a person has gained money or property through the commission of any misdemeanor or violation then upon conviction thereof, the court, in lieu of imposing the fine authorized for the offense under one of the above subdivisions, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense; provided, however, that the amount fixed by the court pursuant to this subdivision upon a conviction under section 11-1904 of the environmental conservation law shall not exceed five thousand dollars. In such event the provisions of subdivisions two and three of section 80.00 shall be applicable to the sentence.

6. Exception. The provisions of this section shall not apply to a corporation.

NORTH CAROLINA

N.C. GEN. STAT. § 14-7.6 (2010). Sentencing of habitual felons.

When an habitual felon as defined in this Article commits any felony under the laws of the State of North Carolina, the felon must, upon conviction or plea of guilty under indictment as provided in this Article (except where the felon has been sentenced as a Class A, B1, or B2 felon) be sentenced as a Class C felon. In determining the prior record level, convictions used to establish a person's status as an habitual felon shall not be used. Sentences imposed under this Article shall

run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section.

N.C. GEN. STAT. § 14-7.12 (2010). Sentencing of violent habitual felons.

A person who is convicted of a violent felony and of being a violent habitual felon must, upon conviction (except where the death penalty is imposed), be sentenced to life imprisonment without parole. Life imprisonment without parole means that the person will spend the remainder of the person's natural life in prison. The sentencing judge may not suspend the sentence and may not place the person sentenced on probation. Sentences for violent habitual felons imposed under this Article shall run consecutively with and shall commence at the expiration of any other sentence being served by the person.

N.C. GEN. STAT. § 14-27.2A (2010). Rape of a child; adult offender.

(a) A person is guilty of rape of a child if the person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.

(d) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes.

(e) The offense under G.S. 14-27.2(a)(1) is a lesser included offense of the offense in this section.

N.C. GEN. STAT. § 14-27.4A (2010). Sexual offense with a child; adult offender.

(a) A person is guilty of sexual offense with a child if the person is at least 18 years of age and engages in a sexual act with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.

(d) The offense under G.S. 14-27.4(a)(1) is a lesser included offense of the offense in this section.

N.C. GEN. STAT. § 14-27.7 (2010). Intercourse and sexual offenses with certain victims; consent no defense.

(a) If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, or if a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony. Consent is not a defense to a charge under this section.

(b) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school, but before the victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student. The term "same school" means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers. A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class A1 misdemeanor. This subsection shall apply unless the conduct is covered under some other provision of law providing for greater punishment. Consent is not a defense to a charge under this section. For purposes of this subsection, the terms "school", "school personnel", and "student" shall have the same meaning as in G.S. 14-202.4(d). For purposes of this subsection, the term "school safety officer" shall include

a school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools.

N.C. GEN. STAT. § 14-27.7A (2010). Statutory rape or sexual offense of person who is 13, 14, or 15 years old.

(a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant is at least six years older than the person, except when the defendant is lawfully married to the person.

(b) A defendant is guilty of a Class C felony if the defendant engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the defendant is more than four but less than six years older than the person, except when the defendant is lawfully married to the person.

N.C. GEN. STAT. § 14-39 (2010). Kidnapping.

(a) Any person who shall unlawfully confine, restrain, or remove from one place to another, any other person 16 years of age or over without the consent of such person, or any other person under the age of 16 years without the consent of a parent or legal custodian of such person, shall be guilty of kidnapping if such confinement, restraint or removal is for the purpose of:

(1) Holding such other person for a ransom or as a hostage or using such other person as a shield; or

(2) Facilitating the commission of any felony or facilitating flight of any person following the commission of a felony; or

(3) Doing serious bodily harm to or terrorizing the person so confined, restrained or removed or any other person; or

(4) Holding such other person in involuntary servitude in violation of G.S. 14-43.12.

(5) Trafficking another person with the intent that the other person be held in involuntary servitude or sexual servitude in violation of G.S. 14-43.11.

(6) Subjecting or maintaining such other person for sexual servitude in violation of G.S. 14-43.13.

(b) There shall be two degrees of kidnapping as defined by subsection (a). If the person kidnapped either was not released by the defendant in a safe place or had been seriously injured or sexually assaulted, the offense is kidnapping in the first degree and is punishable as a Class C felony. If the person kidnapped was released in a safe place by the defendant and had not been seriously injured or sexually assaulted, the offense is kidnapping in the second degree and is punishable as a Class E felony.

(c) Any firm or corporation convicted of kidnapping shall be punished by a fine of not less than five thousand dollars ($ 5,000) nor more than one hundred thousand dollars ($ 100,000), and its charter and right to do business in the State of North Carolina shall be forfeited.

N.C. GEN. STAT. § 14-208.6A (2010). Lifetime registration requirements for criminal offenders.

It is the objective of the General Assembly to establish a 30-year registration requirement for persons convicted of certain offenses against minors or sexually violent offenses with an opportunity for those persons to petition in superior court to shorten their registration time period after 10 years of registration. It is the further objective of the General Assembly to establish a more stringent set of registration requirements for recidivists, persons who commit aggravated offenses, and for a subclass of highly dangerous sex offenders who are determined by a sentencing court with the assistance of a board of experts to be sexually violent predators.

To accomplish this objective, there are established two registration programs: the Sex Offender and Public Protection Registration Program and the Sexually Violent Predator Registration Program. Any person convicted of an offense against a minor or of a sexually violent offense as defined by this Article shall register in person as an offender in accordance with Part 2 of this Article. Any person who is a recidivist, who commits an aggravated offense, or who is determined to be a sexually violent predator shall register in person as such in accordance with Part 3 of this Article.

The information obtained under these programs shall be immediately shared with the appropriate local, State, federal, and out-of-state law enforcement officials and penal institutions. In addition, the information designated under G.S. 14-208.10(a) as public record shall be readily available to and accessible by the public. However, the identity of the victim is not public record and shall not be released as a public record.

N.C. GEN. STAT. § 14-208.23 (2010). Length of registration.

A person who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator shall maintain registration for the person's life. Except as provided under G.S. 14-208.6C, the requirement of registration shall not be terminated.

N.C. GEN. STAT. § 14-208.26 (2010). Registration of certain juveniles adjudicated delinquent for committing certain offenses.

(a) When a juvenile is adjudicated delinquent for a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual offense), and the juvenile was at least eleven years of age at the time of the commission of the offense, the court shall consider whether the juvenile is a danger to the community. If the court finds that the juvenile is a danger to the community, then the court shall consider whether the juvenile should be required to register with the county sheriff in accordance with this Part. The determination as to whether the juvenile is a danger to the community and whether the juvenile shall be ordered to register shall be made by the presiding judge at the dispositional hearing. If the judge rules that the juvenile is a danger to the community and that the juvenile shall register, then an order shall be entered requiring the juvenile to register. The court's findings regarding whether the juvenile is a danger to the community and whether the juvenile shall register shall be entered into the court record. No juvenile may be required to register under this Part unless the court first finds that the juvenile is a danger to the community.

A juvenile ordered to register under this Part shall register and maintain that registration as provided by this Part.

(a1) For purposes of this section, a violation of any of the offenses listed in subsection (a) of this section includes all of the following: (i) the commission of any of those offenses, (ii) the attempt, conspiracy, or solicitation of another to commit any of those offenses, (iii) aiding and abetting any of those offenses.

(b) If the court finds that the juvenile is a danger to the community and must register, the presiding judge shall conduct the notification procedures specified in G.S. 14-208.8. The chief court counselor of that district shall file the registration information for the juvenile with the appropriate sheriff.

N.C. GEN. STAT. § 14-318.4 (2010). Child abuse a felony.

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a Class E felony, except as otherwise provided in subsection (a3) of this section.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the child is guilty of child abuse and shall be punished as a Class E felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a Class E felony.

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a Class C felony.

(a4) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

(a5) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class H felony if the act or omission results in serious physical injury to the child.

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant.

(d) The following definitions apply in this section:

(1) Serious bodily injury. -- Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(2) Serious physical injury. -- Physical injury that causes great pain and suffering. The term includes serious mental injury.

N.C. GEN. STAT. § 14-321.1 (2010). Prohibit baby sitting service by sex offender or in the home of a sex offender.

(a) For purposes of this section the term "baby sitting service" means providing, for profit, supervision or care for a child under the age of 13 years who is unrelated to the provider by blood, marriage, or adoption, for more than two hours per day while the child's parents or guardian are not on the premises.

(b) Notwithstanding any other provision of law, no person who is an adult may provide or offer to provide a baby sitting service in any of the following circumstances:

(1) The baby sitting service is offered in a home and a resident of the home is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.

(2) A provider of care for the baby sitting service is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.

(c) A violation of this section that is a first offense is a Class 1 misdemeanor. A violation of this section that is a second or subsequent offense is a Class H felony.

N.C. GEN. STAT. § 14-322 (2010). Abandonment and failure to support spouse and children.

(a) For purposes of this Article:

(1) "Supporting spouse" means a spouse, whether husband or wife, upon whom the other spouse is actually substantially dependent or from whom such other spouse is substantially in need of maintenance and support.

(2) "Dependent spouse" means a spouse, whether husband or wife, who is actually substantially dependent upon the other spouse for his or her maintenance and support or is substantially in need of maintenance and support from the other spouse.

(b) Any supporting spouse who shall willfully abandon a dependent spouse without providing that spouse with adequate support shall be guilty of a Class 1 or 2 misdemeanor and upon conviction shall be punished according to subsection (f).

(c) Any supporting spouse who, while living with a dependent spouse, shall willfully neglect to provide adequate support for that dependent spouse shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f).

(d) Any parent who shall willfully neglect or refuse to provide adequate support for that parent's child, whether natural or adopted, and whether or not the parent abandons the child, shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f). Willful neglect or refusal to provide adequate support of a child shall constitute a continuing offense and shall not be barred by any statute of limitations until the youngest living child of the parent shall reach the age of 18 years.

(e) Upon conviction for an offense under this section, the court may make such order as will best provide for the support, as far as may be necessary, of the abandoned spouse or child, or both, from the property or labor of the defendant. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c). For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) shall apply.

(f) A first offense under this section is a Class 2 misdemeanor. A second or subsequent offense is a Class 1 misdemeanor.

N.C. GEN. STAT. § 14-326.1 (2010). Parents; failure to support.

If any person being of full age, and having sufficient income after reasonably providing for his or her own immediate family shall, without reasonable cause, neglect to maintain and support his or her parent or parents, if such parent or parents be sick or not able to work and have not sufficient means or ability to maintain or support themselves, such person shall be deemed guilty of a Class 2 misdemeanor; upon conviction of a second or subsequent offense such person shall be guilty of a Class 1 misdemeanor.

If there be more than one person bound under the provisions of the next preceding paragraph to support the same parent or parents, they shall share equitably in the discharge of such duty.

N.C. GEN. STAT. § 15A-1340.14 (2010). Prior record level for felony sentencing.

(a) Generally. -- The prior record level of a felony offender is determined by calculating the sum of the points assigned to each of the offender's prior convictions that the court, or with respect to subdivision (b)(7) of this section, the jury, finds to have been proved in accordance with this section.

(b) Points. -- Points are assigned as follows:

(1) For each prior felony Class A conviction, 10 points.

(1a) For each prior felony Class B1 conviction, 9 points.

(2) For each prior felony Class B2, C, or D conviction, 6 points.

(3) For each prior felony Class E, F, or G conviction, 4 points.

(4) For each prior felony Class H or I conviction, 2 points.

(5) For each prior misdemeanor conviction as defined in this subsection, 1 point. For purposes of this subsection, misdemeanor is defined as any Class A1 and Class 1 nontraffic misdemeanor offense, impaired driving (G.S. 20-138.1), impaired driving in a commercial vehicle (G.S. 20-138.2), and misdemeanor death by vehicle (G.S. 20-141.4(a2)), but not any other misdemeanor traffic offense under Chapter 20 of the General Statutes.

(6) If all the elements of the present offense are included in any prior offense for which the offender was convicted, whether or not the prior offense or offenses were used in determining prior record level, 1 point.

(7) If the offense was committed while the offender was on supervised or unsupervised probation, parole, or post-release supervision, or while the offender was serving a sentence of imprisonment, or while the offender was on escape from a correctional institution while serving a sentence of imprisonment, 1 point.

For purposes of determining prior record points under this subsection, a conviction for a first degree rape or a first degree sexual offense committed prior to the effective date of this subsection shall be treated as a felony Class B1 conviction, and a conviction for any other felony Class B offense committed prior to the effective date of this subsection shall be treated as a felony Class B2 conviction. G.S. 15A-1340.16(a5) specifies the procedure to be used to determine if a point exists under subdivision (7) of this subsection. The State must provide a defendant with written notice of its intent to prove the existence of the prior record point under subdivision (7) of this subsection as required by G.S. 15A-1340.16(a6).

(c) Prior Record Levels for Felony Sentencing. -- The prior record levels for felony sentencing are:

(1) Level I -- Not more than 1 point.

(2) Level II -- At least 2, but not more than 5 points.

(3) Level III -- At least 6, but not more than 9 points.

(4) Level IV -- At least 10, but not more than 13 points.

(5) Level V -- At least 14, but not more than 17 points.

(6) Level VI -- At least 18 points.

In determining the prior record level, the classification of a prior offense is the classification assigned to that offense at the time the offense for which the offender is being sentenced is committed.

(d) Multiple Prior Convictions Obtained in One Court Week. -- For purposes of determining the prior record level, if an offender is convicted of more than one offense in a single superior court during one calendar week, only the conviction for the offense with the highest point total is used. If an offender is convicted of more than one offense in a single session of district court, only one of the convictions is used.

(e) Classification of Prior Convictions From Other Jurisdictions. -- Except as otherwise provided in this subsection, a conviction occurring in a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the offender proves by the preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor in North Carolina, the conviction is treated as that class of misdemeanor for assigning prior record level points. If the State proves by the preponderance of the evidence that an offense classified as either a misdemeanor or a felony in the other jurisdiction is substantially similar to an offense in North Carolina that is classified as a Class I felony or higher, the conviction is treated as that class of felony for assigning prior record level points. If the State proves by the preponderance of the evidence that an offense classified as a misdemeanor in the other jurisdiction is substantially similar to an offense classified as a Class A1 or Class 1 misdemeanor in North Carolina, the conviction is treated as a Class A1 or Class 1 misdemeanor for assigning prior record level points.

(f) Proof of Prior Convictions. -- A prior conviction shall be proved by any of the following methods:

(1) Stipulation of the parties.

(2) An original or copy of the court record of the prior conviction.

(3) A copy of records maintained by the Division of Criminal Information, the Division of Motor Vehicles, or of the Administrative Office of the Courts.

(4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior conviction exists and that the offender before the court is the same person as the offender named in the prior conviction. The original or a copy of the court records or a copy of the records maintained by the Division of Criminal Information, the Division of Motor Vehicles, or of the Administrative Office of the Courts, bearing the same name as that by which the offender is charged, is prima facie evidence that the offender named is the same person as the offender before the court, and that the facts set out in the record are true. For purposes of this subsection, "a copy" includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to the court the offender's full record. Evidence presented by either party at trial may be utilized to prove prior convictions. Suppression of prior convictions is pursuant to G.S. 15A-980. If a motion is made pursuant to that section during the sentencing stage of the criminal action, the court may grant a continuance of the sentencing hearing. If asked by the defendant in compliance with G.S. 15A-903, the prosecutor shall furnish the defendant's prior criminal record to the defendant within a reasonable time sufficient to allow the defendant to determine if the record available to the prosecutor is accurate. Upon request of a sentencing services program established pursuant to Article 61 of Chapter 7A of the General Statutes, the district attorney shall provide any information the district attorney has about the criminal record of a person for whom the program has been requested to provide a sentencing plan pursuant to G.S. 7A-773.1.

N.C. GEN. STAT. § 15A-1340.16 (2010). Aggravated and mitigated sentences.

(a) Generally, Burden of Proof. -- The court shall consider evidence of aggravating or mitigating factors present in the offense that make an aggravated or mitigated sentence appropriate, but the decision to depart from the presumptive range is in the discretion of the court. The State bears the burden of proving beyond a reasonable doubt that an aggravating factor exists, and the offender bears the burden of proving by a preponderance of the evidence that a mitigating factor exists.

(a1) Jury to Determine Aggravating Factors; Jury Procedure if Trial Bifurcated. -- The defendant may admit to the existence of an aggravating factor, and the factor so admitted shall be treated as though it were found by a jury pursuant to the procedures in this subsection. Admissions of the existence of an aggravating factor must be consistent with the provisions of G.S. 15A-1022.1. If the defendant does not so admit, only a jury may determine if an aggravating factor is present in an offense. The jury impaneled for the trial of the felony may, in the same trial, also determine if one or more aggravating factors is present, unless the court determines that the interests of justice require that a separate sentencing proceeding be used to make that determination. If the court determines that a separate proceeding is required, the proceeding shall be conducted by the trial judge before the trial jury as soon as practicable after the guilty verdict is returned. If prior to the time that the trial jury begins its deliberations on the issue of whether one or more aggravating factors exist, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. An alternate juror shall become a part of the jury in the order in which the juror was selected. If the trial jury is unable to reconvene for a hearing on the issue of whether one or more aggravating factors exist after having determined the guilt of the accused, the trial judge shall impanel a new jury to determine the issue. A jury selected to determine whether one or more aggravating factors exist shall be selected in the same manner as juries are selected for the trial of criminal cases.

(a2) Procedure if Defendant Admits Aggravating Factor Only. -- If the defendant admits that an aggravating factor exists, but pleads not guilty to the underlying felony, a jury shall be impaneled to dispose of the felony charge. In that case, evidence that relates solely to the establishment of an aggravating factor shall not be admitted in the felony trial.

(a3) Procedure if Defendant Pleads Guilty to the Felony Only. -- If the defendant pleads guilty to the felony, but contests the existence of one or more aggravating factors, a jury shall be impaneled to determine if the aggravating factor or factors exist.

(a4) Pleading of Aggravating Factors. -- Aggravating factors set forth in subsection (d) of this section need not be included in an indictment or other charging instrument. Any aggravating factor alleged under subdivision (d)(20) of this section shall be included in an indictment or other charging instrument, as specified in G.S. 15A-924.

(a5) Procedure to Determine Prior Record Level Points Not Involving Prior Convictions. -- If the State seeks to establish the existence of a prior record level point under G.S. 15A-1340.14(b)(7), the jury shall determine whether the point should be assessed using the procedures specified in subsections (a1) through (a3) of this section. The State need not allege in an indictment or other pleading that it intends to establish the point.

(a6) Notice of Intent to Use Aggravating Factors or Prior Record Level Points. -- The State must provide a defendant with written notice of its intent to prove the existence of one or more aggravating factors under subsection (d) of this section or a prior record level point under G.S. 15A-1340.14(b)(7) at least 30 days before trial or the entry of a guilty or no contest plea. A defendant may waive the right to receive such notice. The notice shall list all the aggravating factors the State seeks to establish.

(b) When Aggravated or Mitigated Sentence Allowed. -- If the jury, or with respect to an aggravating factor under G.S. 15A-1340.16(d)(12a) or (18a), the court, finds that aggravating factors exist or the court finds that mitigating factors exist, the court may depart from the presumptive range of sentences specified in G.S. 15A-1340.17(c)(2). If aggravating factors are present and the court determines they are sufficient to outweigh any mitigating factors that are present, it may impose a sentence that is permitted by the aggravated range described in G.S. 15A-1340.17(c)(4). If the court finds that mitigating factors are present and are sufficient to outweigh any aggravating factors that are present, it may impose a sentence that is permitted by the mitigated range described in G.S. 15A-1340.17(c)(3).

(c) Written Findings; When Required. -- The court shall make findings of the aggravating and mitigating factors present in the offense only if, in its discretion, it departs from the presumptive range of sentences specified in G.S. 15A-1340.17(c)(2). If the jury finds factors in aggravation, the court shall ensure that those findings are entered in the court's determination of sentencing factors form or any comparable document used to record the findings of sentencing factors. Findings shall be in writing. The requirement to make findings in order to depart from the presumptive range applies regardless of whether the sentence of imprisonment is activated or suspended.

(d) Aggravating Factors. -- The following are aggravating factors:

(1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.

(2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

(2a) The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. A "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of felony or violent misdemeanor offenses, or delinquent acts that would be felonies or violent misdemeanors if committed by an adult, and having a common name or common identifying sign, colors, or symbols.

(3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(4) The defendant was hired or paid to commit the offense.

(5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(6) The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, social worker, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.

(6a) The offense was committed against or proximately caused serious harm as defined in G.S. 14-163.1 or death to a law enforcement agency animal, an assistance animal, or a search and rescue animal as defined in G.S. 14-163.1, while engaged in the performance of the animal's official duties.

(7) The offense was especially heinous, atrocious, or cruel.

(8) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.

(9) The defendant held public office at the time of the offense and the offense related to the conduct of the office.

(10) The defendant was armed with or used a deadly weapon at the time of the crime.

(11) The victim was very young, or very old, or mentally or physically infirm, or handicapped.

(12) The defendant committed the offense while on pretrial release on another charge.

(12a) The defendant has, during the 10-year period prior to the commission of the offense for which the defendant is being sentenced, been found by a court of this State to be in willful violation of the conditions of probation imposed pursuant to a suspended sentence or been found by the Post-Release Supervision and Parole Commission to be in willful violation of a condition of parole or post-release supervision imposed pursuant to release from incarceration.

(13) The defendant involved a person under the age of 16 in the commission of the crime.

(14) The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.

(15) The defendant took advantage of a position of trust or confidence, including a domestic relationship, to commit the offense.

(16) The offense involved the sale or delivery of a controlled substance to a minor.

(16a) The offense is the manufacture of methamphetamine and was committed where a person under the age of 18 lives, was present, or was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste.

(16b) The offense is the manufacture of methamphetamine and was committed in a dwelling that is one of four or more contiguous dwellings.

(17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.

(18) The defendant does not support the defendant's family.

(18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(19) The serious injury inflicted upon the victim is permanent and debilitating.

(20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to establish that an enhanced sentence is required under G.S. 15A-1340.16A may not be used to prove any factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial.

Notwithstanding the provisions of subsection (a1) of this section, the determination that an aggravating factor under G.S. 15A-1340.16(d)(18a) is present in a case shall be made by the court, and not by the jury. That determination shall be made in the sentencing hearing.

(e) Mitigating Factors. -- The following are mitigating factors:

(1) The defendant committed the offense under duress, coercion, threat, or compulsion that was insufficient to constitute a defense but significantly reduced the defendant's culpability.

(2) The defendant was a passive participant or played a minor role in the commission of the offense.

(3) The defendant was suffering from a mental or physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.

(4) The defendant's age, immaturity, or limited mental capacity at the time of commission of the offense significantly reduced the defendant's culpability for the offense.

(5) The defendant has made substantial or full restitution to the victim.

(6) The victim was more than 16 years of age and was a voluntary participant in the defendant's conduct or consented to it.

(7) The defendant aided in the apprehension of another felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.

(8) The defendant acted under strong provocation, or the relationship between the defendant and the victim was otherwise extenuating.

(9) The defendant could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear, or the defendant exercised caution to avoid such consequences.

(10) The defendant reasonably believed that the defendant's conduct was legal.

(11) Prior to arrest or at an early stage of the criminal process, the defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer.

(12) The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.

(13) The defendant is a minor and has reliable supervision available.

(14) The defendant has been honorably discharged from the United States armed services.

(15) The defendant has accepted responsibility for the defendant's criminal conduct.

(16) The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.

(17) The defendant supports the defendant's family.

(18) The defendant has a support system in the community.

(19) The defendant has a positive employment history or is gainfully employed.

(20) The defendant has a good treatment prognosis, and a workable treatment plan is available.

(21) Any other mitigating factor reasonably related to the purposes of sentences.

N.C. GEN. STAT. § 15A-1340.16A (2010). Enhanced sentence if defendant is convicted of a Class A, B1, B2, C, D, or E felony and the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony.

(a), (b) Repealed by Session Laws 2003-378, s. 2, effective August 1, 2003.

(c) If a person is convicted of a Class A, B1, B2, C, D, or E felony and it is found as provided in this section that: (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and (ii) the person actually possessed the firearm or deadly weapon about his or her person, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 60 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 60 months, as specified in G.S. 15A-1340.17(e) and (e1).

(d) An indictment or information for the Class A, B1, B2, C, D, or E felony shall allege in that indictment or information the facts set out in subsection (c) of this section. The pleading is sufficient if it alleges that the defendant committed the felony by using, displaying, or threatening

the use or display of a firearm or deadly weapon and the defendant actually possessed the firearm or deadly weapon about the defendant's person. One pleading is sufficient for all Class A, B1, B2, C, D, or E felonies that are tried at a single trial.

(e) The State shall prove the issues set out in subsection (c) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (c) of this section, then a jury shall be impaneled to determine the issues.

(f) Subsection (c) of this section does not apply if the evidence of the use, display, or threatened use or display of the firearm or deadly weapon is needed to prove an element of the felony or if the person is not sentenced to an active term of imprisonment.

N.C. GEN. STAT. § 15A-1340.16B (2010). Life imprisonment without parole for a second or subsequent conviction of a Class B1 felony if the victim was 13 years of age or younger and there are no mitigating factors.

(a) If a person is convicted of a Class B1 felony and it is found as provided in this section that: (i) the person committed the felony against a victim who was 13 years of age or younger at the time of the offense and (ii) the person has one or more prior convictions of a Class B1 felony, then the person shall be sentenced to life imprisonment without parole.

(b), (c) Repealed by Session Laws 2003-378, s. 3, effective August 1, 2003.

(d) An indictment or information for the Class B1 felony shall allege in that indictment or information or in a separate indictment or information the facts set out in subsection (a) of this section. The pleading is sufficient if it alleges that the defendant committed the felony against a victim who was 13 years of age or younger at the time of the felony and that the defendant had one or more prior convictions of a Class B1 felony. One pleading is sufficient for all Class B1 felonies that are tried at a single trial.

(e) The State shall prove the issues set out in subsection (a) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. The issues shall be presented in the same manner as provided in G.S. 15A-928(c). If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (a) of this section, then a jury shall be impaneled to determine the issues.

(f) Subsection (a) of this section does not apply if there are mitigating factors present under G.S. 15A-1340.16(e).

N.C. GEN. STAT. § 15A-1340.17 (2010). Punishment limits for each class of offense and prior record level.

(a) Offense Classification; Default Classifications. -- The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a felony for which there is no classification, it is a Class I felony.

(b) Fines. -- Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.

(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. -- The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI	
	0-1 Pt	2-5 Pts	6-9 Pts	10-13 Pts	14-17 Pts	18+ Pts	
	A	A	A	A	A	A	DISPOSITION
	240-300	276-345	317-397	365-456	Life Imprisonment Without Parole		Aggravated
B1	192-240	221-276	254-317	292-365	336-420	386-483	PRESUMPTIVE
	144-192	166-221	190-254	219-292	252-336	290-386	Mitigated
	A	A	A	A	A	A	DISPOSITION
	157-196	180-225	207-258	238-297	273-342	314-393	Aggravated
B2	125-157	144-180	165-207	190-238	219-273	251-314	PRESUMPTIVE
	94-125	108-144	124-165	143-190	164-219	189-251	Mitigated
	A	A	A	A	A	A	DISPOSITION

	73-92	83-104	96-120	110-138	127-159	146-182	Aggravated
C	58-73	67-83	77-96	88-110	101-127	117-146	PRESUMPTIVE
	44-58	50-67	58-77	66-88	76-101	87-117	Mitigated
	A	A	A	A	A	A	DISPOSITION
	64-80	73-92	84-105	97-121	111-139	128-160	Aggravated
D	51-64	59-73	67-84	78-97	89-111	103-128	PRESUMPTIVE
	38-51	44-59	51-67	58-78	67-89	77-103	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	33-41	38-48	44-55	50-63	Aggravated
E	20-25	23-29	26-33	30-38	35-44	40-50	PRESUMPTIVE
	15-20	17-23	20-26	23-30	26-35	30-40	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-23	21-27	25-31	28-36	33-41	Aggravated
F	13-16	15-19	17-21	20-25	23-28	26-33	PRESUMPTIVE
	10-13	11-15	13-17	15-20	17-23	20-26	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13-16	14-18	17-21	19-24	22-27	25-31	Aggravated
G	10-13	12-14	13-17	15-19	17-22	20-25	PRESUMPTIVE
	8-10	9-12	10-13	11-15	13-17	15-20	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

(d) Maximum Sentences Specified for Class F through Class I Felonies. -- Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
43-52	44-53	45-54	46-56	47-57	48-58	49-59	

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months. -- Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45

31-47 32-48 33-49 34-50 35-51 36-53 37-54 38-55
39-56 40-57 41-59 42-60 43-61 44-62 45-63 46-65
47-66 48-67 49-68 50-69 51-71 52-72 53-73 54-74
55-75 56-77 57-78 58-79 59-80 60-81 61-83 62-84
63-85 64-86 65-87 66-89 67-90 68-91 69-92 70-93
71-95 72-96 73-97 74-98 75-99 76-101 77-102 78-103
79-104 80-105 81-107 82-108 83-109 84-110 85-111 86-113
87-114 88-115 89-116 90-117 91-119 92-120 93-121 94-122
95-123 96-125 97-126 98-127 99-128 100-129 101-131 102-132
103-133 104-134 105-135 106-137 107-138 108-139 109-140 110-141
111-143 112-144 113-145 114-146 115-147 116-149 117-150 118-151
119-152 120-153 121-155 122-156 123-157 124-158 125-159 126-161
127-162 128-163 129-164 130-165 131-167 132-168 133-169 134-170
135-171 136-173 137-174 138-175 139-176 140-177 141-179 142-180
143-181 144-182 145-183 146-185 147-186 148-187 149-188 150-189
151-191 152-192 153-193 154-194 155-195 156-197 157-198 158-199
159-200 160-201 161-203 162-204 163-205 164-206 165-207 166-209
167-210 168-211 169-212 170-213 171-215 172-216 173-217 174-218
175-219 176-221 177-222 178-223 179-224 180-225 181-227 182-228
183-229 184-230 185-231 186-233 187-234 188-235 189-236 190-237
191-239 192-240 193-241 194-242 195-243 196-245 197-246 198-247
199-248 200-249 201-251 202-252 203-253 204-254 205-255 206-257
207-258 208-259 209-260 210-261 211-263 212-264 213-265 214-266
215-267 216-269 217-270 218-271 219-272 220-273 221-275 222-276
223-277 224-278 225-279 226-281 227-282 228-283 229-284 230-285
231-287 232-288 233-289 234-290 235-291 236-293 237-294 238-295
239-296 240-297 241-299 242-300 243-301 244-302 245-303 246-305
247-306 248-307 249-308 250-309 251-311 252-312 253-313 254-314
255-315 256-317 257-318 258-319 259-320 260-321 261-323 262-324
263-325 264-326 265-327 266-329 267-330 268-331 269-332 270-333
271-335 272-336 273-337 274-338 275-339 276-341 277-342 278-343
279-344 280-345 281-347 282-348 283-349 284-350 285-351 286-353
287-354 288-355 289-356 290-357 291-359 292-360 293-361 294-362
295-363 296-365 297-366 298-367 299-368 300-369 301-371 302-372
303-373 304-374 305-375 306-377 307-378 308-379 309-380 310-381
311-383 312-384 313-385 314-386 315-387 316-389 317-390 318-391
319-392 320-393 321-395 322-396 323-397 324-398 325-399 326-401
327-402 328-403 329-404 330-405 331-407 332-408 333-409 334-410
335-411 336-413 337-414 338-415 339-416

(e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More. -- Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus nine additional months.

N.C. GEN. STAT. § 15A-1340.21 (2010). Prior conviction level for misdemeanor sentencing.

(a) Generally. -- The prior conviction level of a misdemeanor offender is determined by calculating the number of the offender's prior convictions that the court finds to have been proven in accordance with this section.

(b) Prior Conviction Levels for Misdemeanor Sentencing. -- The prior conviction levels for misdemeanor sentencing are:

(1) Level I -- 0 prior convictions.

(2) Level II -- At least 1, but not more than 4 prior convictions.

(3) Level III -- At least 5 prior convictions.

In determining the prior conviction level, a prior offense may be included if it is either a felony or a misdemeanor at the time the offense for which the offender is being sentenced is committed.

(c) Proof of Prior Convictions. -- A prior conviction shall be proved by any of the following methods:

(1) Stipulation of the parties.

(2) An original or copy of the court record of the prior conviction.

(3) A copy of records maintained by the Division of Criminal Information, the Division of Motor Vehicles, or of the Administrative Office of the Courts.

(4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior conviction exists and that the offender before the court is the same person as the offender named in the prior conviction. The original or a copy of the court records or a copy of the records maintained by the Division of Criminal Information, the Division of Motor Vehicles, or of the Administrative Office of the Courts, bearing the same name as that by which the offender is charged, is prima facie evidence that the offender named is the same person as the offender before the court, and that the facts set out in the record are true. For purposes of this subsection, "copy" includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. Evidence presented by either party at trial may be utilized to prove prior convictions. Suppression of prior convictions is pursuant to G.S. 15A-980. If a motion is made pursuant to that section during the sentencing stage of the criminal action, the court may grant a continuance of the sentencing hearing.

(d) Multiple Prior Convictions Obtained in One Court Week. -- For purposes of this section, if an offender is convicted of more than one offense in a single session of district court, or in a single week of superior court or of a court in another jurisdiction, only one of the convictions may be used to determine the prior conviction level.

N.C. GEN. STAT. § 15A-1340.23 (2010). Punishment limits for each class of offense and prior conviction level.

(a) Offense Classification; Default Classifications. -- The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) Fines. -- Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars ($ 200.00) for a Class 3 misdemeanor and one thousand dollars ($ 1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.

(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described. -- Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; and "A" indicates that an active punishment is authorized; and

(2) A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.

MISDEMEANOR OFFENSE CLASS	PRIOR CONVICTION LEVELS LEVEL I	LEVEL II	LEVEL III
	No Prior Convictions	One to Four Prior Convictions	Five or More Prior Convictions
A1	1-60 days C/I/A	1-75 days C/I/A	1-150 days C/I/A
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A
3	1-10 days C	1-15 days C/I	1-20 days C/I/A.

N.C. GEN. STAT. § 15A-1362 (2010). Imposition of fines.

(a) General Criteria. -- In determining the method of payment of a fine, the court should consider the burden that payment will impose in view of the financial resources of the defendant.

(b) Installment or Delayed Payments. -- When a defendant is ordered to pay a fine, the court may provide for the payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, the fine is payable forthwith.

(c) Nonpayment. -- When a defendant is ordered, other than as a condition of probation, to pay a fine, costs, or both, the court may impose at the same time a sentence to be served in the event that the fine is not paid. The court also may impose an order that the defendant appear, if he fails to make the required payment, at a specified time to show cause why he should not be imprisoned.

NORTH DAKOTA

N.D. CENT. CODE § 12.1-20-03.1 (2010). Continuous sexual abuse of a child.

1. An individual in adult court is guilty of an offense if the individual engages in any combination of three or more sexual acts or sexual contacts with a minor under the age of fifteen years during a period of three or more months. The offense is a class AA felony if the actor was at least twenty-two years of age at the time of the offense. Otherwise, the offense is a class A felony. The court may not defer imposition of sentence.

2. If more than three sexual acts or contacts are alleged, a jury must unanimously agree that any combination of three or more acts or contacts occurred. The jury does not need to unanimously agree which three acts or contacts occurred.

3. No other felony offense under this chapter involving the same victim may be charged in the same proceeding with a charge under this section unless the other charged offense occurred outside the time period charged under this section or the other offense is charged in the alternative. A defendant may be charged with only one count under this section, but a separate count may be charged for each victim if more than one victim is involved.

N.D. CENT. CODE § 12.1-20-05 (2010). Corruption or solicitation of minors.

1. An adult who engages in, solicits with the intent to engage in, or causes another to engage in a sexual act with a minor, is guilty of a class A misdemeanor if the victim is a minor fifteen years of age or older.

2. An adult who solicits with the intent to engage in a sexual act with a minor under age fifteen or engages in or causes another to engage in a sexual act when the adult is at least twenty-two years of age and the victim is a minor fifteen years of age or older, is guilty of a class C felony.

3. An adult who commits a violation of subsection 1 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class C felony. An adult who commits a violation of subsection 2 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class B felony.

N.D. CENT. CODE § 12.1-20-05.1 (2010). Luring minors by computer or other electronic means.

1. An adult is guilty of luring minors by computer or other electronic means when:

a. The adult knows the character and content of a communication that, in whole or in part, implicitly or explicitly discusses or depicts actual or simulated nudity, sexual acts, sexual contact, sadomasochistic abuse, or other sexual performances and uses any computer communication system or other electronic means that allows the input, output, examination, or transfer of data or programs from one computer or electronic device to another to initiate or engage in such communication with a person the adult believes to be a minor; and

b. By means of that communication the adult importunes, invites, or induces a person the adult believes to be a minor to engage in sexual acts or to have sexual contact with the adult, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for the adult's benefit, satisfaction, lust, passions, or sexual desires.

2. A violation of this section is a class A misdemeanor if the adult is less than twenty-two years of age and reasonably believes the minor is age fifteen to seventeen. If the adult is less than twenty-two years of age and reasonably believes the minor is under age fifteen, or the adult is twenty-two years of age or older and the adult reasonably believes the minor is age fifteen to seventeen, violation of this section is a class C felony. If the adult is twenty-two years of age or older and the adult reasonably believes the minor is under the age of fifteen, violation of this section is a class B felony. The court shall sentence an adult convicted of a class B or class C felony under this section to serve a term of imprisonment of at least one year, except the court may sentence an individual to less than one year if the individual did not take a substantial step toward meeting with the minor.

3. The attorney general may issue an administrative subpoena compelling an internet service provider or cellular phone company to provide subscriber information to a law enforcement agency investigating a possible violation of this section.

N.D. CENT. CODE § 12.1-27.2-04.2 (2010). Sexual performance by a minor -- Enhanced penalties.

1. Notwithstanding the provisions of sections 12.1-32-01 and 12.1-32-01.1 relating to fines, a person who commits an offense under this chapter and who acts in the course of a commercial or for-profit activity or transaction in which the offender had or shared ownership, control, managerial responsibility, or a financial interest other than wages is subject to the following penalty:

a. For an individual, a fine not to exceed ten thousand dollars; or

b. For a corporation, limited liability company, association, partnership, or other legal entity, a fine not to exceed twenty-five thousand dollars.

2. Notwithstanding the provisions of sections 12.1-32-01 and 12.1-32-01.1 relating to fines, the court shall impose the following fine upon the conviction of a person or entity described in subsection 1 for a second or subsequent offense under this chapter:

a. For an individual, a fine not to exceed fifty thousand dollars; or

b. For a corporation, limited liability company, association, partnership, or other legal entity, a fine not to exceed one hundred thousand dollars.

N.D. CENT. CODE § 12.1-32-01 (2010). Classification of offenses – Penalties.

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.

2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.

3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.

4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of five thousand dollars, or both, may be imposed.

5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of two thousand dollars, or both, may be imposed.

6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand dollars, or both, may be imposed.

7. Infraction, for which a maximum fine of five hundred dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

N.D. CENT. CODE § 12.1-32-02.1 (2010). Mandatory prison terms for armed offenders.

Notwithstanding any other provision of this title, a term of imprisonment must be imposed upon an offender and served without benefit of parole when, in the course of committing an offense,

the offender inflicts or attempts to inflict bodily injury upon another, threatens or menaces another with imminent bodily injury with a dangerous weapon, explosive, destructive device, or firearm, or possesses or has within immediate reach and control a dangerous weapon, explosive, destructive device, or firearm while in the course of committing an offense under subsection 1, 2, or, except for the simple possession of marijuana, 6 of section 19-03.1-23. This requirement applies only when possession of a dangerous weapon, explosive, destructive device, or firearm has been charged and admitted or found to be true in the manner provided by law, and must be imposed as follows:

1. If the offense for which the offender is convicted is a class A or class B felony, the court shall impose a minimum sentence of four years' imprisonment.

2. If the offense for which the offender is convicted is a class C felony, the court shall impose a minimum sentence of two years' imprisonment.

This section applies even when being armed is an element of the offense for which the offender is convicted.

N.D. CENT. CODE § 12.1-32-09 (2010). Dangerous special offenders -- Habitual offenders -- Extended sentences -- Procedure.

1. A court may sentence a convicted offender to an extended sentence as a dangerous special offender or a habitual offender in accordance with this section upon a finding of any one or more of the following:

a. The convicted offender is a dangerous, mentally abnormal person whose conduct has been characterized by persistent aggressive behavior and the behavior makes the offender a serious danger to other persons.

b. The convicted offender is a professional criminal who has substantial income or resources derived from criminal activity.

c. The convicted offender is a habitual offender. The court may not make such a finding unless the offender is an adult and has previously been convicted in any state or states or by the United States of two felonies of class C or above committed at different times when the offender was an adult. For the purposes of this subdivision, a felony conviction in another state or under the laws of the United States is considered a felony of class C or above if it is punishable by a maximum term of imprisonment of five years or more.

d. The offender was convicted of an offense that seriously endangered the life of another person and the offender had previously been convicted of a similar offense.

e. The offender is especially dangerous because the offender used a firearm, dangerous weapon, or destructive device in the commission of the offense or during the flight therefrom.

A conviction shown on direct or collateral review or at the hearing to be invalid or for which the offender has been pardoned on the ground of innocence must be disregarded for purposes of subdivision c. In support of findings under subdivision b, it may be shown that the offender has had control of income or property not explained as derived from a source other than criminal activity. For purposes of subdivision b, a substantial source of income means a source of income

which for any period of one year or more exceeds the minimum wage, determined on the basis of a forty-hour week and a fifty-week year, without reference to exceptions, under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, for an employee engaged in commerce or in the production of goods for commerce, and which for the same period exceeds fifty percent of the offender's declared adjusted gross income under chapter 57-38.

2. The extended sentence may be imposed in the following manner:

a. If the offense for which the offender is convicted is a class A felony, the court may impose a sentence up to a maximum of life imprisonment.

b. If the offense for which the offender is convicted is a class B felony, the court may impose a sentence up to a maximum of imprisonment for twenty years.

c. If the offense for which the offender is convicted is a class C felony, the court may impose a sentence up to a maximum of imprisonment for ten years.

3. Whenever an attorney charged with the prosecution of a defendant in a court of this state for an alleged felony committed when the defendant was over the age of eighteen years has reason to believe that the defendant is a dangerous special offender or a habitual offender, the attorney, at a reasonable time before trial or acceptance by the court of a plea of guilty, may sign and file with the court, and may amend, a notice specifying that the defendant is a dangerous special offender or a habitual offender who upon conviction for the felony is subject to the imposition of a sentence under subsection 2, and setting out with particularity the reasons why the attorney believes the defendant to be a dangerous special offender or a habitual offender. In no case may the fact that the prosecuting attorney is seeking sentencing of the defendant as a dangerous special offender or a habitual offender be disclosed to the jury before a verdict. If the court finds that the filing of the notice as a public record may prejudice fair consideration of a pending criminal matter, the court may order the notice sealed and the notice is not subject to subpoena or public inspection during the pendency of the criminal matter, except on order of the court, but is subject to inspection by the defendant alleged to be a dangerous special offender or a habitual offender and the offender's counsel.

4. Upon any plea of guilty, or verdict or finding of guilt of the defendant of such felony, a hearing must be held, before sentence is imposed, in accordance with this subsection as follows:

a. By a jury, or the court if a jury is waived by the defendant, if the notice alleges that the defendant is a dangerous special offender under subdivision a, b, d, or e of subsection 1. The jury, or the court if a jury is waived, must find that the defendant is a dangerous special offender under one or more of these subdivisions by proof beyond a reasonable doubt. However, in the case of a notice alleging only subdivision e of subsection 1, the trial jury, or the trial court if a jury is waived, may make a special finding of proof of this subdivision without an additional hearing subsequent to a verdict or finding of guilt.

b. By the court if the notice alleges that the defendant is a habitual offender under subdivision c of subsection 1. The court must find that the defendant is a habitual offender by a preponderance of the evidence.

5. Except in the most extraordinary cases, the court shall obtain a presentence report and may receive a diagnostic testing report under subsection 5 of section 12.1-32-02 before holding a hearing under this subsection. The court shall fix a time for the hearing and notice thereof must be

given to the defendant and the prosecution at least five days prior thereto. The court shall permit the prosecution and counsel for the defendant, or the defendant if the defendant is not represented by counsel, to inspect the presentence report sufficiently before the hearing as to afford a reasonable opportunity for verification. In extraordinary cases, the court may withhold material not relevant to a proper sentence, diagnostic opinion that might seriously disrupt a program of rehabilitation, any source of information obtained on a promise of confidentiality, and material previously disclosed in open court. A court withholding all or part of a presentence report shall inform the parties of its action and place in the record the reasons therefor. The court may require parties inspecting all or part of a presentence report to give notice of any part thereof intended to be controverted. In connection with the hearing, the defendant is entitled to compulsory process and cross-examination of such witnesses as appear at the hearing. A duly authenticated copy of a former judgment or commitment is prima facie evidence of such former judgment or commitment. If the jury or the court finds, after hearing, one or more of the grounds set forth in subsection 1, that the defendant is a dangerous special offender or a habitual offender, the court shall sentence the defendant to imprisonment for an appropriate term within the limits specified in subsection 2.

N.D. CENT. CODE § 12.1-32-09.1 (2010). Sentencing of violent offenders.

Any offender who is convicted of a crime in violation of section 12.1-16-01, 12.1-16-02, 12.1-17-02, 12.1-18-01, subdivision a of subsection 1 or subdivision b of subsection 2 of section 12.1-20-03, section 12.1-22-01, subdivision b of subsection 2 of section 12.1-22-02, or an attempt to commit the offenses, and who receives a sentence of imprisonment is not eligible for release from confinement on any basis until eighty-five percent of the sentence imposed by the court has been served or the sentence is commuted. In the case of an offender who is sentenced to a term of life imprisonment with opportunity for parole under subsection 1 of section 12.1-32-01, the term "sentence imposed" means the remaining life expectancy of the offender on the date of sentencing. The remaining life expectancy of the offender must be calculated on the date of sentencing, computed by reference to a recognized mortality table as established by rule by the supreme court. Notwithstanding this section, an offender sentenced under subsection 1 of section 12.1-32-01 may not be eligible for parole until the requirements of that subsection have been met.

N.D. CENT. CODE § 12.1-32-11 (2010). Merger of sentences -- Sentencing for multiple offenses.

1. Unless the court otherwise orders, when a person serving a term of commitment imposed by a court of this state is committed for another offense or offenses, the shorter term or the shorter remaining term shall be merged in the other term. When a person on probation or parole for an offense committed in this state is sentenced for another offense or offenses, the period still to be served on probation or parole shall be merged in any new sentence of commitment or probation. A court merging sentences under this subsection shall forthwith furnish each of the other courts previously involved and the penal facility in which the defendant is confined under sentence with authenticated copies of its sentence, which shall cite the sentences being merged. A court which imposed a sentence which is merged pursuant to this subsection shall modify such sentence in accordance with the effect of the merger.

2. Repealed by S.L. 1977, ch. 129, § 1.

3. When sentenced only for misdemeanors, a defendant may not be consecutively sentenced to more than one year, except that a defendant being sentenced for two or more class A

misdemeanors may be subject to an aggregate maximum not exceeding that authorized by section 12.1-32-01 for a class C felony if each class A misdemeanor was committed as part of a different course of conduct or each involved a substantially different criminal objective.

N.D. CENT. CODE § 12.1-32-12 (2010). Penalties, sentences, and parole for offenses unclassified and in other titles.

Where an offense is defined by a statute or by the constitution without specification of its classification pursuant to section 12.1-32-01, the offense is punishable as provided in the statute or constitutional provision defining it, or:

1. If the offense is declared to be a felony, without further specification of punishment, it is punishable as if it were a class C felony.

2. If the offense is declared to be a misdemeanor, without further specification of punishment, it is punishable as if it were a class A misdemeanor.

The sentencing alternatives available under section 12.1-32-02 are available to a court sentencing an offender for commission of an offense defined by a statute outside this title.

N.D. CENT. CODE § 12.1-32-15 (2010). (Contingent expiration date -- See note) Offenders against children and sexual offenders -- Sexually violent predators -- Registration requirement -- Penalty.

1. As used in this section:

a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, labor trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.

b. "Department" means the department of corrections and rehabilitation.

c. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.

d. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

e. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, sex trafficking

in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.

f. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.

g. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.

2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. The court shall require an individual to register by stating this requirement on the court records, if that individual:

a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.

b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.

d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.

3. If a court has not ordered an individual to register in this state, an individual who resides or is temporarily domiciled in this state shall register if the individual:

a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;

b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or

c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.

4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.

5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.

6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency

having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized data base of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with whom that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with whom the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:

a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;

b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or

c. For the life of the individual, if that individual:

(1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this

lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;

(2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or

(3) Is assigned a high risk by the attorney general as provided in subsection 12.

9. An individual required to register under this section who violates this section is guilty of a class C felony. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.

10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.

11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.

12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:

a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.

b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.

c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sex offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.

d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

13. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:

a. Is required to register for a lifetime under subsection 8;

b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or

c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification to the victim of the offense and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

14. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.

15. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, the superintendent or principal of the school the juvenile attends, or the public if disclosure is necessary to protect public health or safety. The school administration may notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

16. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.

(Contingent effective date -- See note)Offenders against children and sexual offenders -- Sexually violent predators -- Registration requirement -- Penalty. 1. As used in this section:

a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, labor trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.

b. "Department" means the department of corrections and rehabilitation.

c. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.

d. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

e. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, sex trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.

f. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.

g. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.

2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. The court shall require an individual to register by stating this requirement on the court records, if that individual:

a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.

b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.

d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.

3. If a court has not ordered an individual to register in this state, an individual who resides or is temporarily domiciled in this state shall register if the individual:

a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;

b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or

c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.

4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.

5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement,

or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.

6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized data base of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with whom that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with whom the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering

under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:

a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;

b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or

c. For the life of the individual, if that individual:

(1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;

(2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or

(3) Is assigned a high risk by the attorney general as provided in subsection 12.

9. An individual required to register under this section who violates this section is guilty of a class C felony. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.

10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.

11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.

12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:

a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.

b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.

c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sex offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.

d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

13. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:

a. Is required to register for a lifetime under subsection 8;

b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or

c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

14. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school

function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.

15. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, the superintendent or principal of the school the juvenile attends, or the public if disclosure is necessary to protect public health or safety. The school administration may notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

16. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.

N.D. CENT. CODE § 12.1-32-16 (2010). Restitution to be required of certain offenders -- Penalty.

Notwithstanding any other provision in this chapter, whenever a person whose license has been suspended for nonpayment of child support under section 50-09-08.6 is convicted of engaging in activity for which the license was required, the court shall require as a condition of the sentence that the person pay restitution in the amount of two hundred fifty dollars, or a higher amount set by the court, as specified in subdivision e of subsection 4 of section 12.1-32-07. Any restitution ordered under this section must be paid to the state disbursement unit for distribution under section 14-09-25.

N.D. CENT. CODE § 12.1-37-01 (2010). Willful failure to pay child support -- Classification of offenses -- Affirmative defense -- Penalty.

1. A person is guilty of an offense if the person willfully fails to pay child support in an amount ordered by a court or other governmental agency having authority to issue the orders.

2. a. If the unpaid amount is greater than the greater of two thousand dollars or six times the monthly child support obligation, the offense is a class C felony.

b. If the unpaid amount is greater than the greater of one thousand dollars or three times the monthly child support obligation, but less than the amount required under subdivision a, the offense is a class A misdemeanor.

c. If the unpaid amount is less than the amount required under subdivision b, the offense is a class B misdemeanor.

3. If the failure to pay child support occurs while the defendant was in another state, and while the child was in this state, the offense must be construed to have been committed in this state.

4. It is an affirmative defense to a charge under subsection 1 that the defendant suffered from a disability during the periods an unpaid child support obligation accrued, such as to effectively preclude the defendant's employment at any gainful occupation. This defense is available only if the defendant lacked the means to pay the ordered amounts other than from employment.

5. For purposes of this section, "child support" has the meaning provided in section 14-09-09.10.

6. This section applies only to the willful failure to pay child support after August 1, 1995.

7. In a prosecution under this chapter, a copy of a record certified under section 14-08.1-08 is admissible as prima facie evidence of the contents of the record.

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OHIO REV. CODE ANN. § 2903.15 (2010). Permitting child abuse.

(A) No parent, guardian, custodian, or person having custody of a child under eighteen years of age or of a mentally or physically handicapped child under twenty-one years of age shall cause serious physical harm to the child, or the death of the child, as a proximate result of permitting the child to be abused, to be tortured, to be administered corporal punishment or other physical disciplinary measure, or to be physically restrained in a cruel manner or for a prolonged period.

(B) It is an affirmative defense to a charge under this section that the defendant did not have readily available a means to prevent the harm to the child or the death of the child and that the defendant took timely and reasonable steps to summon aid.

(C) Whoever violates this section is guilty of permitting child abuse. If the violation of this section causes serious physical harm to the child, permitting child abuse is a felony of the third degree. If the violation of this section causes the death of the child, permitting child abuse is a felony of the first degree.

OHIO REV. CODE ANN. § 2905.01 (2010). Kidnapping.

(A) No person, by force, threat, or deception, or, in the case of a victim under the age of thirteen or mentally incompetent, by any means, shall remove another from the place where the other person is found or restrain the liberty of the other person, for any of the following purposes:

(1) To hold for ransom, or as a shield or hostage;

(2) To facilitate the commission of any felony or flight thereafter;

(3) To terrorize, or to inflict serious physical harm on the victim or another;

(4) To engage in sexual activity, as defined in section 2907.01 of the Revised Code, with the victim against the victim's will;

(5) To hinder, impede, or obstruct a function of government, or to force any action or concession on the part of governmental authority.

(B) No person, by force, threat, or deception, or, in the case of a victim under the age of thirteen or mentally incompetent, by any means, shall knowingly do any of the following, under circumstances that create a substantial risk of serious physical harm to the victim or, in the case of a minor victim, under circumstances that either create a substantial risk of serious physical harm to the victim or cause physical harm to the victim:

(1) Remove another from the place where the other person is found;

(2) Restrain another of the other person's liberty;

(3) Hold another in a condition of involuntary servitude.

(C) (1) Whoever violates this section is guilty of kidnapping. Except as otherwise provided in this division or division (C)(2) or (3) of this section, kidnapping is a felony of the first degree. Except as otherwise provided in this division or division (C)(2) or (3) of this section, if the offender releases the victim in a safe place unharmed, kidnapping is a felony of the second degree.

(2) If the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 [2941.14.22] of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code and, except as otherwise provided in division (C)(3) of this section, shall sentence the offender to a mandatory prison term as provided in division (D)(7) of section 2929.14 of the Revised Code.

(3) If the victim of the offense is less than thirteen years of age and if the offender also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging the offense, kidnapping is a felony of the first degree, and, notwithstanding the definite sentence provided for a felony of the first degree in section 2929.14 of the Revised Code, the offender shall be sentenced pursuant to section 2971.03 of the Revised Code as follows:

(a) Except as otherwise provided in division (C)(3)(b) of this section, the offender shall be sentenced pursuant to that section to an indefinite prison term consisting of a minimum term of fifteen years and a maximum term of life imprisonment.

(b) If the offender releases the victim in a safe place unharmed, the offender shall be sentenced pursuant to that section to an indefinite term consisting of a minimum term of ten years and a maximum term of life imprisonment.

(D) As used in this section, "sexual motivation specification" has the same meaning as in section 2971.01 of the Revised Code.

OHIO REV. CODE ANN. § 2905.05 (2010). Criminal child enticement.

(A) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice, or lure any child under fourteen years of age to accompany the person in any manner,

including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:

(1) The actor does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity.

(2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.

(B) No person, with a sexual motivation, shall violate division (A) of this section.

(C) It is an affirmative defense to a charge under division (A) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.

(D) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, section 2907.02 or 2907.03 or former section 2907.12 of the Revised Code, or section 2905.01 or 2907.05 of the Revised Code when the victim of that prior offense was under seventeen years of age at the time of the offense, criminal child enticement is a felony of the fifth degree.

(E) As used in this section:

(1) "Sexual motivation" has the same meaning as in section 2971.01 of the Revised Code.

(2) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(3) "Vessel" has the same meaning as in section 1547.01 of the Revised Code.

OHIO REV. CODE ANN. § 2907.02 (2010). Rape.

(A) (1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:

(a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

(b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.

(c) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

(2) No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.

(B) Whoever violates this section is guilty of rape, a felony of the first degree. If the offender under division (A)(1)(a) of this section substantially impairs the other person's judgment or control by administering any controlled substance described in section 3719.41 of the Revised Code to the other person surreptitiously or by force, threat of force, or deception, the prison term imposed upon the offender shall be one of the prison terms prescribed for a felony of the first degree in section 2929.14 of the Revised Code that is not less than five years. Except as otherwise provided in this division, notwithstanding sections 2929.11 to 2929.14 of the Revised Code, an offender under division (A)(1)(b) of this section shall be sentenced to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code. If an offender is convicted of or pleads guilty to a violation of division (A)(1)(b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this division. If an offender under division (A)(1)(b) of this section previously has been convicted of or pleaded guilty to violating division (A)(1)(b) of this section or to violating an existing or former law of this state, another state, or the United States that is substantially similar to division (A)(1)(b) of this section, if the offender during or immediately after the commission of the offense caused serious physical harm to the victim, or if the victim under division (A)(1)(b) of this section is less than ten years of age, in lieu of sentencing the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, the court may impose upon the offender a term of life without parole. If the court imposes a term of life without parole pursuant to this division, division (F) of section 2971.03 of the Revised Code applies, and the offender automatically is classified a tier III sex offender/child-victim offender, as described in that division.

(C) A victim need not prove physical resistance to the offender in prosecutions under this section.

(D) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's past sexual activity with the offender, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

Evidence of specific instances of the defendant's sexual activity, opinion evidence of the defendant's sexual activity, and reputation evidence of the defendant's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, the defendant's past sexual activity with the victim, or is admissible against the defendant under section 2945.59 of the Revised Code, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(E) Prior to taking testimony or receiving evidence of any sexual activity of the victim or the defendant in a proceeding under this section, the court shall resolve the admissibility of the proposed evidence in a hearing in chambers, which shall be held at or before preliminary hearing and not less than three days before trial, or for good cause shown during the trial.

(F) Upon approval by the court, the victim may be represented by counsel in any hearing in chambers or other proceeding to resolve the admissibility of evidence. If the victim is indigent or otherwise is unable to obtain the services of counsel, the court, upon request, may appoint counsel to represent the victim without cost to the victim.

(G) It is not a defense to a charge under division (A)(2) of this section that the offender and the victim were married or were cohabiting at the time of the commission of the offense.

OHIO REV. CODE ANN. § 2907.03 (2010). Sexual battery.

(A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:

(1) The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution.

(2) The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.

(3) The offender knows that the other person submits because the other person is unaware that the act is being committed.

(4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.

(5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person.

(6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.

(7) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.

(8) The other person is a minor, the offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.

(9) The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person.

(10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.

(11) The other person is confined in a detention facility, and the offender is an employee of that detention facility.

(12) The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric.

(13) The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person.

(B) Whoever violates this section is guilty of sexual battery. Except as otherwise provided in this division, sexual battery is a felony of the third degree. If the other person is less than thirteen years of age, sexual battery is a felony of the second degree, and the court shall impose upon the offender a mandatory prison term equal to one of the prison terms prescribed in section 2929.14 of the Revised Code for a felony of the second degree.

(C) As used in this section:

(1) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.

(2) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code.

(3) "Institution of higher education" means a state institution of higher education defined in section 3345.011 [3345.01.1] of the Revised Code, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or a school certified under Chapter 3332. of the Revised Code.

(4) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

OHIO REV. CODE ANN. § 2907.04 (2010). Unlawful sexual conduct with minor.

(A) No person who is eighteen years of age or older shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

(B) Whoever violates this section is guilty of unlawful sexual conduct with a minor.

(1) Except as otherwise provided in divisions (B)(2), (3), and (4) of this section, unlawful sexual conduct with a minor is a felony of the fourth degree.

(2) Except as otherwise provided in division (B)(4) of this section, if the offender is less than four years older than the other person, unlawful sexual conduct with a minor is a misdemeanor of the first degree.

(3) Except as otherwise provided in division (B)(4) of this section, if the offender is ten or more years older than the other person, unlawful sexual conduct with a minor is a felony of the third degree.

(4) If the offender previously has been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code, unlawful sexual conduct with a minor is a felony of the second degree.

OHIO REV. CODE ANN. § 2907.05 (2010). Gross sexual imposition.

(A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:

(1) The offender purposely compels the other person, or one of the other persons, to submit by force or threat of force.

(2) For the purpose of preventing resistance, the offender substantially impairs the judgment or control of the other person or of one of the other persons by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

(3) The offender knows that the judgment or control of the other person or of one of the other persons is substantially impaired as a result of the influence of any drug or intoxicant administered to the other person with the other person's consent for the purpose of any kind of medical or dental examination, treatment, or surgery.

(4) The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person.

(5) The ability of the other person to resist or consent or the ability of one of the other persons to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age.

(B) No person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(C) Whoever violates this section is guilty of gross sexual imposition.

(1) Except as otherwise provided in this section, gross sexual imposition committed in violation of division (A)(1), (2), (3), or (5) of this section is a felony of the fourth degree. If the offender under division (A)(2) of this section substantially impairs the judgment or control of the other person or one of the other persons by administering any controlled substance described in section 3719.41 of the Revised Code to the person surreptitiously or by force, threat of force, or deception, gross sexual imposition committed in violation of division (A)(2) of this section is a felony of the third degree.

(2) Gross sexual imposition committed in violation of division (A)(4) or (B) of this section is a felony of the third degree. Except as otherwise provided in this division, for gross sexual imposition committed in violation of division (A)(4) or (B) of this section there is a presumption that a prison term shall be imposed for the offense. The court shall impose on an offender convicted of gross sexual imposition in violation of division (A)(4) or (B) of this section a mandatory prison term equal to one of the prison terms prescribed in section 2929.14 of the Revised Code for a felony of the third degree if either of the following applies:

(a) Evidence other than the testimony of the victim was admitted in the case corroborating the violation;

(b) The offender previously was convicted of or pleaded guilty to a violation of this section, rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.

(D) A victim need not prove physical resistance to the offender in prosecutions under this section.

(E) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's past sexual activity with the offender, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

Evidence of specific instances of the defendant's sexual activity, opinion evidence of the defendant's sexual activity, and reputation evidence of the defendant's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, the defendant's past sexual activity with the victim, or is admissible against the defendant under section 2945.59 of the Revised Code, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(F) Prior to taking testimony or receiving evidence of any sexual activity of the victim or the defendant in a proceeding under this section, the court shall resolve the admissibility of the proposed evidence in a hearing in chambers, which shall be held at or before preliminary hearing and not less than three days before trial, or for good cause shown during the trial.

(G) Upon approval by the court, the victim may be represented by counsel in any hearing in chambers or other proceeding to resolve the admissibility of evidence. If the victim is indigent or otherwise is unable to obtain the services of counsel, the court, upon request, may appoint counsel to represent the victim without cost to the victim.

OHIO REV. CODE ANN. § 2907.323 (2010). Illegal use of minor in nudity-oriented material or performance.

(A) No person shall do any of the following:

(1) Photograph any minor who is not the person's child or ward in a state of nudity, or create, direct, produce, or transfer any material or performance that shows the minor in a state of nudity, unless both of the following apply:

(a) The material or performance is, or is to be, sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance;

(b) The minor's parents, guardian, or custodian consents in writing to the photographing of the minor, to the use of the minor in the material or performance, or to the transfer of the material and to the specific manner in which the material or performance is to be used.

(2) Consent to the photographing of the person's minor child or ward, or photograph the person's minor child or ward, in a state of nudity or consent to the use of the person's minor child or ward in a state of nudity in any material or performance, or use or transfer a material or performance of that nature, unless the material or performance is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance;

(3) Possess or view any material or performance that shows a minor who is not the person's child or ward in a state of nudity, unless one of the following applies:

(a) The material or performance is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.

(b) The person knows that the parents, guardian, or custodian has consented in writing to the photographing or use of the minor in a state of nudity and to the manner in which the material or performance is used or transferred.

(B) Whoever violates this section is guilty of illegal use of a minor in a nudity-oriented material or performance. Whoever violates division (A)(1) or (2) of this section is guilty of a felony of the second degree. Except as otherwise provided in this division, whoever violates division (A)(3) of this section is guilty of a felony of the fifth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or section 2907.321 [2907.32.1] or 2907.322 [2907.32.2.] of the Revised Code, illegal use of a minor in a nudity-oriented material or performance in violation of division (A)(3) of this section is a felony of the fourth degree. If the offender who violates division (A)(1) or (2) of this section also is convicted of or pleads guilty to a specification as described in section 2941.1422 [2941.14.22] of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (D)(7) of section

2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

OHIO REV. CODE ANN. § 2919.21 (2010). Nonsupport or contributing to nonsupport of dependents.

(A) No person shall abandon, or fail to provide adequate support to:

(1) The person's spouse, as required by law;

(2) The person's child who is under age eighteen, or mentally or physically handicapped child who is under age twenty-one;

(3) The person's aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for the parent's own support.

(B) No person shall abandon, or fail to provide support as established by a court order to, another person whom, by court order or decree, the person is legally obligated to support.

(C) No person shall aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in section 2151.04 of the Revised Code, or a neglected child, as defined in section 2151.03 of the Revised Code.

(D) It is an affirmative defense to a charge of failure to provide adequate support under division (A) of this section or a charge of failure to provide support established by a court order under division (B) of this section that the accused was unable to provide adequate support or the established support but did provide the support that was within the accused's ability and means.

(E) It is an affirmative defense to a charge under division (A)(3) of this section that the parent abandoned the accused or failed to support the accused as required by law, while the accused was under age eighteen, or was mentally or physically handicapped and under age twenty-one.

(F) It is not a defense to a charge under division (B) of this section that the person whom a court has ordered the accused to support is being adequately supported by someone other than the accused.

(G) (1) Except as otherwise provided in this division, whoever violates division (A) or (B) of this section is guilty of nonsupport of dependents, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (A)(2) or (B) of this section or if the offender has failed to provide support under division (A)(2) or (B) of this section for a total accumulated period of twenty-six weeks out of one hundred four consecutive weeks, whether or not the twenty-six weeks were consecutive, then a violation of division (A)(2) or (B) of this section is a felony of the fifth degree. If the offender previously has been convicted of or pleaded guilty to a felony violation of this section, a violation of division (A)(2) or (B) of this section is a felony of the fourth degree. If the offender is guilty of nonsupport of dependents by reason of failing to provide support to the offender's child as required by a child support order issued on or after April 15, 1985, pursuant to section 2151.23, 2151.231 [2151.23.1], 2151.232 [2151.23.2], 2151.33, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31, or 3115.31 of the Revised Code, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and require the person to pay any reasonable attorney's fees of

any adverse party other than the state, as determined by the court, that arose in relation to the charge.

(2) Whoever violates division (C) of this section is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of violation of division (C) of this section is a separate offense.

OHIO REV. CODE ANN. § 2919.22 (2010). Endangering children.

(A) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support. It is not a violation of a duty of care, protection, or support under this division when the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(B) No person shall do any of the following to a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age:

(1) Abuse the child;

(2) Torture or cruelly abuse the child;

(3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;

(4) Repeatedly administer unwarranted disciplinary measures to the child, when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development;

(5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter;

(6) Allow the child to be on the same parcel of real property and within one hundred feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within one hundred feet of, any act in violation of section 2925.04 or 2925.041 [2925.04.1] of the Revised Code when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of section 2925.04 or 2925.041 [2925.04.1] of the Revised Code that is the basis of the violation of this division.

(C) (1) No person shall operate a vehicle, streetcar, or trackless trolley within this state in violation of division (A) of section 4511.19 of the Revised Code when one or more children under eighteen years of age are in the vehicle, streetcar, or trackless trolley. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of

this division and a violation of division (A) of section 4511.19 of the Revised Code that constitutes the basis of the charge of the violation of this division. For purposes of sections 4511.191 [4511.19.1] to 4511.197 [4511.19.7] of the Revised Code and all related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in division (C)(1) of this section:

(a) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(b) "Vehicle," "streetcar," and "trackless trolley" have the same meanings as in section 4511.01 of the Revised Code.

(D) (1) Division (B)(5) of this section does not apply to any material or performance that is produced, presented, or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under division (B)(5) of this section.

(3) In a prosecution under division (B)(5) of this section, the trier of fact may infer that an actor, model, or participant in the material or performance involved is a juvenile if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the actor, model, or participant as a juvenile.

(4) As used in this division and division (B)(5) of this section:

(a) "Material," "performance," "obscene," and "sexual activity" have the same meanings as in section 2907.01 of the Revised Code.

(b) "Nudity-oriented matter" means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to prurient interest.

(c) "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.

(E) (1) Whoever violates this section is guilty of endangering children.

(2) If the offender violates division (A) or (B)(1) of this section, endangering children is one of the following, and, in the circumstances described in division (E)(2)(e) of this section, that division applies:

(a) Except as otherwise provided in division (E)(2)(b), (c), or (d) of this section, a misdemeanor of the first degree;

(b) If the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(2)(c) or (d) of this section, a felony of the fourth degree;

(c) If the violation is a violation of division (A) of this section and results in serious physical harm to the child involved, a felony of the third degree;

(d) If the violation is a violation of division (B)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree.

(e) If the violation is a felony violation of division (B)(1) of this section and the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 [2941.14.22] of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (D)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

(3) If the offender violates division (B)(2), (3), (4), or (6) of this section, except as otherwise provided in this division, endangering children is a felony of the third degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, endangering children is a felony of the second degree. If the offender violates division (B)(2), (3), or (4) of this section and the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 [2941.14.22] of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (D)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code. If the offender violates division (B)(6) of this section and the drug involved is methamphetamine, the court shall impose a mandatory prison term on the offender as follows:

(a) If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than two years. If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B) (6) of this section, a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 [2925.04.1] of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than five years.

(b) If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than three years. If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(6) of this section,

a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 [2925.04.1] of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than five years.

(4) If the offender violates division (B)(5) of this section, endangering children is a felony of the second degree. If the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 [2941.14.22] of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (D)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

(5) If the offender violates division (C) of this section, the offender shall be punished as follows:

(a) Except as otherwise provided in division (E)(5)(b) or (c) of this section, endangering children in violation of division (C) of this section is a misdemeanor of the first degree.

(b) If the violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under this section or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(5)(c) of this section, endangering children in violation of division (C) of this section is a felony of the fifth degree.

(c) If the violation results in serious physical harm to the child involved and if the offender previously has been convicted of a violation of division (C) of this section, section 2903.06 or 2903.08 of the Revised Code, section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, endangering children in violation of division (C) of this section is a felony of the fourth degree.

(d) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (E)(5)(a), (b), or (c) of this section or pursuant to any other provision of law and in addition to any suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

(e) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction imposed upon the offender pursuant to division (E)(5)(a), (b), (c), or (d) of this section or pursuant to any other provision of law for the violation of division (C) of this section, if as part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the offender also shall be sentenced in accordance with section 4511.19 of the Revised Code for that violation of division (A) of section 4511.19 of the Revised Code.

(F) (1) (a) A court may require an offender to perform not more than two hundred hours of supervised community service work under the authority of an agency, subdivision, or charitable organization. The requirement shall be part of the community control sanction or sentence of the offender, and the court shall impose the community service in accordance with and subject to divisions (F)(1)(a) and (b) of this section. The court may require an offender whom it requires to perform supervised community service work as part of the offender's community control sanction or sentence to pay the court a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work. If the court requires the offender to perform supervised community service work as part of the offender's community control sanction or sentence, the court shall do so in accordance with the following limitations and criteria:

(i) The court shall require that the community service work be performed after completion of the term of imprisonment or jail term imposed upon the offender for the violation of division (C) of this section, if applicable.

(ii) The supervised community service work shall be subject to the limitations set forth in divisions (B)(1), (2), and (3) of section 2951.02 of the Revised Code.

(iii) The community service work shall be supervised in the manner described in division (B)(4) of section 2951.02 of the Revised Code by an official or person with the qualifications described in that division. The official or person periodically shall report in writing to the court concerning the conduct of the offender in performing the work.

(iv) The court shall inform the offender in writing that if the offender does not adequately perform, as determined by the court, all of the required community service work, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 [2967.19.1] of the Revised Code, and that, if the court orders that the offender be so committed, the court is authorized, but not required, to grant the offender credit upon the period of the commitment for the community service work that the offender adequately performed.

(b) If a court, pursuant to division (F)(1)(a) of this section, orders an offender to perform community service work as part of the offender's community control sanction or sentence and if the offender does not adequately perform all of the required community service work, as determined by the court, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 [2967.19.1] of the Revised Code. The court may order that a person committed pursuant to this division shall receive hour-for-hour credit upon the period of the commitment for the community service work that the offender adequately performed. No commitment pursuant to this division shall exceed the period of the

term of imprisonment that the sentencing court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under that sentence or term and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 [2967.19.1] of the Revised Code.

(2) Division (F)(1) of this section does not limit or affect the authority of the court to suspend the sentence imposed upon a misdemeanor offender and place the offender under a community control sanction pursuant to section 2929.25 of the Revised Code, to require a misdemeanor or felony offender to perform supervised community service work in accordance with division (B) of section 2951.02 of the Revised Code, or to place a felony offender under a community control sanction.

(G) (1) If a court suspends an offender's driver's or commercial driver's license or permit or nonresident operating privilege under division (E)(5)(d) of this section, the period of the suspension shall be consecutive to, and commence after, the period of suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law in relation to the violation of division (C) of this section that is the basis of the suspension under division (E)(5)(d) of this section or in relation to the violation of division (A) of section 4511.19 of the Revised Code that is the basis for that violation of division (C) of this section.

(2) An offender is not entitled to request, and the court shall not grant to the offender, limited driving privileges if the offender's license, permit, or privilege has been suspended under division (E)(5)(d) of this section and the offender, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of one or more of the following:

(a) Division (C) of this section;

(b) Any equivalent offense, as defined in section 4511.181 [4511.18.1] of the Revised Code.

(H) (1) If a person violates division (C) of this section and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of division (C) of this section for each of the children, but the court may sentence the offender for only one of the violations.

(2) (a) If a person is convicted of or pleads guilty to a violation of division (C) of this section but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, both of the following apply:

(i) For purposes of the provisions of section 4511.19 of the Revised Code that set forth the penalties and sanctions for a violation of division (A) of section 4511.19 of the Revised Code, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute a violation of division (A) of section 4511.19 of the Revised Code;

(ii) For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code and that is not described in division (H)(2)(a)(i) of this section, the conviction of or plea of guilty to the violation of division

(C) of this section shall constitute a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(b) If a person is convicted of or pleads guilty to a violation of division (C) of this section and the person also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code, a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(I) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code;

(2) "Limited driving privileges" has the same meaning as in section 4501.01 of the Revised Code.

(3) "Methamphetamine" has the same meaning as in section 2925.01 of the Revised Code.

OHIO REV. CODE ANN. § 2919.23 (2010). Interference with custody.

(A) No person, knowing the person is without privilege to do so or being reckless in that regard, shall entice, take, keep, or harbor a person identified in division (A)(1), (2), or (3) of this section from the parent, guardian, or custodian of the person identified in division (A)(1), (2), or (3) of this section:

(1) A child under the age of eighteen, or a mentally or physically handicapped child under the age of twenty-one;

(2) A person committed by law to an institution for delinquent, unruly, neglected, abused, or dependent children;

(3) A person committed by law to an institution for the mentally ill or mentally retarded.

(B) No person shall aid, abet, induce, cause, or encourage a child or a ward of the juvenile court who has been committed to the custody of any person, department, or public or private institution to leave the custody of that person, department, or institution without legal consent.

(C) It is an affirmative defense to a charge of enticing or taking under division (A)(1) of this section, that the actor reasonably believed that the actor's conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under division (A) of this section, that the actor in good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under the actor's shelter, protection, or influence.

(D) (1) Whoever violates this section is guilty of interference with custody.

(2) Except as otherwise provided in this division, a violation of division (A)(1) of this section is a misdemeanor of the first degree. If the child who is the subject of a violation of division (A)(1) of this section is removed from the state or if the offender previously has been convicted of an offense under this section, a violation of division (A)(1) of this section is a felony of the fifth degree. If the child who is the subject of a violation of division (A)(1) of this section suffers physical harm as a result of the violation, a violation of division (A)(1) of this section is a felony of the fourth degree.

(3) A violation of division (A)(2) or (3) of this section is a misdemeanor of the third degree.

(4) A violation of division (B) of this section is a misdemeanor of the first degree. Each day of violation of division (B) of this section is a separate offense.

OHIO REV. CODE ANN. § 2929.14 (2010). Basic prison terms.

(A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (D)(7), (D)(8), (G), (I), (J), or (L) of this section or in division (D)(6) of section 2919.25 of the Revised Code and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, or ten years.

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years.

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.

(B) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(5), (D)(6), (D)(7), (D)(8), (G), (I), (J), or (L) of this section, in section 2907.02, 2907.05, or 2919.25 of the Revised Code, or in Chapter 2925. of the Revised Code, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender, the court shall impose the shortest prison term authorized for the offense pursuant to division (A) of this section, unless one or more of the following applies:

(1) The offender was serving a prison term at the time of the offense, or the offender previously had served a prison term.

(2) The court finds on the record that the shortest prison term will demean the seriousness of the offender's conduct or will not adequately protect the public from future crime by the offender or others.

(C) Except as provided in division (D)(7), (D)(8), (G), or (L) of this section, in section 2919.25 of the Revised Code, or in Chapter 2925. of the Revised Code, the court imposing a sentence upon an offender for a felony may impose the longest prison term authorized for the offense pursuant to division (A) of this section only upon offenders who committed the worst forms of the offense, upon offenders who pose the greatest likelihood of committing future crimes, upon certain major drug offenders under division (D)(3) of this section, and upon certain repeat violent offenders in accordance with division (D)(2) of this section.

(D) (1) (a) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141 [2941.14.1], 2941.144 [2941.14.4], or 2941.145 [2941.14.5] of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i) A prison term of six years if the specification is of the type described in section 2941.144 [2941.14.4] of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or silencer on or about the offender's person or under the offender's control while committing the felony;

(ii) A prison term of three years if the specification is of the type described in section 2941.145 [2941.14.5] of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense;

(iii) A prison term of one year if the specification is of the type described in section 2941.141 [2941.14.1] of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the felony.

(b) If a court imposes a prison term on an offender under division (D)(1)(a) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193 [2967.19.3], or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. Except as provided in division (D)(1)(g) of this section, a court shall not impose more than one prison term on an offender under division (D)(1)(a) of this section for felonies committed as part of the same act or transaction.

(c) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 [2923.16.1] of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in section 2941.146 [2941.14.6] of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle other than a manufactured home, the court, after imposing a prison term on the offender for the violation of section 2923.161 [2923.16.1] of the Revised Code or for the other felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of five years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193 [2967.19.3], or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (D)(1)(c) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (D)(1)(c) of this section relative to an offense, the court also shall impose a prison term under division (D)(1)(a) of this section relative

to the same offense, provided the criteria specified in that division for imposing an additional prison term are satisfied relative to the offender and the offense.

(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1411 [2941.14.11] of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony offense of violence, the court shall impose on the offender a prison term of two years. The prison term so imposed shall not be reduced pursuant to section 2929.20, section 2967.193 [2967.19.3], or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(1)(d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (D)(1)(a) or (c) of this section, the court is not precluded from imposing an additional prison term under division (D)(1)(d) of this section.

(e) The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.12 or 2923.123 [2923.12.3] of the Revised Code. The court shall not impose any of the prison terms described in division (D)(1)(a) or (b) of this section upon an offender for a violation of section 2923.122 [2923.12.2] that involves a deadly weapon that is a firearm other than a dangerous ordnance, section 2923.16, or section 2923.121 [2923.12.1] of the Revised Code. The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply:

(i) The offender previously has been convicted of aggravated murder, murder, or any felony of the first or second degree.

(ii) Less than five years have passed since the offender was released from prison or post-release control, whichever is later, for the prior offense.

(f) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in section 2941.1412 [2941.14.12] of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer as defined in section 2941.1412 [2941.14.12] of the Revised Code, the court, after imposing a prison term on the offender for the felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of seven years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193 [2967.19.3], or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If an offender is convicted of or pleads guilty to two or more felonies that include, as an essential element, causing or attempting to cause the death or physical harm to another and also is convicted of or pleads guilty to a specification of the type described under division (D)(1)(f) of this section in connection with two or more of the felonies of which the offender is convicted or to which the offender pleads guilty, the sentencing court shall impose on the offender the prison term specified under division (D)(1)(f) of this section for each of two of the specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications. If a court imposes an additional prison term on an offender under division (D)(1)(f) of this section relative

to an offense, the court shall not impose a prison term under division (D)(1)(a) or (c) of this section relative to the same offense.

(g) If an offender is convicted of or pleads guilty to two or more felonies, if one or more of those felonies is aggravated murder, murder, attempted aggravated murder, attempted murder, aggravated robbery, felonious assault, or rape, and if the offender is convicted of or pleads guilty to a specification of the type described under division (D)(1)(a) of this section in connection with two or more of the felonies, the sentencing court shall impose on the offender the prison term specified under division (D)(1)(a) of this section for each of the two most serious specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications.

(2) (a) If division (D)(2)(b) of this section does not apply, the court may impose on an offender, in addition to the longest prison term authorized or required for the offense, an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 [2941.14.9] of the Revised Code that the offender is a repeat violent offender.

(ii) The offense of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(iii) The court imposes the longest prison term for the offense that is not life imprisonment without parole.

(iv) The court finds that the prison terms imposed pursuant to division (D)(2)(a)(iii) of this section and, if applicable, division (D)(1) or (3) of this section are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism.

(v) The court finds that the prison terms imposed pursuant to division (D)(2)(a)(iii) of this section and, if applicable, division (D)(1) or (3) of this section are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.

(b) The court shall impose on an offender the longest prison term authorized or required for the offense and shall impose on the offender an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 [2941.14.9] of the Revised Code that the offender is a repeat violent offender.

(ii) The offender within the preceding twenty years has been convicted of or pleaded guilty to three or more offenses described in division (CC)(1) of section 2929.01 of the Revised Code, including all offenses described in that division of which the offender is convicted or to which the offender pleads guilty in the current prosecution and all offenses described in that division of which the offender previously has been convicted or to which the offender previously pleaded guilty, whether prosecuted together or separately.

(iii) The offense or offenses of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(c) For purposes of division (D)(2)(b) of this section, two or more offenses committed at the same time or as part of the same act or event shall be considered one offense, and that one offense shall be the offense with the greatest penalty.

(d) A sentence imposed under division (D)(2)(a) or (b) of this section shall not be reduced pursuant to section 2929.20 or section 2967.193 [2967.19.3], or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. The offender shall serve an additional prison term imposed under this section consecutively to and prior to the prison term imposed for the underlying offense.

(e) When imposing a sentence pursuant to division (D)(2)(a) or (b) of this section, the court shall state its findings explaining the imposed sentence.

(3) (a) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender and requires the imposition of a ten-year prison term on the offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161 [3719.16.1], 4729.37, or 4729.61, division (C) or (D) of section 3719.172 [3719.17.2], division (C) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 [2941.14.10] of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the

offender for the felony violation a ten-year prison term that cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 5120. of the Revised Code.

(b) The court imposing a prison term on an offender under division (D)(3)(a) of this section may impose an additional prison term of one, two, three, four, five, six, seven, eight, nine, or ten years, if the court, with respect to the term imposed under division (D)(3)(a) of this section and, if applicable, divisions (D)(1) and (2) of this section, makes both of the findings set forth in divisions (D)(2)(a)(iv) and (v) of this section.

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty months for a fourth degree felony OVI offense and shall equal one of the authorized prison terms specified in division (A)(3) of this section for a third degree felony OVI offense. If the court imposes an additional prison term under division (D)(4) of this section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the offense. In addition to the mandatory prison term or mandatory and additional prison term imposed as described in division (D)(4) of this section, the court also may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code and the court imposes a mandatory term of local incarceration, the court may impose a prison term as described in division (A)(1) of that section.

(5) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1414 [2941.14.14] of the Revised Code that charges that the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, the court shall impose on the offender a prison term of five years. If a court imposes a prison term on an offender under division (D)(5) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193 [2967.19.3], or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(5) of this section for felonies committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 [2941.14.15] of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division

(A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 [2941.14.15] of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (D)(6) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193 [2967.19.3], or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(6) of this section for felonies committed as part of the same act.

(7) (a) If an offender is convicted of or pleads guilty to a felony violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323 [2907.32.3], or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 [2941.14.22] of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the court shall impose on the offender a mandatory prison term that is one of the following:

(i) If the offense is a felony of the first degree, a definite prison term of not less than five years and not greater than ten years;

(ii) If the offense is a felony of the second or third degree, a definite prison term of not less than three years and not greater than the maximum prison term allowed for the offense by division (A) of section 2929.14 of the Revised Code;

(iii) If the offense is a felony of the fourth or fifth degree, a definite prison term that is the maximum prison term allowed for the offense by division (A) of section 2929.14 of the Revised.

(b) The prison term imposed under division (D)(7)(a) of this section shall not be reduced pursuant to section 2929.20, section 2967.193 [2967.19.3], or any other provision of Chapter 2967. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(7)(a) of this section for felonies committed as part of the same act, scheme, or plan.

(8) If an offender is convicted of or pleads guilty to a felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 [2941.14.23] of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, notwithstanding the range of prison terms prescribed in division (A) of this section for felonies of the same degree as the violation, the court shall impose on the offender a mandatory prison term that is either a definite prison term of six months or one of the prison terms prescribed in section 2929.14 of the Revised Code for felonies of the same degree as the violation.

(E) (1) (a) Subject to division (E)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison term imposed under either division or under division (D)(1)(d) of this section, consecutively to and prior to any

prison term imposed for the underlying felony pursuant to division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(b) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(d) of this section for wearing or carrying body armor while committing an offense of violence that is a felony, the offender shall serve the mandatory term so imposed consecutively to any other mandatory prison term imposed under that division or under division (D)(1)(a) or (c) of this section, consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(c) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(f) of this section, the offender shall serve the mandatory prison term so imposed consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(d) If a mandatory prison term is imposed upon an offender pursuant to division (D)(7) or (8) of this section, the offender shall serve the mandatory prison term so imposed consecutively to any other mandatory prison term imposed under that division or under any other provision of law and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(2) If an offender who is an inmate in a jail, prison, or other residential detention facility violates section 2917.02, 2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender who is under detention at a detention facility commits a felony violation of section 2923.131 [2923.13.1] of the Revised Code, or if an offender who is an inmate in a jail, prison, or other residential detention facility or is under detention at a detention facility commits another felony while the offender is an escapee in violation of section 2921.34 of the Revised Code, any prison term imposed upon the offender for one of those violations shall be served by the offender consecutively to the prison term or term of imprisonment the offender was serving when the offender committed that offense and to any other prison term previously or subsequently imposed upon the offender.

(3) If a prison term is imposed for a violation of division (B) of section 2911.01 of the Revised Code, a violation of division (A) of section 2913.02 of the Revised Code in which the stolen property is a firearm or dangerous ordnance, or a felony violation of division (B) of section 2921.331 [2921.33.1] of the Revised Code, the offender shall serve that prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(4) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

(5) If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) or (6) of this section, the offender shall serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section or section 2929.142 [2929.14.2] of the Revised Code. If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) of this section, and if a mandatory prison term also is imposed upon the offender pursuant to division (D)(6) of this section in relation to the same violation, the offender shall serve the mandatory prison term imposed pursuant to division (D)(5) of this section consecutively to and prior to the mandatory prison term imposed pursuant to division (D)(6) of this section and consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section or section 2929.142 [2929.14.2] of the Revised Code.

(6) When consecutive prison terms are imposed pursuant to division (E)(1), (2), (3), (4), or (5) or division (J)(1) or (2) of this section, the term to be served is the aggregate of all of the terms so imposed.

(F) (1) If a court imposes a prison term for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division. If a court imposes a sentence including a prison term of a type described in this division on or after July 11, 2006, the failure of a court to include a post-release control requirement in the sentence pursuant to this division does not negate, limit, or otherwise affect the mandatory period of post-release control that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 [2929.19.1] of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(2) If a court imposes a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (F)(1) of this section, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division, if the parole board determines that a period of post-release control is necessary. Section 2929.191 [2929.19.1] of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(G) The court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment if any of the following apply:

(1) A person is convicted of or pleads guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense, and, in relation to that offense, the offender is adjudicated a sexually violent predator.

(2) A person is convicted of or pleads guilty to a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and either the court does not impose a sentence of life without parole when authorized pursuant to division (B) of section 2907.02 of the Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code.

(3) A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418 [2941.14.18], 2941.1419 [2941.14.19], or 2941.1420 [2941.14.20] of the Revised Code.

(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, and division (A)(2)(b)(ii) of section 2929.022 [2929.02.2], division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires the court to sentence the offender pursuant to division (B)(3) of section 2971.03 of the Revised Code.

(6) A person is convicted of or pleads guilty to murder committed on or after January 1, 2008, and division (B)(2) of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(H) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 [2929.14.2] of the Revised Code, or section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 [5120.16.3] of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(I) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 [2941.14.2] of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(J) (1) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or third degree that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.143 [2941.14.3] of the Revised Code that charges the offender with having committed the offense in a school safety zone or towards a person in a school safety zone, the court shall impose upon the offender an

additional prison term of two years. The offender shall serve the additional two years consecutively to and prior to the prison term imposed for the underlying offense.

(2) (a) If an offender is convicted of or pleads guilty to a felony violation of section 2907.22, 2907.24, 2907.241 [2907.24.1], or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 [2941.14.21] of the Revised Code and if the court imposes a prison term on the offender for the felony violation, the court may impose upon the offender an additional prison term as follows:

(i) Subject to division (J)(2)(a)(ii) of this section, an additional prison term of one, two, three, four, five, or six months;

(ii) If the offender previously has been convicted of or pleaded guilty to one or more felony or misdemeanor violations of section 2907.22, 2907.23, 2907.24, 2907.241 [2907.24.1], or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 [2941.14.21] of the Revised Code regarding one or more of those violations, an additional prison term of one, two, three, four, five, six, seven, eight, nine, ten, eleven, or twelve months.

(b) In lieu of imposing an additional prison term under division (J)(2)(a) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional prison term that the court could have imposed upon the offender under division (J)(2)(a) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the prison term imposed for the felony violation of section 2907.22, 2907.24, 2907.241 [2907.24.1], or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.16 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.15 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(K) At the time of sentencing, the court may recommend the offender for placement in a program of shock incarceration under section 5120.031 [5120.03.1] of the Revised Code or for placement in an intensive program prison under section 5120.032 [5120.03.2] of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless the department determines as specified in section 5120.031 [5120.03.1] or 5120.032 [5120.03.2] of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

If the court disapproves placement of the offender in a program or prison of that nature, the department of rehabilitation and correction shall not place the offender in any program of shock incarceration or intensive program prison.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the recommended program

or prison, the department shall notify the court of the placement and shall include with the notice a brief description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 [5120.03.1] or 5120.032 [5120.03.2] of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 [5120.03.1] or 5120.032 [5120.03.2] of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

(L) If a person is convicted of or pleads guilty to aggravated vehicular homicide in violation of division (A) (1) of section 2903.06 of the Revised Code and division (B)(2)(c) of that section applies, the person shall be sentenced pursuant to section 2929.142 [2929.14.2] of the Revised Code.

OHIO REV. CODE ANN. § 2929.141 (2010). New felony committed by person on post-release control.

(A) Upon the conviction of or plea of guilty to a felony by a person on post-release control at the time of the commission of the felony, the court may terminate the term of post-release control, and the court may do either of the following regardless of whether the sentencing court or another court of this state imposed the original prison term for which the person is on post-release control:

(1) In addition to any prison term for the new felony, impose a prison term for the post-release control violation. The maximum prison term for the violation shall be the greater of twelve months or the period of post-release control for the earlier felony minus any time the person has spent under post-release control for the earlier felony. In all cases, any prison term imposed for the violation shall be reduced by any prison term that is administratively imposed by the parole board as a post-release control sanction. A prison term imposed for the violation shall be served consecutively to any prison term imposed for the new felony. The imposition of a prison term for the post-release control violation shall terminate the period of post-release control for the earlier felony.

(2) Impose a sanction under sections 2929.15 to 2929.18 of the Revised Code for the violation that shall be served concurrently or consecutively, as specified by the court, with any community control sanctions for the new felony.

OHIO REV. CODE ANN. § 2929.18 (2010). Financial sanctions; restitution; reimbursements.

(A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section or, in the circumstances specified in section 2929.32 of the Revised Code, may impose upon the offender a fine in accordance with that section. Financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. If the court imposes restitution, the court shall order that the restitution be made to the victim in open court, to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court. If the court imposes restitution, at sentencing, the court shall determine the amount of restitution to be made by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold a hearing on restitution if the offender, victim, or survivor disputes the amount. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.

If the court imposes restitution, the court may order that the offender pay a surcharge of not more than five per cent of the amount of the restitution otherwise ordered to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision, or as described in division (B)(2) of this section to one or more law enforcement agencies, with the amount of the fine based on a standard percentage of the offender's daily income over a period of time determined by the court and based upon the seriousness of the offense. A fine ordered under this division shall not exceed the maximum conventional fine amount authorized for the level of the offense under division (A)(3) of this section.

(3) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision when appropriate for a felony, or as described in division (B)(2) of this section to one or more law enforcement agencies, in the following amount:

(a) For a felony of the first degree, not more than twenty thousand dollars;

(b) For a felony of the second degree, not more than fifteen thousand dollars;

(c) For a felony of the third degree, not more than ten thousand dollars;

(d) For a felony of the fourth degree, not more than five thousand dollars;

(e) For a felony of the fifth degree, not more than two thousand five hundred dollars.

(4) A state fine or costs as defined in section 2949.111 of the Revised Code.

(5) (a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:

(i) All or part of the costs of implementing any community control sanction, including a supervision fee under section 2951.021 of the Revised Code;

(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14, 2929.142 [2929.14.2], or 2929.16 of the Revised Code, provided that the amount of reimbursement ordered under this division shall not exceed the total amount of reimbursement the offender is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement;

(iii) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under section 4510.13 of the Revised Code.

(b) If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another local governmental entity, if, pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, the board, legislative authority, or other local governmental entity requires prisoners to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, and if the court does not impose a financial sanction under division (A)(5)(a)(ii) of this section, confinement costs may be assessed pursuant to section 2929.37 of the Revised Code. In addition, the offender may be required to pay the fees specified in section 2929.38 of the Revised Code in accordance with that section.

(c) Reimbursement by the offender for costs pursuant to section 2929.71 of the Revised Code.

(B) (1) For a first, second, or third degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code, the sentencing court shall impose upon the offender a mandatory fine of at least one-half of, but not more than, the maximum statutory fine amount authorized for the level of the offense pursuant to division (A)(3) of this section. If an offender alleges in an affidavit filed with the court prior to sentencing that the offender is indigent and unable to pay the mandatory fine and if the court determines the offender is an indigent person and is unable to pay the mandatory fine described in this division, the court shall not impose the mandatory fine upon the offender.

(2) Any mandatory fine imposed upon an offender under division (B)(1) of this section and any fine imposed upon an offender under division (A)(2) or (3) of this section for any fourth or fifth degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code shall be paid to law enforcement agencies pursuant to division (F) of section 2925.03 of the Revised Code.

(3) For a fourth degree felony OVI offense and for a third degree felony OVI offense, the sentencing court shall impose upon the offender a mandatory fine in the amount specified in

division (G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever is applicable. The mandatory fine so imposed shall be disbursed as provided in the division pursuant to which it is imposed.

(4) Notwithstanding any fine otherwise authorized or required to be imposed under division (A)(2) or (3) or (B)(1) of this section or section 2929.31 of the Revised Code for a violation of section 2925.03 of the Revised Code, in addition to any penalty or sanction imposed for that offense under section 2925.03 or sections 2929.11 to 2929.18 of the Revised Code and in addition to the forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code, the court that sentences an offender for a violation of section 2925.03 of the Revised Code may impose upon the offender a fine in addition to any fine imposed under division (A)(2) or (3) of this section and in addition to any mandatory fine imposed under division (B)(1) of this section. The fine imposed under division (B)(4) of this section shall be used as provided in division (H) of section 2925.03 of the Revised Code. A fine imposed under division (B)(4) of this section shall not exceed whichever of the following is applicable:

(a) The total value of any personal or real property in which the offender has an interest and that was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of section 2925.03 of the Revised Code, including any property that constitutes proceeds derived from that offense;

(b) If the offender has no interest in any property of the type described in division (B)(4)(a) of this section or if it is not possible to ascertain whether the offender has an interest in any property of that type in which the offender may have an interest, the amount of the mandatory fine for the offense imposed under division (B)(1) of this section or, if no mandatory fine is imposed under division (B)(1) of this section, the amount of the fine authorized for the level of the offense imposed under division (A)(3) of this section.

(5) Prior to imposing a fine under division (B)(4) of this section, the court shall determine whether the offender has an interest in any property of the type described in division (B)(4)(a) of this section. Except as provided in division (B)(6) or (7) of this section, a fine that is authorized and imposed under division (B)(4) of this section does not limit or affect the imposition of the penalties and sanctions for a violation of section 2925.03 of the Revised Code prescribed under those sections or sections 2929.11 to 2929.18 of the Revised Code and does not limit or affect a forfeiture of property in connection with the offense as prescribed in Chapter 2981. of the Revised Code.

(6) If the sum total of a mandatory fine amount imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code under division (B)(1) of this section plus the amount of any fine imposed under division (B)(4) of this section does not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court may impose a fine for the offense in addition to the mandatory fine and the fine imposed under division (B)(4) of this section. The sum total of the amounts of the mandatory fine, the fine imposed under division (B)(4) of this section, and the additional fine imposed under division (B)(6) of this section shall not exceed the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code. The clerk of the court shall pay any fine that is imposed under division (B)(6) of this section to the county, township, municipal corporation, park district as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the

arrest of, and in prosecuting, the offender pursuant to division (F) of section 2925.03 of the Revised Code.

(7) If the sum total of the amount of a mandatory fine imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code plus the amount of any fine imposed under division (B)(4) of this section exceeds the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court shall not impose a fine under division (B)(6) of this section.

(8) (a) If an offender who is convicted of or pleads guilty to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 [2941.14.22] of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following:

(i) The gross income or value to the offender of the victim's labor or services;

(ii) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 20 U.S.C. 207, and state labor laws.

(b) If a court imposing sentence upon an offender for a felony is required to impose upon the offender a financial sanction of restitution under division (B)(8)(a) of this section, in addition to that financial sanction of restitution, the court may sentence the offender to any other financial sanction or combination of financial sanctions authorized under this section, including a restitution sanction under division (A)(1) of this section.

(C) (1) The offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by the department of rehabilitation and correction in operating a prison or other facility used to confine offenders pursuant to sanctions imposed under section 2929.14, 2929.142 [2929.14.2], or 2929.16 of the Revised Code to the treasurer of state. The treasurer of state shall deposit the reimbursements in the confinement cost reimbursement fund that is hereby created in the state treasury. The department of rehabilitation and correction shall use the amounts deposited in the fund to fund the operation of facilities used to confine offenders pursuant to sections 2929.14, 2929.142 [2929.14.2], and 2929.16 of the Revised Code.

(2) Except as provided in section 2951.021 [2951.02.1] of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the county treasurer. The county treasurer shall deposit the reimbursements in the sanction cost reimbursement fund that each board of county commissioners shall create in its county treasury. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised

Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(3) Except as provided in section 2951.021 [2951.02.1] of the Revised Code, the offender shall pay reimbursements imposed upon the offender pursuant to division (A)(5)(a) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in a special fund that shall be established in the treasury of each municipal corporation. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.16 of the Revised Code.

(4) Except as provided in section 2951.021 [2951.02.1] of the Revised Code, the offender shall pay reimbursements imposed pursuant to division (A)(5)(a) of this section for the costs incurred by a private provider pursuant to a sanction imposed under this section or section 2929.16 or 2929.17 of the Revised Code to the provider.

(D) Except as otherwise provided in this division, a financial sanction imposed pursuant to division (A) or (B) of this section is a judgment in favor of the state or a political subdivision in which the court that imposed the financial sanction is located, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (A)(5)(a)(ii) of this section upon an offender who is incarcerated in a state facility or a municipal jail is a judgment in favor of the state or the municipal corporation, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed upon an offender pursuant to this section for costs incurred by a private provider of sanctions is a judgment in favor of the private provider, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (A)(1) or (B)(8) of this section is an order in favor of the victim of the offender's criminal act that can be collected through execution as described in division (D)(1) of this section or through an order as described in division (D)(2) of this section, and the offender shall be considered for purposes of the collection as the judgment debtor. Imposition of a financial sanction and execution on the judgment does not preclude any other power of the court to impose or enforce sanctions on the offender. Once the financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may bring an action to do any of the following:

(1) Obtain execution of the judgment or order through any available procedure, including:

(a) An execution against the property of the judgment debtor under Chapter 2329. of the Revised Code;

(b) An execution against the person of the judgment debtor under Chapter 2331. of the Revised Code;

(c) A proceeding in aid of execution under Chapter 2333. of the Revised Code, including:

(i) A proceeding for the examination of the judgment debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 of the Revised Code;

(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;

(iii) A creditor's suit under section 2333.01 of the Revised Code.

(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;

(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.

(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.

(E) A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.

(F) Each court imposing a financial sanction upon an offender under this section or under section 2929.32 of the Revised Code may designate the clerk of the court or another person to collect the financial sanction. The clerk or other person authorized by law or the court to collect the financial sanction may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code, a court shall comply with sections 307.86 to 307.92 of the Revised Code.

(G) If a court that imposes a financial sanction under division (A) or (B) of this section finds that an offender satisfactorily has completed all other sanctions imposed upon the offender and that all restitution that has been ordered has been paid as ordered, the court may suspend any financial sanctions imposed pursuant to this section or section 2929.32 of the Revised Code that have not been paid.

(H) No financial sanction imposed under this section or section 2929.32 of the Revised Code shall preclude a victim from bringing a civil action against the offender.

OHIO REV. CODE ANN. § 2929.23 (2010). Sentencing for sexually oriented offense or child-victim misdemeanor offense committed on or after January 1, 1997.

(A) If an offender is being sentenced for a sexually oriented offense or child-victim oriented offense that is a misdemeanor committed on or after January 1, 1997, and the offender is a tier III sex offender/child-victim offender relative to the offense or the offense is any offense listed in division (D)(1) to (3) of section 2901.07 of the Revised Code, the judge shall include in the offender's sentence a statement that the offender is a tier III sex offender/child-victim offender, shall comply with the requirements of section 2950.03 of the Revised Code, and shall require the offender to submit to a DNA specimen collection procedure pursuant to section 2901.07 of the Revised Code.

(B) If an offender is being sentenced for a sexually oriented offense or a child-victim oriented offense that is a misdemeanor committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duties imposed under sections 2950.04, 2950.041 [2950.04.1], 2950.05, and 2950.06 of the Revised Code and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration . If required under division (A)(2) of section 2950.03 of the Revised Code, the judge shall perform the duties specified in that section or, if required under division (A)(6) of section 2950.03 of the Revised Code, the judge shall perform the duties specified in that division.

OHIO REV. CODE ANN. § 2929.24 (2010). Definite jail terms for misdemeanor; eligibility for county jail industry program; reimbursement sanction; costs of confinement.

(A) Except as provided in section 2929.22 or 2929.23 of the Revised Code or division (E) or (F) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:

(1) For a misdemeanor of the first degree, not more than one hundred eighty days;

(2) For a misdemeanor of the second degree, not more than ninety days;

(3) For a misdemeanor of the third degree, not more than sixty days;

(4) For a misdemeanor of the fourth degree, not more than thirty days.

(B) A court that sentences an offender to a jail term under this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (B) of section 2929.26 of the Revised Code.

(C) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to section 5147.30 of the Revised Code, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

(D) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to section 2929.28 of the Revised Code a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(1) The court shall specify both of the following as part of the sentence:

(a) If the person is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.

(b) If the person does not dispute the bill described in division (D)(1)(a) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the person as described in that section.

(2) The sentence automatically includes any certificate of judgment issued as described in division (D)(1)(b) of this section.

(E) If an offender who is convicted of or pleads guilty to a violation of division (B) of section 4511.19 of the Revised Code also is convicted of or also pleads guilty to a specification of the type described in section 2941.1416 [2941.14.16] of the Revised Code and if the court imposes a jail term on the offender for the underlying offense, the court shall impose upon the offender an additional definite jail term of not more than six months. The additional jail term shall not be reduced pursuant to any provision of the Revised Code. The offender shall serve the additional jail term consecutively to and prior to the jail term imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense.

(F) (1) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2907.23, 2907.24, 2907.241 [2907.24.1], or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 [2941.14.21] of the Revised Code and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

(a) Subject to division (F)(1)(b) of this section, an additional definite jail term of not more than sixty days;

(b) If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of section 2907.22, 2907.23, 2907.24, 2907.241 [2907.24.1], or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 [2941.14.21] of the Revised Code regarding one or more of those violations, an additional definite jail term of not more than one hundred twenty days.

(2) In lieu of imposing an additional definite jail term under division (F)(1) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (F)(1) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of section 2907.23, 2907.24, 2907.241 [2907.24.1], or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.26 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.25 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(G) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 [2941.14.23] of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least thirty days.

Effective January 1, 2011:

(A) Except as provided in section 2929.22 or 2929.23 of the Revised Code or division (E) or (F) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:

(1) For a misdemeanor of the first degree, not more than one hundred eighty days;

(2) For a misdemeanor of the second degree, not more than ninety days;

(3) For a misdemeanor of the third degree, not more than sixty days;

(4) For a misdemeanor of the fourth degree, not more than thirty days.

(B) [A> (1) <A] A court that sentences an offender to a jail term under this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (B) of section 2929.26 of the Revised Code. [A> THE COURT RETAINS JURISDICTION OVER EVERY OFFENDER SENTENCED TO JAIL TO MODIFY THE JAIL SENTENCE IMPOSED AT ANY TIME, BUT THE COURT SHALL NOT REDUCE ANY MANDATORY JAIL TERM. <A]

[A> (2)(A) IF A PROSECUTOR, AS DEFINED IN SECTION 2935.01 OF THE REVISED CODE, HAS FILED A NOTICE WITH THE COURT THAT THE PROSECUTOR WANTS TO BE NOTIFIED ABOUT A PARTICULAR CASE AND IF THE COURT IS CONSIDERING MODIFYING THE JAIL SENTENCE OF THE OFFENDER IN THAT CASE, THE COURT SHALL NOTIFY THE PROSECUTOR THAT THE COURT IS CONSIDERING MODIFYING THE JAIL SENTENCE OF THE OFFENDER IN THAT CASE. THE PROSECUTOR MAY REQUEST A HEARING REGARDING THE COURT'S CONSIDERATION OF MODIFYING THE JAIL SENTENCE OF THE OFFENDER IN THAT CASE, AND, IF THE PROSECUTOR REQUESTS A HEARING, THE COURT SHALL NOTIFY THE ELIGIBLE OFFENDER OF THE HEARING. <A]

[A> (B) IF THE PROSECUTOR REQUESTS A HEARING REGARDING THE COURT'S CONSIDERATION OF MODIFYING THE JAIL SENTENCE OF THE OFFENDER IN THAT CASE, THE COURT SHALL HOLD THE HEARING BEFORE CONSIDERING WHETHER OR NOT TO RELEASE THE OFFENDER FROM THE OFFENDER'S JAIL SENTENCE. <A]

(C) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to section 5147.30 of the Revised Code, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail,

the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

(D) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to section 2929.28 of the Revised Code a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(1) The court shall specify both of the following as part of the sentence:

(a) If the person is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.

(b) If the person does not dispute the bill described in division (D)(1)(a) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the person as described in that section.

(2) The sentence automatically includes any certificate of judgment issued as described in division (D)(1)(b) of this section.

(E) If an offender who is convicted of or pleads guilty to a violation of division (B) of section 4511.19 of the Revised Code also is convicted of or also pleads guilty to a specification of the type described in section 2941.1416 of the Revised Code and if the court imposes a jail term on the offender for the underlying offense, the court shall impose upon the offender an additional definite jail term of not more than six months. The additional jail term shall not be reduced pursuant to any provision of the Revised Code. The offender shall serve the additional jail term consecutively to and prior to the jail term imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense.

(F)(1) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 of the Revised Code and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

(a) Subject to division (F)(1)(b) of this section, an additional definite jail term of not more than sixty days;

(b) If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 of the Revised Code regarding one or more of those violations, an additional definite jail term of not more than one hundred twenty days.

(2) In lieu of imposing an additional definite jail term under division (F)(1) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail

term that the court could have imposed upon the offender under division (F)(1) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.26 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.25 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(G) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least thirty days.

OHIO REV. CODE ANN. § 2929.28 (2010). Financial sanctions; court costs.

(A) In addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.

If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) A fine of the type described in divisions (A)(2)(a) and (b) of this section payable to the appropriate entity as required by law:

(a) A fine in the following amount:

(i) For a misdemeanor of the first degree, not more than one thousand dollars;

(ii) For a misdemeanor of the second degree, not more than seven hundred fifty dollars;

(iii) For a misdemeanor of the third degree, not more than five hundred dollars;

(iv) For a misdemeanor of the fourth degree, not more than two hundred fifty dollars;

(v) For a minor misdemeanor, not more than one hundred fifty dollars.

(b) A state fine or cost as defined in section 2949.111 [2949.11.1] of the Revised Code.

(3) (a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:

(i) All or part of the costs of implementing any community control sanction, including a supervision fee under section 2951.021 [2951.02.1] of the Revised Code;

(ii) All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined;

(iii) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under section 4510.13 of the Revised Code.

(b) The amount of reimbursement ordered under division (A)(3)(a) of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under section 2929.37 of the Revised Code. In addition, the offender may be required to pay the fees specified in section 2929.38 of the Revised Code in accordance with that section.

(B) If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this section or court costs or is likely in the future to be able to pay the sanction or costs.

If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (A) of section 2929.27 of the Revised Code in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (A) of section 2929.27 of the Revised Code in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (C) of section 2929.27 of the Revised Code in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

(C) (1) The offender shall pay reimbursements imposed upon the offender pursuant to division (A)(3) of this section to pay the costs incurred by a county pursuant to any sanction imposed under this section or section 2929.26 or 2929.27 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.26 of the Revised Code to the county treasurer. The county treasurer shall deposit the reimbursements in the county's general fund. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under this section or section 2929.26 or 2929.27 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.26 of the Revised Code.

(2) The offender shall pay reimbursements imposed upon the offender pursuant to division (A)(3) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under this section or section 2929.26 or 2929.27 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.26 of the Revised Code to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in the municipal corporation's general fund. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under this section or section 2929.26 or 2929.27 of the Revised Code or in operating a facility used to confine offenders pursuant to a sanction imposed under section 2929.26 of the Revised Code.

(3) The offender shall pay reimbursements imposed pursuant to division (A)(3) of this section for the costs incurred by a private provider pursuant to a sanction imposed under this section or section 2929.26 or 2929.27 of the Revised Code to the provider.

(D) Except as otherwise provided in this division, a financial sanction imposed under division (A) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (A)(3)(a)(i) of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (A)(3)(a)(ii) of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (A)(1) of this section is an order in favor of the victim of the offender's criminal act that can be collected through execution as described in division (D)(1) of this section or through an order as described in division (D)(2) of this section and the offender shall be considered for purposes of the collection as the judgment debtor.

Once the financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may bring an action to do any of the following:

(1) Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in divisions (D)(1)(a) to (e) of section 2929.18 of the Revised Code.

(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.

(E) The civil remedies authorized under division (D) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.

(F) Each court imposing a financial sanction upon an offender under this section may designate the clerk of the court or another person to collect the financial sanction. The clerk, or another person authorized by law or the court to collect the financial sanction may do the following:

(1) Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section, a court shall comply with sections 307.86 to 307.92 of the Revised Code.

(2) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, by credit or debit card or by another electronic transfer if the court is a municipal court not operated by a county, or by any other reasonable method, in any time, and on any terms that court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to section 301.28 of the Revised Code. If the court is a municipal court not operated by a county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

(3) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.

(G) No financial sanction imposed under this section shall preclude a victim from bringing a civil action against the offender.

OHIO REV. CODE ANN. § 2929.41 (2010). Multiple sentences.

(A) Except as provided in division (B) of this section, division (E) of section 2929.14, or division (D) or (E) of section 2971.03 of the Revised Code, a prison term, jail term, or sentence of imprisonment shall be served concurrently with any other prison term, jail term, or sentence of imprisonment imposed by a court of this state, another state, or the United States. Except as provided in division (B) (3) of this section, a jail term or sentence of imprisonment for misdemeanor shall be served concurrently with a prison term or sentence of imprisonment for felony served in a state or federal correctional institution.

(B) (1) A jail term or sentence of imprisonment for a misdemeanor shall be served consecutively to any other prison term, jail term, or sentence of imprisonment when the trial court specifies that it is to be served consecutively or when it is imposed for a misdemeanor violation of section 2907.322, 2921.34, or 2923.131 of the Revised Code.

When consecutive sentences are imposed for misdemeanor under this division, the term to be served is the aggregate of the consecutive terms imposed, except that the aggregate term to be served shall not exceed eighteen months.

(2) If a court of this state imposes a prison term upon the offender for the commission of a felony and a court of another state or the United States also has imposed a prison term upon the offender for the commission of a felony, the court of this state may order that the offender serve the prison term it imposes consecutively to any prison term imposed upon the offender by the court of another state or the United States.

(3) A jail term or sentence of imprisonment imposed for a misdemeanor violation of section 4510.11, 4510.14, 4510.16, 4510.21, or 4511.19 of the Revised Code shall be served consecutively to a prison term that is imposed for a felony violation of section 2903.06, 2903.07, 2903.08, or 4511.19 of the Revised Code or a felony violation of section 2903.04 of the Revised Code involving the operation of a motor vehicle by the offender and that is served in a state correctional institution when the trial court specifies that it is to be served consecutively.

When consecutive jail terms or sentences of imprisonment and prison terms are imposed for one or more misdemeanors and one or more felonies under this division, the term to be served is the aggregate of the consecutive terms imposed, and the offender shall serve all terms imposed for a felony before serving any term imposed for a misdemeanor.

OHIO REV. CODE ANN. § 2950.04 (2010). Duty to register and comply with registration requirements.

(A) (1) (a) Immediately after a sentencing hearing is held on or after January 1, 2008, for an offender who is convicted of or pleads guilty to a sexually oriented offense and is sentenced to a prison term, a term of imprisonment, or any other type of confinement and before the offender is transferred to the custody of the department of rehabilitation and correction or to the official in charge of the jail, workhouse, state correctional institution, or other institution where the offender will be confined, the offender shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender was convicted of or pleaded guilty to the sexually oriented offense.

(b) Immediately after a dispositional hearing is held on or after January 1, 2008, for a child who is adjudicated a delinquent child for committing a sexually oriented offense, is classified a juvenile offender registrant based on that adjudication, and is committed to the custody of the department of youth services or to a secure facility that is not operated by the department and before the child is transferred to the custody of the department of youth services or the secure facility to which the delinquent child is committed, the delinquent child shall register personally with the sheriff, or the sheriff's designee, of the county in which the delinquent child was classified a juvenile offender registrant based on that sexually oriented offense.

(c) A law enforcement officer shall be present at the sentencing hearing or dispositional hearing described in division (A)(1)(a) or (b) of this section to immediately transport the offender

or delinquent child who is the subject of the hearing to the sheriff, or the sheriff's designee, of the county in which the offender or delinquent child is convicted, pleads guilty, or is adjudicated a delinquent child.

(d) After an offender who has registered pursuant to division (A)(1)(a) of this section is released from a prison term, a term of imprisonment, or any other type of confinement, the offender shall register as provided in division (A)(2) of this section. After a delinquent child who has registered pursuant to division (A)(1)(b) of this section is released from the custody of the department of youth services or from a secure facility that is not operated by the department, the delinquent child shall register as provided in division (A)(3) of this section.

(2) Regardless of when the sexually oriented offense was committed, each offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a sexually oriented offense shall comply with the following registration requirements described in divisions (A)(2)(a), (b), (c), (d), and (e) of this section:

(a) The offender shall register personally with the sheriff, or the sheriff's designee, of the county within three days of the offender's coming into a county in which the offender resides or temporarily is domiciled for more than three days.

(b) The offender shall register personally with the sheriff, or the sheriff's designee, of the county immediately upon coming into a county in which the offender attends a school or institution of higher education on a full-time or part-time basis regardless of whether the offender resides or has a temporary domicile in this state or another state.

(c) The offender shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender is employed if the offender resides or has a temporary domicile in this state and has been employed in that county for more than three days or for an aggregate period of fourteen or more days in that calendar year.

(d) The offender shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender then is employed if the offender does not reside or have a temporary domicile in this state and has been employed at any location or locations in this state more than three days or for an aggregate period of fourteen or more days in that calendar year.

(e) The offender shall register with the sheriff, or the sheriff's designee, or other appropriate person of the other state immediately upon entering into any state other than this state in which the offender attends a school or institution of higher education on a full-time or part-time basis or upon being employed in any state other than this state for more than three days or for an aggregate period of fourteen or more days in that calendar year regardless of whether the offender resides or has a temporary domicile in this state, the other state, or a different state

(3) (a) Each child who is adjudicated a delinquent child for committing a sexually oriented offense and who is classified a juvenile offender registrant based on that adjudication shall register personally with the sheriff, or the sheriff's designee, of the county within three days of the delinquent child's coming into a county in which the delinquent child resides or temporarily is domiciled for more than three days.

(b) In addition to the registration duty imposed under division (A)(3)(a) of this section, each public registry-qualified juvenile offender registrant shall comply with the following additional registration requirements:

(i) The public registry-qualified juvenile offender registrant shall register personally with the sheriff, or the sheriff's designee, of the county immediately upon coming into a county in which the registrant attends a school or institution of higher education on a full-time or part-time basis regardless of whether the registrant resides or has a temporary domicile in this state or another state.

(ii) The public registry-qualified juvenile offender registrant shall register personally with the sheriff, or the sheriff's designee, of the county in which the registrant is employed if the registrant resides or has a temporary domicile in this state and has been employed in that county for more than three days or for an aggregate period of fourteen or more days in that calendar year.

(iii) The public registry-qualified juvenile offender registrant shall register personally with the sheriff, or the sheriff's designee, of the county in which the registrant then is employed if the registrant does not reside or have a temporary domicile in this state and has been employed at any location or locations in this state more than three days or for an aggregate period of fourteen or more days in that calendar year.

(iv) The public registry-qualified juvenile offender registrant shall register with the sheriff, or the sheriff's designee, or other appropriate person of the other state immediately upon entering into any state other than this state in which the registrant attends a school or institution of higher education on a full-time or part-time basis or upon being employed in any state other than this state for more than three days or for an aggregate period of fourteen or more days in that calendar year regardless of whether the registrant resides or has a temporary domicile in this state, the other state, or a different state.

(c) If the delinquent child is committed for the sexually oriented offense to the department of youth services or to a secure facility that is not operated by the department, this duty begins when the delinquent child is discharged or released in any manner from custody in a department of youth services secure facility or from the secure facility that is not operated by the department if pursuant to the discharge or release the delinquent child is not committed to any other secure facility of the department or any other secure facility.

(4) Regardless of when the sexually oriented offense was committed, each person who is convicted, pleads guilty, or is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States for committing a sexually oriented offense shall comply with the following registration requirements if, at the time the offender or delinquent child moves to and resides in this state or temporarily is domiciled in this state for more than three days, the offender or public registry-qualified juvenile offender registrant enters this state to attend a school or institution of higher education, or the offender or public registry-qualified juvenile offender registrant is employed in this state for more than the specified period of time, the offender or delinquent child has a duty to register as a sex offender or child-victim offender under the law of that other jurisdiction as a result of the conviction, guilty plea, or adjudication:

(a) Each offender and delinquent child shall register personally with the sheriff, or the sheriff's designee, of the county within three days of the offender's or delinquent child's coming into the county in which the offender or delinquent child resides or temporarily is domiciled for more than three days.

(b) Each offender or public registry-qualified juvenile offender registrant shall register personally with the sheriff, or the sheriff's designee, of the county immediately upon coming into a county in which the offender or public registry-qualified juvenile offender registrant attends a school or institution of higher education on a full-time or part-time basis regardless of whether the offender or public registry-qualified juvenile offender registrant resides or has a temporary domicile in this state or another state.

(c) Each offender or public registry-qualified juvenile offender registrant shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender or public registry-qualified juvenile offender registrant is employed if the offender resides or has a temporary domicile in this state and has been employed in that county for more than three days or for an aggregate period of fourteen days or more in that calendar year.

(d) Each offender or public registry-qualified juvenile offender registrant shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender or public registry-qualified juvenile offender registrant then is employed if the offender or public registry-qualified juvenile offender registrant does not reside or have a temporary domicile in this state and has been employed at any location or locations in this state for more than three days or for an aggregate period of fourteen or more days in that calendar year.

(5) An offender or a delinquent child who is a public registry-qualified juvenile offender registrant is not required to register under division (A)(2), (3), or (4) of this section if a court issues an order terminating the offender's or delinquent child's duty to comply with sections 2950.04, 2950.041 [2950.04.1], 2950.05, and 2950.06 of the Revised Code pursuant to section 2950.15 of the Revised Code. A delinquent child who is a juvenile offender registrant but is not a public registry-qualified juvenile offender registrant is not required to register under any of those divisions if a juvenile court issues an order declassifying the delinquent child as a juvenile offender registrant pursuant to section 2152.84 or 2152.85 of the Revised Code.

(B) An offender or delinquent child who is required by division (A) of this section to register in this state personally shall obtain from the sheriff or from a designee of the sheriff a registration form that conforms to division (C) of this section, shall complete and sign the form, and shall return the completed form together with the offender's or delinquent child's photograph, copies of travel and immigration documents, and any other required material to the sheriff or the designee. The sheriff or designee shall sign the form and indicate on the form the date on which it is so returned. The registration required under this division is complete when the offender or delinquent child returns the form, containing the requisite information, photograph, other required material, signatures, and date, to the sheriff or designee.

(C) The registration form to be used under divisions (A) and (B) of this section shall include or contain all of the following for the offender or delinquent child who is registering:

(1) The offender's or delinquent child's name and any aliases used by the offender or delinquent child;

(2) The offender's or delinquent child's social security number and date of birth, including any alternate social security numbers or dates of birth that the offender or delinquent child has used or uses;

(3) Regarding an offender or delinquent child who is registering under a duty imposed under division (A)(1) of this section, a statement that the offender is serving a prison term, term of

imprisonment, or any other type of confinement or a statement that the delinquent child is in the custody of the department of youth services or is confined in a secure facility that is not operated by the department;

(4) Regarding an offender or delinquent child who is registering under a duty imposed under division (A)(2), (3), or (4) of this section as a result of the offender or delinquent child residing in this state or temporarily being domiciled in this state for more than three days, the current residence address of the offender or delinquent child who is registering, the name and address of the offender's or delinquent child's employer if the offender or delinquent child is employed at the time of registration or if the offender or delinquent child knows at the time of registration that the offender or delinquent child will be commencing employment with that employer subsequent to registration, any other employment information, such as the general area where the offender or delinquent child is employed, if the offender or delinquent child is employed in many locations, and the name and address of the offender's or public registry-qualified juvenile offender registrant's school or institution of higher education if the offender or public registry-qualified juvenile offender registrant attends one at the time of registration or if the offender or public registry-qualified juvenile offender registrant knows at the time of registration that the offender or public registry-qualified juvenile offender registrant will be commencing attendance at that school or institution subsequent to registration;

(5) Regarding an offender or public registry-qualified juvenile offender registrant who is registering under a duty imposed under division (A)(2), (3), or (4) of this section as a result of the offender or public registry-qualified juvenile offender registrant attending a school or institution of higher education in this state on a full-time or part-time basis or being employed in this state or in a particular county in this state, whichever is applicable, for more than three days or for an aggregate of fourteen or more days in any calendar year, the name and current address of the school, institution of higher education, or place of employment of the offender or public registry-qualified juvenile offender registrant who is registering, including any other employment information, such as the general area where the offender or public registry-qualified juvenile offender registrant is employed, if the offender or public registry-qualified juvenile offender registrant is employed in many locations;

(6) The identification license plate number of each vehicle the offender or delinquent child owns, of each vehicle registered in the offender's or delinquent child's name, of each vehicle the offender or delinquent child operates as a part of employment, and of each other vehicle that is regularly available to be operated by the offender or delinquent child; a description of where each vehicle is habitually parked, stored, docked, or otherwise kept; and, if required by the bureau of criminal identification and investigation, a photograph of each of those vehicles;

(7) If the offender or delinquent child has a driver's or commercial driver's license or permit issued by this state or any other state or a state identification card issued under section 4507.50 or 4507.51 of the Revised Code or a comparable identification card issued by another state, the driver's license number, commercial driver's license number, or state identification card number;

(8) If the offender or delinquent child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense resulting in the registration duty in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States, a DNA specimen, as defined in section 109.573 [109.57.3] of the Revised Code, from the offender or delinquent child, a citation for, and the name of, the sexually oriented offense resulting in the registration duty, and a certified copy of a document that describes the text of that sexually oriented offense;

(9) A description of each professional and occupational license, permit, or registration, including those licenses, permits, and registrations issued under Title XLVII of the Revised Code, held by the offender or delinquent child;

(10) Any email addresses, internet identifiers, or telephone numbers registered to or used by the offender or delinquent child;

(11) Any other information required by the bureau of criminal identification and investigation.

(D) After an offender or delinquent child registers with a sheriff, or the sheriff's designee, pursuant to this section, the sheriff, or the sheriff's designee, shall forward the signed, written registration form, photograph, and other material to the bureau of criminal identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code. If an offender registers a school, institution of higher education, or place of employment address, or provides a school or institution of higher education address under division (C)(4) of this section, the sheriff also shall provide notice to the law enforcement agency with jurisdiction over the premises of the school, institution of higher education, or place of employment of the offender's name and that the offender has registered that address as a place at which the offender attends school or an institution of higher education or at which the offender is employed. The bureau shall include the information and materials forwarded to it under this division in the state registry of sex offenders and child victim offenders established and maintained under section 2950.13 of the Revised Code.

(E) No person who is required to register pursuant to divisions (A) and (B) of this section, and no person who is required to send a notice of intent to reside pursuant to division (G) of this section, shall fail to register or send the notice of intent as required in accordance with those divisions or that division.

(F) An offender or delinquent child who is required to register pursuant to divisions (A) and (B) of this section shall register pursuant to this section for the period of time specified in section 2950.07 of the Revised Code, with the duty commencing on the date specified in division (A) of that section.

(G) If an offender or delinquent child who is required by division (A) of this section to register is a tier III sex offender/child-victim offender, the offender or delinquent child also shall send the sheriff, or the sheriff's designee, of the county in which the offender or delinquent child intends to reside written notice of the offender's or delinquent child's intent to reside in the county. The offender or delinquent child shall send the notice of intent to reside at least twenty days prior to the date the offender or delinquent child begins to reside in the county. The notice of intent to reside shall contain the following information:

(1) The offender's or delinquent child's name;

(2) The address or addresses at which the offender or delinquent child intends to reside;

(3) The sexually oriented offense of which the offender was convicted, to which the offender pleaded guilty, or for which the child was adjudicated a delinquent child

(H) If, immediately prior to January 1, 2008, an offender or delinquent child who was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing a sexually oriented

offense or a child-victim oriented offense as those terms were defined in section 2950.01 of the Revised Code prior to January 1, 2008, was required by division (A) of this section or section 2950.041 [2950.04.1] of the Revised Code to register and if, on or after January 1, 2008, that offense is a sexually oriented offense as that term is defined in section 2950.01 of the Revised Code on and after January 1, 2008, the duty to register that is imposed pursuant to this section on and after January 1, 2008, shall be considered, for purposes of section 2950.07 of the Revised Code and for all other purposes, to be a continuation of the duty imposed upon the offender or delinquent child prior to January 1, 2008, under this section or section 2950.041 [2950.04.1] of the Revised Code.

OHIO REV. CODE ANN. § 2950.041 (2010). Duty to register resulting from child-victim oriented offense; notice of intent to reside.

(A) (1) (a) Immediately after a sentencing hearing is held on or after January 1, 2008, for an offender who is convicted of or pleads guilty to a child-victim oriented offense and is sentenced to a prison term, a term of imprisonment, or any other type of confinement and before the offender is transferred to the custody of the department of rehabilitation and correction or to the official in charge of the jail, workhouse, state correctional institution, or other institution where the offender will be confined, the offender shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender was convicted of or pleaded guilty to the child-victim offense.

(b) Immediately after a dispositional hearing is held on or after January 1, 2008, for a child who is adjudicated a delinquent child for committing a child-victim oriented offense, is classified a juvenile offender registrant based on that adjudication, and is committed to the custody of the department of youth services or to a secure facility that is not operated by the department and before the child is transferred to the custody of the department of youth services or the secure facility to which the delinquent child is committed, the delinquent child shall register personally with the sheriff, or the sheriff's designee, of the county in which the delinquent child was classified a juvenile offender registrant based on that child-victim oriented offense.

(c) A law enforcement officer shall be present at the sentencing hearing or dispositional hearing described in division (A)(1)(a) or (b) of this section to immediately transport the offender or delinquent child who is the subject of the hearing to the sheriff, or the sheriff's designee, of the county in which the offender or delinquent child is convicted, pleads guilty, or is adjudicated a delinquent child.

(d) After an offender who has registered pursuant to division (A)(1)(a) of this section is released from a prison term, a term of imprisonment, or any other type of confinement, the offender shall register as provided in division (A)(2) of this section. After a delinquent child who has registered pursuant to division (A)(1)(b) of this section is released from the custody of the department of youth services or from a secure facility that is not operated by the department, the delinquent child shall register as provided in division (A)(3) of this section.

(2) Regardless of when the child-victim oriented offense was committed, each offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense shall comply with all of the following registration requirements:

(a) The offender shall register personally with the sheriff, or the sheriff's designee, of the county within three days of the offender's coming into a county in which the offender resides or temporarily is domiciled for more than three days.

(b) The offender shall register personally with the sheriff, or the sheriff's designee, of the county immediately upon coming into a county in which the offender attends a school or institution of higher education on a full-time or part-time basis regardless of whether the offender resides or has a temporary domicile in this state or another state.

(c) The offender shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender is employed if the offender resides or has a temporary domicile in this state and has been employed in that county for more than three days or for an aggregate period of fourteen or more days in that calendar year.

(d) The offender shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender then is employed if the offender does not reside or have a temporary domicile in this state and has been employed at any location or locations in this state for more than three days or for an aggregate period of fourteen or more days in that calendar year.

(e) The offender shall register personally with the sheriff, or the sheriff's designee, or other appropriate person of the other state immediately upon entering into any state other than this state in which the offender attends a school or institution of higher education on a full-time or part-time basis or upon being employed in any state other than this state for more than three days or for an aggregate period of fourteen or more days in that calendar year regardless of whether the offender resides or has a temporary domicile in this state, the other state, or a different state.

(3) Regardless of when the child-victim oriented offense was committed, each child who on or after July 31, 2003, is adjudicated a delinquent child for committing a child-victim oriented offense and who is classified a juvenile offender registrant based on that adjudication shall register personally with the sheriff, or the sheriff's designee, of the county within three days of the delinquent child's coming into a county in which the delinquent child resides or temporarily is domiciled for more than three days. If the delinquent child is committed for the child-victim oriented offense to the department of youth services or to a secure facility that is not operated by the department, this duty begins when the delinquent child is discharged or released in any manner from custody in a department of youth services secure facility or from the secure facility that is not operated by the department if pursuant to the discharge or release the delinquent child is not committed to any other secure facility of the department or any other secure facility.

(4) Regardless of when the child-victim oriented offense was committed, each person who is convicted, pleads guilty, or is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States for committing a child-victim oriented offense shall comply with all of the following registration requirements if, at the time the offender or delinquent child moves to and resides in this state or temporarily is domiciled in this state for more than three days, the offender enters this state to attend the school or institution of higher education, or the offender is employed in this state for more than the specified period of time, the offender or delinquent child has a duty to register as a child-victim offender or sex offender under the law of that other jurisdiction as a result of the conviction, guilty plea, or adjudication:

(a) Each offender and delinquent child shall register personally with the sheriff, or the sheriff's designee, of the county within three days of the offender's or delinquent child's coming

into the county in which the offender or delinquent child resides or temporarily is domiciled for more than three days.

(b) Each offender shall register personally with the sheriff, or the sheriff's designee, of the county immediately upon coming into a county in which the offender attends a school or institution of higher education on a full-time or part-time basis regardless of whether the offender resides or has a temporary domicile in this state or another state.

(c) Each offender shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender is employed if the offender resides or has a temporary domicile in this state and has been employed in that county for more than three days or for an aggregate period of fourteen days or more in that calendar year.

(d) Each offender shall register personally with the sheriff, or the sheriff's designee, of the county in which the offender then is employed if the offender does not reside or have a temporary domicile in this state and has not been employed at any location or locations in this state for more than three days or for an aggregate period of fourteen or more days in that calendar year.

(5) An offender is not required to register under division (A)(2), (3), or (4) of this section if a court issues an order terminating the offender's duty to comply with sections 2950.04, 2950.041 [2950.04.1], 2950.05, and 2950.06 of the Revised Code pursuant to section 2950.15 of the Revised Code. A delinquent child who is a juvenile offender registrant but is not a public registry-qualified juvenile offender registrant is not required to register under any of those divisions if a juvenile court issues an order declassifying the delinquent child as a juvenile offender registrant pursuant to section 2152.84 or 2152.85 of the Revised Code.

(B) An offender or delinquent child who is required by division (A) of this section to register in this state personally shall do so in the manner described in division (B) of section 2950.04 of the Revised Code, and the registration is complete as described in that division.

(C) The registration form to be used under divisions (A) and (B) of this section shall include or contain all of the following for the offender or delinquent child who is registering:

(1) The offender's or delinquent child's name, any aliases used by the offender or delinquent child, and a photograph of the offender or delinquent child;

(2) The offender's or delinquent child's social security number and date of birth, including any alternate social security numbers or dates of birth that the offender or delinquent child has used or uses;

(3) Regarding an offender or delinquent child who is registering under a duty imposed under division (A)(1) of this section, a statement that the offender is serving a prison term, term of imprisonment, or any other type of confinement or a statement that the delinquent child is in the custody of the department of youth services or is confined in a secure facility that is not operated by the department;

(4) Regarding an offender or delinquent child who is registering under a duty imposed under division (A)(2), (3), or (4) of this section as a result of the offender or delinquent child residing in this state or temporarily being domiciled in this state for more than three days, all of the information described in division (C)(4) of section 2950.04 of the Revised Code;

(5) Regarding an offender who is registering under a duty imposed under division (A)(2) or (4) of this section as a result of the offender attending a school or institution of higher education on a full-time or part-time basis or being employed in this state or in a particular county in this state, whichever is applicable, for more than three days or for an aggregate of fourteen or more days in any calendar year, all of the information described in division (C)(5) of section 2950.04 of the Revised Code;

(6) The identification license plate number issued by this state or any other state of each vehicle the offender or delinquent child owns, of each vehicle registered in the offender's or delinquent child's name, of each vehicle the offender or delinquent child operates as a part of employment, and of each other vehicle that is regularly available to be operated by the offender or delinquent child; a description of where each vehicle is habitually parked, stored, docked, or otherwise kept; and, if required by the bureau of criminal identification and investigation, a photograph of each of those vehicles;

(7) If the offender or delinquent child has a driver's or commercial driver's license or permit issued by this state or any other state or a state identification card issued under section 4507.50 or 4507.51 of the Revised Code or a comparable identification card issued by another state, the driver's license number, commercial driver's license number, or state identification card number;

(8) If the offender or delinquent child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the child-victim oriented offense resulting in the registration duty in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States, a DNA specimen, as defined in section 109.573 [109.57.3] of the Revised Code, from the offender or delinquent child, a citation for, and the name of, the child-victim oriented offense resulting in the registration duty, and a certified copy of a document that describes the text of that child-victim oriented offense;

(9) Copies of travel and immigration documents;

(10) A description of each professional and occupational license, permit, or registration, including those licenses, permits, and registrations issued under Title XLVII of the Revised Code, held by the offender or delinquent child;

(11) Any email addresses, internet identifiers, or telephone numbers registered to or used by the offender or delinquent child;

(12) Any other information required by the bureau of criminal identification and investigation.

(D) Division (D) of section 2950.04 of the Revised Code applies when an offender or delinquent child registers with a sheriff pursuant to this section.

(E) No person who is required to register pursuant to divisions (A) and (B) of this section, and no person who is required to send a notice of intent to reside pursuant to division (G) of this section, shall fail to register or send the notice as required in accordance with those divisions or that division.

(F) An offender or delinquent child who is required to register pursuant to divisions (A) and (B) of this section shall register pursuant to this section for the period of time specified in section

2950.07 of the Revised Code, with the duty commencing on the date specified in division (A) of that section.

(G) If an offender or delinquent child who is required by division (A) of this section to register is a tier III sex offender/child-victim offender, the offender or delinquent child also shall send the sheriff, or the sheriff's designee, of the county in which the offender or delinquent child intends to reside written notice of the offender's or delinquent child's intent to reside in the county. The offender or delinquent child shall send the notice of intent to reside at least twenty days prior to the date the offender or delinquent child begins to reside in the county. The notice of intent to reside shall contain all of the following information:

(1) The information specified in divisions (G)(1) and (2) of section 2950.04 of the Revised Code;

(2) The child-victim oriented offense of which the offender was convicted, to which the offender pleaded guilty, or for which the child was adjudicated a delinquent child

(H) If, immediately prior to January 1, 2008, an offender or delinquent child who was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing a child-victim oriented offense or a sexually oriented offense as those terms were defined in section 2950.01 of the Revised Code prior to January 1, 2008, was required by division (A) of this section or section 2950.04 of the Revised Code to register and if, on or after January 1, 2008, that offense is a child-victim oriented offense as that term is defined in section 2950.01 of the Revised Code on and after January 1, 2008, the duty to register that is imposed pursuant to this section on and after January 1, 2008, shall be considered, for purposes of section 2950.07 of the Revised Code and for all other purposes, to be a continuation of the duty imposed upon the offender or delinquent child prior to January 1, 2008, under this section or section 2950.04 of the Revised Code.

OHIO REV. CODE ANN. § 2950.99 (2010). Penalties.

(A) (1) (a) Except as otherwise provided in division (A)(1)(b) of this section, whoever violates a prohibition in section 2950.04, 2950.041 [2950.04.1], 2950.05, or 2950.06 of the Revised Code shall be punished as follows:

(i) If the most serious sexually oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder or murder if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the first degree.

(ii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the first, second, third, or fourth degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition, or, if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition is a comparable category

of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as that offense committed in the other jurisdiction would constitute if committed in this state.

(iii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the fifth degree or a misdemeanor if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the fourth degree.

(b) If the offender previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of a prohibition in section 2950.04, 2950.041 [2950.04.1], 2950.05, or 2950.06 of the Revised Code, whoever violates a prohibition in section 2950.04, 2950.041 [2950.04.1], 2950.05, or 2950.06 of the Revised Code shall be punished as follows:

(i) If the most serious sexually oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder or murder if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the first degree.

(ii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the first, second, or third degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition, or, if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition is a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as that offense committed in the other jurisdiction would constitute if committed in this state.

(iii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the fourth or fifth degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the third degree.

(iv) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the fourth degree.

(2) (a) In addition to any penalty or sanction imposed under division (A)(1) of this section or any other provision of law for a violation of a prohibition in section 2950.04, 2950.041 [2950.04.1], 2950.05, or 2950.06 of the Revised Code, if the offender or delinquent child is subject to a community control sanction, is on parole, is subject to one or more post-release control sanctions, or is subject to any other type of supervised release at the time of the violation,

the violation shall constitute a violation of the terms and conditions of the community control sanction, parole, post-release control sanction, or other type of supervised release.

(b) In addition to any penalty or sanction imposed under division (A)(1)(b)(i), (ii), or (iii) of this section or any other provision of law for a violation of a prohibition in section 2950.04, 2950.041 [2950.04.1], 2950.05, or 2950.06 of the Revised Code, if the offender previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of a prohibition in section 2950.04, 2950.041 [2950.04.1], 2950.05, or 2950.06 of the Revised Code when the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition is a felony if committed by an adult or a comparable category of offense committed in another jurisdiction, the court imposing a sentence upon the offender shall impose a definite prison term of no less than three years. The definite prison term imposed under this section is not restricted by division (B) of section 2929.14 of the Revised Code and shall not be reduced to less than three years pursuant to Chapter 2967. or any other provision of the Revised Code.

(3) As used in division (A)(1) of this section, "comparable category of offense committed in another jurisdiction" means a sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated, that is a violation of an existing or former law of another state or the United States, an existing or former law applicable in a military court or in an Indian tribal court, or an existing or former law of any nation other than the United States, and that, if it had been committed in this state, would constitute or would have constituted aggravated murder or murder for purposes of division (A)(1)(a)(i) of this section, a felony of the first, second, third, or fourth degree for purposes of division (A)(1)(a)(ii) of this section, a felony of the fifth degree or a misdemeanor for purposes of division (A)(1)(a)(iii) of this section, aggravated murder or murder for purposes of division (A)(1)(b)(i) of this section, a felony of the first, second, or third degree for purposes of division (A)(1)(b)(ii) of this section, a felony of the fourth or fifth degree for purposes of division (A)(1)(b)(iii) of this section, or a misdemeanor for purposes of division (A)(1)(b)(iv) of this section.

(B) If a person violates a prohibition in section 2950.04, 2950.041 [2950.04.1], 2950.05, or 2950.06 of the Revised Code that applies to the person as a result of the person being adjudicated a delinquent child and being classified a juvenile offender registrant or an out-of-state juvenile offender registrant, both of the following apply:

(1) If the violation occurs while the person is under eighteen years of age, the person is subject to proceedings under Chapter 2152. of the Revised Code based on the violation.

(2) If the violation occurs while the person is eighteen years of age or older, the person is subject to criminal prosecution based on the violation.

(C) Whoever violates division (C) of section 2950.13 of the Revised Code is guilty of a misdemeanor of the first degree.

OHIO REV. CODE ANN. § 2971.03 (2010). Sentencing of sexually violent offender with predator specification.

(A) Notwithstanding divisions (A), (B), (C), and (F) of section 2929.14, section 2929.02, 2929.03, 2929.06, 2929.13, or another section of the Revised Code, other than divisions (D) and

(E) of section 2929.14 of the Revised Code, that authorizes or requires a specified prison term or a mandatory prison term for a person who is convicted of or pleads guilty to a felony or that specifies the manner and place of service of a prison term or term of imprisonment, the court shall impose a sentence upon a person who is convicted of or pleads guilty to a violent sex offense and who also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, and upon a person who is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information charging that offense, as follows:

(1) If the offense for which the sentence is being imposed is aggravated murder and if the court does not impose upon the offender a sentence of death, it shall impose upon the offender a term of life imprisonment without parole. If the court sentences the offender to death and the sentence of death is vacated, overturned, or otherwise set aside, the court shall impose upon the offender a term of life imprisonment without parole.

(2) If the offense for which the sentence is being imposed is murder; or if the offense is rape committed in violation of division (A)(1)(b) of section 2907.02 of the Revised Code when the offender purposely compelled the victim to submit by force or threat of force, when the victim was less than ten years of age, when the offender previously has been convicted of or pleaded guilty to either rape committed in violation of that division or a violation of an existing or former law of this state, another state, or the United States that is substantially similar to division (A)(1)(b) of section 2907.02 of the Revised Code, or when the offender during or immediately after the commission of the rape caused serious physical harm to the victim; or if the offense is an offense other than aggravated murder or murder for which a term of life imprisonment may be imposed, it shall impose upon the offender a term of life imprisonment without parole.

(3) (a) Except as otherwise provided in division (A)(3)(b), (c), (d), or (e) or (A)(4) of this section, if the offense for which the sentence is being imposed is an offense other than aggravated murder, murder, or rape and other than an offense for which a term of life imprisonment may be imposed, it shall impose an indefinite prison term consisting of a minimum term fixed by the court from among the range of terms available as a definite term for the offense, but not less than two years, and a maximum term of life imprisonment.

(b) Except as otherwise provided in division (A)(4) of this section, if the offense for which the sentence is being imposed is kidnapping that is a felony of the first degree, it shall impose an indefinite prison term as follows:

(i) If the kidnapping is committed on or after the effective date of this amendment and the victim of the offense is less than thirteen years of age, except as otherwise provided in this division, it shall impose an indefinite prison term consisting of a minimum term of fifteen years and a maximum term of life imprisonment. If the kidnapping is committed on or after the effective date of this amendment, the victim of the offense is less than thirteen years of age, and the offender released the victim in a safe place unharmed, it shall impose an indefinite prison term consisting of a minimum term of ten years and a maximum term of life imprisonment.

(ii) If the kidnapping is committed prior to the effective date of this amendment or division (A)(3)(b)(i) of this section does not apply, it shall impose an indefinite term consisting of a minimum term fixed by the court that is not less than ten years and a maximum term of life imprisonment.

(c) Except as otherwise provided in division (A)(4) of this section, if the offense for which the sentence is being imposed is kidnapping that is a felony of the second degree, it shall impose an indefinite prison term consisting of a minimum term fixed by the court that is not less than eight years, and a maximum term of life imprisonment.

(d) Except as otherwise provided in division (A)(4) of this section, if the offense for which the sentence is being imposed is rape for which a term of life imprisonment is not imposed under division (A)(2) of this section or division (B) of section 2907.02 of the Revised Code, it shall impose an indefinite prison term as follows:

(i) If the rape is committed on or after January 2, 2007, in violation of division (A)(1)(b) of section 2907.02 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of twenty-five years and a maximum term of life imprisonment.

(ii) If the rape is committed prior to January 2, 2007, or the rape is committed on or after January 2, 2007, other than in violation of division (A)(1)(b) of section 2907.02 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term fixed by the court that is not less than ten years, and a maximum term of life imprisonment.

(e) Except as otherwise provided in division (A)(4) of this section, if the offense for which sentence is being imposed is attempted rape, it shall impose an indefinite prison term as follows:

(i) Except as otherwise provided in division (A)(3)(e)(ii), (iii), or (iv) of this section, it shall impose an indefinite prison term pursuant to division (A)(3)(a) of this section.

(ii) If the attempted rape for which sentence is being imposed was committed on or after January 2, 2007, and if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1418 [2941.14.18] of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of five years and a maximum term of twenty-five years.

(iii) If the attempted rape for which sentence is being imposed was committed on or after January 2, 2007, and if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1419 [2941.14.19] of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of ten years and a maximum of life imprisonment.

(iv) If the attempted rape for which sentence is being imposed was committed on or after January 2, 2007, and if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1420 [2941.14.20] of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of fifteen years and a maximum of life imprisonment.

(4) For any offense for which the sentence is being imposed, if the offender previously has been convicted of or pleaded guilty to a violent sex offense and also to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, or previously has been convicted of or pleaded guilty to a designated homicide, assault, or kidnapping offense and also to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or

information charging that offense, it shall impose upon the offender a term of life imprisonment without parole.

(B) (1) Notwithstanding section 2929.13, division (A), (B), (C), or (F) of section 2929.14, or another section of the Revised Code other than division (B) of section 2907.02 or divisions (D) and (E) of section 2929.14 of the Revised Code that authorizes or requires a specified prison term or a mandatory prison term for a person who is convicted of or pleads guilty to a felony or that specifies the manner and place of service of a prison term or term of imprisonment, if a person is convicted of or pleads guilty to a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, if division (A) of this section does not apply regarding the person, and if the court does not impose a sentence of life without parole when authorized pursuant to division (B) of section 2907.02 of the Revised Code, the court shall impose upon the person an indefinite prison term consisting of one of the following:

(a) Except as otherwise required in division (B)(1)(b) or (c) of this section, a minimum term of ten years and a maximum term of life imprisonment.

(b) If the victim was less than ten years of age, a minimum term of fifteen years and a maximum of life imprisonment.

(c) If the offender purposely compels the victim to submit by force or threat of force, or if the offender previously has been convicted of or pleaded guilty to violating division (A)(1)(b) of section 2907.02 of the Revised Code or to violating an existing or former law of this state, another state, or the United States that is substantially similar to division (A)(1)(b) of that section, or if the offender during or immediately after the commission of the offense caused serious physical harm to the victim, a minimum term of twenty-five years and a maximum of life imprisonment.

(2) Notwithstanding section 2929.13, division (A), (B), (C), or (F) of section 2929.14, or another section of the Revised Code other than divisions (D) and (E) of section 2929.14 of the Revised Code that authorizes or requires a specified prison term or a mandatory prison term for a person who is convicted of or pleads guilty to a felony or that specifies the manner and place of service of a prison term or term of imprisonment and except as otherwise provided in division (B) of section 2907.02 of the Revised Code, if a person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and if division (A) of this section does not apply regarding the person, the court shall impose upon the person an indefinite prison term consisting of one of the following:

(a) If the person also is convicted of or pleads guilty to a specification of the type described in section 2941.1418 [2941.14.18] of the Revised Code, the court shall impose upon the person an indefinite prison term consisting of a minimum term of five years and a maximum term of twenty-five years.

(b) If the person also is convicted of or pleads guilty to a specification of the type described in section 2941.1419 [2941.14.19] of the Revised Code, the court shall impose upon the person an indefinite prison term consisting of a minimum term of ten years and a maximum term of life imprisonment.

(c) If the person also is convicted of or pleads guilty to a specification of the type described in section 2941.1420 [2941.14.20] of the Revised Code, the court shall impose upon the person an

indefinite prison term consisting of a minimum term of fifteen years and a maximum term of life imprisonment.

(3) Notwithstanding section 2929.13, division (A), (B), (C), or (F) of section 2929.14, or another section of the Revised Code other than divisions (D) and (E) of section 2929.14 of the Revised Code that authorizes or requires a specified prison term or a mandatory prison term for a person who is convicted of or pleads guilty to a felony or that specifies the manner and place of service of a prison term or term of imprisonment, if a person is convicted of or pleads guilty to an offense described in division (B)(3)(a), (b), (c), or (d) of this section committed on or after the effective date of this amendment, if the person also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense, and if division (A) of this section does not apply regarding the person, the court shall impose upon the person an indefinite prison term consisting of one of the following:

(a) An indefinite prison term consisting of a minimum of ten years and a maximum term of life imprisonment if the offense for which the sentence is being imposed is kidnapping, the victim of the offense is less than thirteen years of age, and the offender released the victim in a safe place unharmed;

(b) An indefinite prison term consisting of a minimum of fifteen years and a maximum term of life imprisonment if the offense for which the sentence is being imposed is kidnapping when the victim of the offense is less than thirteen years of age and division (B)(3)(a) of this section does not apply;

(c) An indefinite term consisting of a minimum of thirty years and a maximum term of life imprisonment if the offense for which the sentence is being imposed is aggravated murder, when the victim of the offense is less than thirteen years of age, a sentence of death or life imprisonment without parole is not imposed for the offense, and division (A)(2)(b)(ii) of section 2929.022 [2929.02.2], division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires that the sentence for the offense be imposed pursuant to this division;

(d) An indefinite prison term consisting of a minimum of thirty years and a maximum term of life imprisonment if the offense for which the sentence is being imposed is murder when the victim of the offense is less than thirteen years of age.

(C) (1) If the offender is sentenced to a prison term pursuant to division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of this section, the parole board shall have control over the offender's service of the term during the entire term unless the parole board terminates its control in accordance with section 2971.04 of the Revised Code.

(2) Except as provided in division (C)(3) of this section, an offender sentenced to a prison term or term of life imprisonment without parole pursuant to division (A) of this section shall serve the entire prison term or term of life imprisonment in a state correctional institution. The offender is not eligible for judicial release under section 2929.20 of the Revised Code.

(3) For a prison term imposed pursuant to division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of this section, the court, in accordance with section 2971.05 of the Revised Code, may terminate the prison term or modify the requirement that the offender serve the entire term in a state correctional institution if all of the following apply:

(a) The offender has served at least the minimum term imposed as part of that prison term.

(b) The parole board, pursuant to section 2971.04 of the Revised Code, has terminated its control over the offender's service of that prison term.

(c) The court has held a hearing and found, by clear and convincing evidence, one of the following:

(i) In the case of termination of the prison term, that the offender is unlikely to commit a sexually violent offense in the future;

(ii) In the case of modification of the requirement, that the offender does not represent a substantial risk of physical harm to others.

(4) An offender who has been sentenced to a term of life imprisonment without parole pursuant to division (A)(1), (2), or (4) of this section shall not be released from the term of life imprisonment or be permitted to serve a portion of it in a place other than a state correctional institution.

(D) If a court sentences an offender to a prison term or term of life imprisonment without parole pursuant to division (A) of this section and the court also imposes on the offender one or more additional prison terms pursuant to division (D) of section 2929.14 of the Revised Code, all of the additional prison terms shall be served consecutively with, and prior to, the prison term or term of life imprisonment without parole imposed upon the offender pursuant to division (A) of this section.

(E) If the offender is convicted of or pleads guilty to two or more offenses for which a prison term or term of life imprisonment without parole is required to be imposed pursuant to division (A) of this section, divisions (A) to (D) of this section shall be applied for each offense. All minimum terms imposed upon the offender pursuant to division (A)(3) or (B) of this section for those offenses shall be aggregated and served consecutively, as if they were a single minimum term imposed under that division.

(F) (1) If an offender is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, or is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information charging that offense, the conviction of or plea of guilty to the offense and the sexually violent predator specification automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

(2) If an offender is convicted of or pleads guilty to committing on or after January 2, 2007, a violation of division (A)(1)(b) of section 2907.02 of the Revised Code and either the offender is sentenced under section 2971.03 of the Revised Code or a sentence of life without parole is imposed under division (B) of section 2907.02 of the Revised Code, the conviction of or plea of guilty to the offense automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

(3) If a person is convicted of or pleads guilty to committing on or after January 2, 2007, attempted rape and also is convicted of or pleads guilty to a specification of the type described in section 2941.1418 [2941.14.18], 2941.1419 [2941.14.19], or 2941.1420 [2941.14.20] of the Revised Code, the conviction of or plea of guilty to the offense and the specification automatically classify the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

(4) If a person is convicted of or pleads guilty to one of the offenses described in division (B)(3)(a), (b), (c), or (d) of this section and a sexual motivation specification related to the offense and the victim of the offense is less than thirteen years of age, the conviction of or plea of guilty to the offense automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

OKLAHOMA

OKLA. STAT. ANN. TIT. 21, § 9 (2010). Punishment of felonies.

Except in cases where a different punishment is prescribed by this title, or by some existing provision of law, every offense declared to be a felony is punishable by a fine not exceeding One Thousand Dollars ($ 1,000.00), or by imprisonment in the State Penitentiary not exceeding two (2) years, or by both such fine and imprisonment.

OKLA. STAT. ANN. TIT. 21, § 10 (2010). Punishment of misdemeanor.

Except in cases where a different punishment is prescribed by this chapter or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding Five Hundred Dollars ($ 500.00), or both such fine and imprisonment.

OKLA. STAT. ANN. TIT. 21, § 13.1 (2010). Required service of minimum percentage of sentence--Offenses specified.

Persons convicted of:

1. First degree murder as defined in Section 701.7 of this title;

2. Second degree murder as defined by Section 701.8 of this title;

3. Manslaughter in the first degree as defined by Section 711 of this title;

4. Poisoning with intent to kill as defined by Section 651 of this title;

5. Shooting with intent to kill, use of a vehicle to facilitate use of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm, as provided for in Section 652 of this title;

6. Assault with intent to kill as provided for in Section 653 of this title;

7. Conjoint robbery as defined by Section 800 of this title;

8. Robbery with a dangerous weapon as defined in Section 801 of this title;

9. First degree robbery as defined in Section 797 of this title;

10. First degree rape as provided for in Section 1115 of this title;

11. First degree arson as defined in Section 1401 of this title;

12. First degree burglary as provided for in Section 1436 of this title;

13. Bombing as defined in Section 1767.1 of this title;

14. Any crime against a child provided for in Section 843.5 of this title;

15. Forcible sodomy as defined in Section 888 of this title;

16. Child pornography as defined in Section 1021.2, 1021.3 or 1024.1 of this title;

17. Child prostitution as defined in Section 1030 of this title;

18. Lewd molestation of a child as defined in Section 1123 of this title;

19. Abuse of a vulnerable adult as defined in Section 10-103 of Title 43A of the Oklahoma Statutes who is a resident of a nursing facility; or

20. Aggravated trafficking as provided for in subsection C of Section 2-415 of Title 63 of the Oklahoma Statutes,

shall be required to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole. Persons convicted of these offenses shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed.

OKLA. STAT. ANN. TIT. 21, § 42 (2010). Attempts to commit crimes--Punishment.

Every person who attempts to commit any crime, and in such attempt does any act toward the commission of such crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempt, as follows:

1. If the offense so attempted be punishable by imprisonment in the penitentiary for four (4) years or more, or by imprisonment in a county jail, the person guilty of such attempt is punishable by imprisonment in the penitentiary, or in a county jail, as the case may be, for a term not exceeding one-half (1/2) the longest term of imprisonment prescribed upon a conviction for the offense so attempted.

2. If the offense so attempted be punishable by imprisonment in the penitentiary for any time less than four (4) years, the person guilty of such attempt is punishable by imprisonment in a county jail for not more than one (1) year.

3. If the offense so attempted be punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half (1/2) the largest fine which may be imposed upon a conviction of the offense so attempted.

4. If the offense so attempted be punishable by imprisonment and by a fine, the offender convicted of such attempt may be punished by both imprisonment and fine, not exceeding one-half (1/2) the longest term of imprisonment and the fine not exceeding one-half (1/2) the largest fine which may be imposed upon a conviction for the offense so attempted.

OKLA. STAT. ANN. TIT. 21, § 51.1 (2010). Second and subsequent offenses after conviction of offense punishable by imprisonment in the state penitentiary.

A. Except as otherwise provided in the Elderly and Incapacitated Victim's Protection Program and Section 3 of this act, every person who, having been convicted of any offense punishable by imprisonment in the State Penitentiary, commits any crime after such conviction, within ten (10) years of the date following the completion of the execution of the sentence, and against whom the District Attorney seeks to enhance punishment pursuant to this section of law, is punishable therefor as follows:

1. If the offense for which the person is subsequently convicted is an offense enumerated in Section 571 of Title 57 of the Oklahoma Statutes and the offense is punishable by imprisonment in the State Penitentiary for a term exceeding five (5) years, such person is punishable by imprisonment in the State Penitentiary for a term in the range of ten (10) years to life imprisonment.

2. If the offense of which such person is subsequently convicted is such that upon a first conviction an offender would be punishable by imprisonment in the State Penitentiary for any term exceeding five (5) years, such person is punishable by imprisonment in the State Penitentiary for a term in the range of twice the minimum term for a first time offender to life imprisonment. If the subsequent felony offense does not carry a minimum sentence as a first time offender, such person is punishable by imprisonment in the State Penitentiary for a term in the range of two (2) years to life imprisonment.

3. If such subsequent offense is such that upon a first conviction the offender would be punishable by imprisonment in the State Penitentiary for five (5) years, or any less term, then the person convicted of such subsequent offense is punishable by imprisonment in the State Penitentiary for a term not exceeding ten (10) years.

4. If such subsequent conviction is for petit larceny, the person convicted of such subsequent offense is punishable by imprisonment in the State Penitentiary for a term not exceeding five (5) years.

B. Every person who, having been twice convicted of felony offenses, commits a subsequent felony offense which is an offense enumerated in Section 571 of Title 57 of the Oklahoma

Statutes, within ten (10) years of the date following the completion of the execution of the sentence, and against whom the District Attorney seeks to enhance punishment pursuant to this section of law, is punishable by imprisonment in the State Penitentiary for a term in the range of twenty (20) years to life imprisonment. Felony offenses relied upon shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Nothing in this section shall abrogate or affect the punishment by death in all crimes now or hereafter made punishable by death.

C. Every person who, having been twice convicted of felony offenses, commits a subsequent felony offense within ten (10) years of the date following the completion of the execution of the sentence, and against whom the District Attorney seeks to enhance punishment pursuant to this section of law, is punishable by imprisonment in the State Penitentiary for a term in the range of three times the minimum term for a first time offender to life imprisonment. If the subsequent felony offense does not carry a minimum sentence as a first time offender, the person is punishable by imprisonment in the State Penitentiary for a term in the range of four (4) years to life imprisonment. Felony offenses relied upon shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Nothing in this section shall abrogate or affect the punishment by death in all crimes now or hereafter made punishable by death.

OKLA. STAT. ANN. TIT. 21, § 51.1A (2010). Second offense of rape in the first degree, forcible sodomy, lewd molestation or sexual abuse of a child.

Any person convicted of rape in the first degree, forcible sodomy, lewd molestation or sexual abuse of a child after having been convicted of either rape in the first degree, forcible sodomy, lewd molestation or sexual abuse of a child shall be sentenced to life without parole.

OKLA. STAT. ANN. TIT. 21, § 51.2 (2010). Second and subsequent offenses 10 years after completion of sentence.

Except as provided in Section 3 of this act, no person shall be sentenced as a second and subsequent offender under Section 51.1 of this title, or any other section of the Oklahoma Statutes, when a period of ten (10) years has elapsed since the completion of the sentence imposed on the former conviction; provided, said person has not, in the meantime, been convicted of a misdemeanor involving moral turpitude or a felony. Nothing in this section shall prohibit the use of a prior conviction for physical or sexually related child abuse as a prior conviction for second and subsequent offender purposes if the person is presently charged with a felony crime involving physical or sexually related child abuse.

OKLA. STAT. ANN. TIT. 21, § 644 (2010). Assault--Assault and battery--Domestic abuse.

A. Assault shall be punishable by imprisonment in a county jail not exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars ($ 500.00), or by both such fine and imprisonment.

B. Assault and battery shall be punishable by imprisonment in a county jail not exceeding ninety (90) days, or by a fine of not more than One Thousand Dollars ($ 1,000.00), or by both such fine and imprisonment.

C. Any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall be guilty of domestic abuse. Upon conviction, the defendant shall be punished by imprisonment in the county jail for not more than one (1) year, or by a fine not exceeding Five Thousand Dollars ($ 5,000.00), or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, the person shall be punished by imprisonment in the custody of the Department of Corrections for not more than four (4) years, or by a fine not exceeding Five Thousand Dollars ($ 5,000.00), or by both such fine and imprisonment. The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense.

D. Any person convicted of domestic abuse committed against a pregnant woman with knowledge of the pregnancy shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than one (1) year.

Any person convicted of a second or subsequent offense of domestic abuse against a pregnant woman with knowledge of the pregnancy shall be guilty of a felony, punishable by imprisonment in the custody of the Department of Corrections for not less than ten (10) years.

Any person convicted of domestic abuse committed against a pregnant woman with knowledge of the pregnancy and a miscarriage occurs or injury to the unborn child occurs shall be guilty of a felony, punishable by imprisonment in the custody of the Department of Corrections for not less than twenty (20) years.

E. Any person convicted of domestic abuse as defined in subsection C of this section that results in great bodily injury to the victim shall be guilty of a felony and punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years, or by imprisonment in the county jail for not more than one (1) year. The provisions of Section 51.1 of this title shall apply to any second or subsequent conviction of a violation of this subsection.

F. Any person convicted of domestic abuse as defined in subsection C of this section that was committed in the presence of a child shall be punished by imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or by a fine not exceeding Five Thousand Dollars ($ 5,000.00), or by both such fine and imprisonment. Any person convicted of a second or subsequent domestic abuse as defined in subsection C of this section that was committed in the presence of a child shall be punished by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or by a fine not exceeding Seven Thousand Dollars ($ 7,000.00), or by both such fine and imprisonment. The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense. For every conviction of domestic abuse, the court shall:

1. Specifically order as a condition of a suspended sentence or probation that a defendant participate in counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

2. a. The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program certified by the Attorney General. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of fifty-two (52) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor. Three unexcused absences in succession or seven unexcused absences in a period of fifty-two (52) weeks from any court-ordered domestic abuse counseling or treatment program shall be prima facie evidence of the violation of the conditions of probation for the district attorney to seek acceleration or revocation of any probation entered by the court.

b. A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

3. a. The court shall set a review hearing no more than one hundred twenty (120) days after the defendant is ordered to participate in a domestic abuse counseling program or undergo treatment for domestic abuse to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court may suspend sentencing of the defendant until the defendant has presented proof to the court of enrollment in a program of treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program certified by the Attorney General and attendance at weekly sessions of such program. Such proof shall be presented to the court by the defendant no later than one hundred twenty (120) days after the defendant is ordered to such counseling or treatment. At such time, the court may complete sentencing, beginning the period of the sentence from the date that proof of enrollment is presented to the court, and schedule reviews as required by subparagraphs a and b of this paragraph and paragraphs 4 and 5 of this subsection. Three unexcused absences in succession or seven unexcused absences in a period of fifty-two (52) weeks from any court-ordered domestic abuse counseling or treatment program shall be prima facie evidence of the violation of the conditions of probation for the district attorney to seek acceleration or revocation of any probation entered by the court.

b. The court shall set a second review hearing after the completion of the counseling or treatment to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing;

4. The court may set subsequent or other review hearings as the court determines necessary to assure the defendant attends and fully complies with the provisions of this subsection and the domestic abuse counseling or treatment requirements;

5. At any review hearing, if the defendant is not satisfactorily attending individual counseling or a domestic abuse counseling or treatment program or is not in compliance with any domestic abuse counseling or treatment requirements, the court may order the defendant to further or continue counseling, treatment, or other necessary services. The court may revoke all or any part of a suspended sentence, deferred sentence, or probation pursuant to Section 991b of Title 22 of the Oklahoma Statutes and subject the defendant to any or all remaining portions of the original sentence;

6. At the first review hearing, the court shall require the defendant to appear in court. Thereafter, for any subsequent review hearings, the court may accept a report on the progress of the defendant from individual counseling, domestic abuse counseling, or the treatment program. There shall be no requirement for the victim to attend review hearings; and

7. If funding is available, a referee may be appointed and assigned by the presiding judge of the district court to hear designated cases set for review under this subsection. Reasonable compensation for the referees shall be fixed by the presiding judge. The referee shall meet the requirements and perform all duties in the same manner and procedure as set forth in Sections 7003-8.6 and 7303-7.5 of Title 10 of the Oklahoma Statutes pertaining to referees appointed in juvenile proceedings.

The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

G. As used in subsection F of this section, "in the presence of a child" means in the physical presence of a child; or having knowledge that a child is present and may see or hear an act of domestic violence. For the purposes of subsections C and F of this section, "child" may be any child whether or not related to the victim or the defendant.

H. For the purposes of subsections C and F of this section, any conviction for assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or any person living in the same household as the defendant, shall constitute a sufficient basis for a felony charge:

1. If that conviction is rendered in any state, county or parish court of record of this or any other state; or

2. If that conviction is rendered in any municipal court of record of this or any other state for which any jail time was served; provided, no conviction in a municipal court of record entered prior to November 1, 1997, shall constitute a prior conviction for purposes of a felony charge.

I. Any person who commits any assault and battery with intent to cause great bodily harm by strangulation or attempted strangulation against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall, upon conviction, be guilty of domestic abuse by strangulation and shall be punished by imprisonment in the custody of the Department of Corrections for a period of not

less than one (1) year nor more than three (3) years, or by a fine of not more than Three Thousand Dollars ($ 3,000.00), or by both such fine and imprisonment. Upon a second or subsequent conviction, the defendant shall be punished by imprisonment in the custody of the Department of Corrections for a period of not less than three (3) years nor more than ten (10) years, or by a fine of not more than Twenty Thousand Dollars ($ 20,000.00), or by both such fine and imprisonment. As used in this subsection, "strangulation" means any form of asphyxia; including, but not limited to, asphyxia characterized by closure of the blood vessels or air passages of the neck as a result of external pressure on the neck or the closure of the nostrils or mouth as a result of external pressure on the head.

J. Any district court of this state and any judge thereof shall be immune from any liability or prosecution for issuing an order that requires a defendant to:

1. Attend a treatment program for domestic abusers certified by the Attorney General;

2. Attend counseling or treatment services ordered as part of any suspended or deferred sentence or probation; and

3. Attend, complete, and be evaluated before and after attendance by a treatment program for domestic abusers, certified by the Attorney General.

K. There shall be no charge of fees or costs to any victim of domestic violence, stalking, or sexual assault in connection with the prosecution of a domestic violence, stalking, or sexual assault offense in this state.

L. In the course of prosecuting any charge of domestic abuse, stalking, harassment, rape, or violation of a protective order, the prosecutor shall provide the court, prior to sentencing or any plea agreement, a local history and any other available history of past convictions of the defendant within the last ten (10) years relating to domestic abuse, stalking, harassment, rape, violation of a protective order, or any other violent misdemeanor or felony convictions.

M. Any plea of guilty or finding of guilt for a violation of subsection C, E, F, H or I of this section shall constitute a conviction of the offense for the purpose of this act or any other criminal statute under which the existence of a prior conviction is relevant FOR A PERIOD OF TEN (10) YEARS FOLLOWING THE COMPLETION OF ANY COURT IMPOSED PROBATIONARY TERM; PROVIDED, THE PERSON HAS NOT, IN THE MEANTIME, BEEN CONVICTED OF A MISDEMEANOR INVOLVING MORAL TURPITUDE OR A FELONY.

N. For purposes of subsection E of this section, "great bodily injury" means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.

Effective November 1, 2010:

Section 644. A. Assault shall be punishable by imprisonment in a county jail not exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars ($ 500.00), or by both such fine and imprisonment.

B. Assault and battery shall be punishable by imprisonment in a county jail not exceeding ninety (90) days, or by a fine of not more than One Thousand Dollars ($ 1,000.00), or by both such fine and imprisonment.

C. Any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, [A> A FORMER SPOUSE OF A PRESENT SPOUSE, <A] parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is [A> OR WAS <A] in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall be guilty of domestic abuse. Upon conviction, the defendant shall be punished by imprisonment in the county jail for not more than one (1) year, or by a fine not exceeding Five Thousand Dollars ($ 5,000.00), or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, the person shall be punished by imprisonment in the custody of the Department of Corrections for not more than four (4) years, or by a fine not exceeding Five Thousand Dollars ($ 5,000.00), or by both such fine and imprisonment. The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense.

D. Any person convicted of domestic abuse committed against a pregnant woman with knowledge of the pregnancy shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than one (1) year.

Any person convicted of a second or subsequent offense of domestic abuse against a pregnant woman with knowledge of the pregnancy shall be guilty of a felony, punishable by imprisonment in the custody of the Department of Corrections for not less than ten (10) years.

Any person convicted of domestic abuse committed against a pregnant woman with knowledge of the pregnancy and a miscarriage occurs or injury to the unborn child occurs shall be guilty of a felony, punishable by imprisonment in the custody of the Department of Corrections for not less than twenty (20) years.

E. Any person convicted of domestic abuse as defined in subsection C of this section that results in great bodily injury to the victim shall be guilty of a felony and punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years, or by imprisonment in the county jail for not more than one (1) year. The provisions of Section 51.1 of this title shall apply to any second or subsequent conviction of a violation of this subsection.

F. Any person convicted of domestic abuse as defined in subsection C of this section that was committed in the presence of a child shall be punished by imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or by a fine not exceeding Five Thousand Dollars ($ 5,000.00), or by both such fine and imprisonment. Any person convicted of a second or subsequent domestic abuse as defined in subsection C of this section that was committed in the presence of a child shall be punished by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or by a fine not exceeding Seven Thousand Dollars ($ 7,000.00), or by both such fine and imprisonment. The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense. For every conviction of domestic abuse, the court shall:

1. Specifically order as a condition of a suspended sentence or probation that a defendant participate in counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

2. a. The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program

certified by the Attorney General. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of fifty-two (52) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor. Three unexcused absences in succession or seven unexcused absences in a period of fifty-two (52) weeks from any court-ordered domestic abuse counseling or treatment program shall be prima facie evidence of the violation of the conditions of probation for the district attorney to seek acceleration or revocation of any probation entered by the court.

b. A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

3. a. The court shall set a review hearing no more than one hundred twenty (120) days after the defendant is ordered to participate in a domestic abuse counseling program or undergo treatment for domestic abuse to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court may suspend sentencing of the defendant until the defendant has presented proof to the court of enrollment in a program of treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program certified by the Attorney General and attendance at weekly sessions of such program. Such proof shall be presented to the court by the defendant no later than one hundred twenty (120) days after the defendant is ordered to such counseling or treatment. At such time, the court may complete sentencing, beginning the period of the sentence from the date that proof of enrollment is presented to the court, and schedule reviews as required by subparagraphs a and b of this paragraph and paragraphs 4 and 5 of this subsection. Three unexcused absences in succession or seven unexcused absences in a period of fifty-two (52) weeks from any court-ordered domestic abuse counseling or treatment program shall be prima facie evidence of the violation of the conditions of probation for the district attorney to seek acceleration or revocation of any probation entered by the court.

b. The court shall set a second review hearing after the completion of the counseling or treatment to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing;

4. The court may set subsequent or other review hearings as the court determines necessary to assure the defendant attends and fully complies with the provisions of this subsection and the domestic abuse counseling or treatment requirements;

5. At any review hearing, if the defendant is not satisfactorily attending individual counseling or a domestic abuse counseling or treatment program or is not in compliance with any domestic abuse counseling or treatment requirements, the court may order the defendant to further or continue

counseling, treatment, or other necessary services. The court may revoke all or any part of a suspended sentence, deferred sentence, or probation pursuant to Section 991b of Title 22 of the Oklahoma Statutes and subject the defendant to any or all remaining portions of the original sentence;

6. At the first review hearing, the court shall require the defendant to appear in court. Thereafter, for any subsequent review hearings, the court may accept a report on the progress of the defendant from individual counseling, domestic abuse counseling, or the treatment program. There shall be no requirement for the victim to attend review hearings; and

7. If funding is available, a referee may be appointed and assigned by the presiding judge of the district court to hear designated cases set for review under this subsection. Reasonable compensation for the referees shall be fixed by the presiding judge. The referee shall meet the requirements and perform all duties in the same manner and procedure as set forth in Sections 7003-8.6 and 7303-7.5 of Title 10 of the Oklahoma Statutes pertaining to referees appointed in juvenile proceedings.

The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

G. As used in subsection F of this section, "in the presence of a child" means in the physical presence of a child; or having knowledge that a child is present and may see or hear an act of domestic violence. For the purposes of subsections C and F of this section, "child" may be any child whether or not related to the victim or the defendant.

H. For the purposes of subsections C and F of this section, any conviction for assault and battery against a current or former spouse, a present spouse of a former spouse, [A> A FORMER SPOUSE OF A PRESENT SPOUSE, <A] parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is [A> OR WAS <A] in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or any person living in the same household as the defendant, shall constitute a sufficient basis for a felony charge:

1. If that conviction is rendered in any state, county or parish court of record of this or any other state; or

2. If that conviction is rendered in any municipal court of record of this or any other state for which any jail time was served; provided, no conviction in a municipal court of record entered prior to November 1, 1997, shall constitute a prior conviction for purposes of a felony charge.

I. Any person who commits any assault and battery with intent to cause great bodily harm by strangulation or attempted strangulation against a current or former spouse, a present spouse of a former spouse, [A> A FORMER SPOUSE OF A PRESENT SPOUSE, <A] parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is [A> OR WAS <A] in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall, upon conviction, be guilty of domestic abuse by strangulation and shall be punished by imprisonment in the custody of the Department of Corrections for a period of not less than one (1) year nor more than three (3) years, or by a fine of not more than Three Thousand

Dollars ($ 3,000.00), or by both such fine and imprisonment. Upon a second or subsequent conviction, the defendant shall be punished by imprisonment in the custody of the Department of Corrections for a period of not less than three (3) years nor more than ten (10) years, or by a fine of not more than Twenty Thousand Dollars ($ 20,000.00), or by both such fine and imprisonment. As used in this subsection, "strangulation" means any form of asphyxia; including, but not limited to, asphyxia characterized by closure of the blood vessels or air passages of the neck as a result of external pressure on the neck or the closure of the nostrils or mouth as a result of external pressure on the head.

J. Any district court of this state and any judge thereof shall be immune from any liability or prosecution for issuing an order that requires a defendant to:

1. Attend a treatment program for domestic abusers certified by the Attorney General;

2. Attend counseling or treatment services ordered as part of any suspended or deferred sentence or probation; and

3. Attend, complete, and be evaluated before and after attendance by a treatment program for domestic abusers, certified by the Attorney General.

K. There shall be no charge of fees or costs to any victim of domestic violence, stalking, or sexual assault in connection with the prosecution of a domestic violence, stalking, or sexual assault offense in this state.

L. In the course of prosecuting any charge of domestic abuse, stalking, harassment, rape, or violation of a protective order, the prosecutor shall provide the court, prior to sentencing or any plea agreement, a local history and any other available history of past convictions of the defendant within the last ten (10) years relating to domestic abuse, stalking, harassment, rape, violation of a protective order, or any other violent misdemeanor or felony convictions.

M. Any plea of guilty or finding of guilt for a violation of subsection C, E, F, H or I of this section shall constitute a conviction of the offense for the purpose of this act or any other criminal statute under which the existence of a prior conviction is relevant for a period of ten (10) years following the completion of any court imposed probationary term; provided, the person has not, in the meantime, been convicted of a misdemeanor involving moral turpitude or a felony.

N. For purposes of subsection E of this section, "great bodily injury" means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.##

OKLA. STAT. ANN. TIT. 21, § 644.1 (2010). Domestic abuse with a prior pattern of physical abuse.

A. Any person who commits domestic abuse, as defined by subsection C of Section 644 of Title 21 of the Oklahoma Statutes, and has a prior pattern of physical abuse shall be guilty of a felony, upon conviction, punishable by imprisonment in the custody of the Department of Corrections for a term of not more than ten (10) years or by a fine not exceeding Five Thousand Dollars ($ 5,000.00) or by both such fine and imprisonment.

B. For purposes of this section, "prior pattern of physical abuse" means three or more separate incidences, occurring on different days, where all incidences occurred within the previous six-month period, and each incident relates to an act constituting assault and battery or domestic abuse committed by the defendant against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, a person living in the same household as the defendant, a current intimate partner or former intimate partner, or any combination of such persons, where proof is established by the sworn testimony of a third party who was a witness to the alleged physical abuse or by other admissible direct evidence that is independent of the testimony of the victim.

OKLA. STAT. ANN. TIT. 21, § 741 (2010). Kidnapping defined.

Any person who, without lawful authority, forcibly seizes and confines another, or inveigles or kidnaps another, with intent, either:

First. To cause such other person to be confined or imprisoned in this state against the will of the other person; or

Second. To cause such other person to be sent out of this state against the will of the other person; or

Third. To cause such person to be sold as a slave, or in any way held to service against the will of such person, shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term not exceeding twenty (20) years. Upon any trial for a violation of this section, the consent thereto of the person kidnapped or confined, shall not be a defense, unless it appears satisfactorily to the jury, that such person was above the age of twelve (12) years, and that such consent was not extorted by threat, or by duress.

Except for persons sentenced to life or life without parole, on and after the effective date of this act, any person sentenced to imprisonment for a violation of this section and the offense involved sexual abuse or sexual exploitation, shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

OKLA. STAT. ANN. TIT. 21, § 851 (2010). Desertion of children under age of ten a felony.

Any parent of any child or children under the age of ten (10) years, and every person to whom such child or children have been confided for nurture or education, who deserts such child or children within the State of Oklahoma, or takes such child or children without the State of Oklahoma, with the intent wholly to abandon it shall be deemed guilty of a felony and, upon conviction thereof shall be punished by imprisonment in the State Penitentiary for any period of time not less than one (1) year nor more than ten (10) years.

OKLA. STAT. ANN. TIT. 21, § 852 (2010). Omission to provide for a child--Penalties.

A. Unless otherwise provided for by law, any parent, guardian, or person having custody or control of a child as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes who willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, monetary child support, medical attendance, payment of court-ordered day care or payment of court-ordered medical insurance costs for such child which is imposed by law, upon conviction, is guilty of a misdemeanor; provided, any person obligated to make child support payments who willfully and without lawful excuse becomes delinquent in said child support payments after September 1, 1993, and such delinquent child support accrues without payment by the obligor for a period of one (1) year, or exceeds Five Thousand Dollars ($ 5,000.00) shall, upon conviction thereof, be guilty of a felony which is punishable in the same manner as any subsequent conviction pursuant to the provisions of this section. Any subsequent conviction pursuant to this section shall be a felony, punishable by imprisonment for not more than four (4) years in the custody of the Department of Corrections or by the imposition of a fine of not more than Five Thousand Dollars ($ 5,000.00), or by both such fine and imprisonment. As used in this section, the duty to furnish medical attendance shall mean that the parent or person having custody or control of a child must furnish medical treatment in such manner and on such occasions as an ordinarily prudent person, solicitous for the welfare of a child, would provide; such parent or person having custody or control of a child is not criminally liable for failure to furnish medical attendance for every minor or trivial complaint with which the child may be afflicted.

B. Any person who leaves the state to avoid providing necessary food, clothing, shelter, court-ordered monetary child support, or medical attendance for such child, upon conviction, shall be guilty of a felony punishable by imprisonment for not more than four (4) years in the custody of the Department of Corrections or by the imposition of a fine of not more than Five Thousand Dollars ($ 5,000.00), or by both such fine and imprisonment.

C. Nothing in this section shall be construed to mean a child is endangered for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child; provided, that medical care shall be provided where permanent physical damage could result to such child; and that the laws, rules, and regulations relating to communicable diseases and sanitary matters are not violated.

D. Nothing contained in this section shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the health or welfare of the child.

E. Psychiatric and psychological testing and counseling are exempt from the provisions of this section.

F. If any parent of a child in cases in which the Department of Human Services is providing services pursuant to Section 237 of Title 56 of the Oklahoma Statutes is determined by the Department to be willfully violating the provisions of this section, the Department may refer the case to the proper district attorney for prosecution. The Department shall provide assistance to the district attorneys in such prosecutions. Any child support or arrears payments made pursuant to

this section shall be made payable to the Department and paid through the Centralized Support Registry pursuant to Section 413 of Title 43 of the Oklahoma Statutes.

G. Except for a third or subsequent conviction, all felony convictions herein shall be administered under the provisions of the Community Sentencing Act.

H. It is the duty of any parent having legal custody of a child who is an alcohol-dependent person or a drug-dependent person, as such terms are defined by Section 3-403 of Title 43A of the Oklahoma Statutes, to provide for the treatment, as such term is defined by Section 3-403 of Title 43A of the Oklahoma Statutes, of such child. Any parent having legal custody of a child who is an alcohol-dependent person or a drug-dependent person who without having made a reasonable effort fails or willfully omits to provide for the treatment of such child shall be guilty of a misdemeanor. For the purpose of this subsection, the duty to provide for such treatment shall mean that the parent having legal custody of a child must provide for the treatment in such manner and on such occasions as an ordinarily prudent person, solicitous for the welfare of a child, would provide.

I. Venue is proper in prosecutions for violations of this section in:

1. Any county where the child resides;

2. The county in which the court-ordered support was entered or registered pursuant to the provisions of the Uniform Interstate Family Support Act; or

3. The county in which the defendant resides.

OKLA. STAT. ANN. TIT. 21, § 852.1 (2010). Child endangerment--Knowingly permitting physical or sexual abuse--Good faith reliance on spiritual healing--Penalties.

A. A person who is the parent, guardian, or person having custody or control over a child as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, commits child endangerment when the person:

1. Knowingly permits physical or sexual abuse of a child;

2. Knowingly permits a child to be present at a location where a controlled dangerous substance is being manufactured or attempted to be manufactured as defined in Section 2-101 of Title 63 of the Oklahoma Statutes;

3. Knowingly permits a child to be present in a vehicle when the person knows or should have known that the operator of the vehicle is impaired by or is under the influence of alcohol or another intoxicating substance; or

4. Is the driver, operator, or person in physical control of a vehicle in violation of Section 11-902 of Title 47 of the Oklahoma Statutes while transporting or having in the vehicle such child or children.

However, it is an affirmative defense to this paragraph if the person had a reasonable apprehension that any action to stop the physical or sexual abuse or deny permission for the child

to be in the vehicle with an intoxicated person would result in substantial bodily harm to the person or the child.

B. The provisions of this section shall not apply to any parent, guardian or other person having custody or control of a child for the sole reason that the parent, guardian or other person in good faith selects and depends upon spiritual means or prayer for the treatment or cure of disease or remedial care for such child. This subsection shall in no way limit or modify the protections afforded said child in Section 852 of this title or Section 1-4-904 of Title 10A of the Oklahoma Statutes.

C. Any person convicted of violating any provision of this section shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not more than four (4) years, or by a fine not exceeding Five Thousand Dollars ($ 5,000.00), or by both such fine and imprisonment.

OKLA. STAT. ANN. TIT. 21, § 853 (2010). Desertion of wife or child under 15 a felony.

Every person who shall without good cause abandon his wife in destitute or necessitous circumstances and neglect and refuse to maintain or provide for her, or who shall abandon his or her minor child or children under the age of fifteen (15) years and willfully neglect or refuse to maintain or provide for such child or children, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the State Penitentiary for any period of time not less than one (1) year or more than ten (10) years.

OKLA. STAT. ANN. TIT. 21, § 891 (2010). Child stealing--Penalty.

Whoever maliciously, forcibly or fraudulently takes or entices away any child under the age of sixteen (16) years, with intent to detain or conceal such child from its parent, guardian or other person having the lawful charge of such child or to transport such child from the jurisdiction of this state or the United States without the consent of the person having lawful charge of such child shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections not exceeding ten (10) years.

Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section and the offense involved sexual abuse or sexual exploitation, shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

OKLA. STAT. ANN. TIT. 21, § 1021 (2010). Indecent exposure--Indecent exhibitions--Obscene material or child pornography--Solicitation of minors.

A. Every person who willfully and knowingly either:

1. Lewdly exposes his person or genitals in any public place, or in any place where there are present other persons to be offended or annoyed thereby;

2. Procures, counsels, or assists any person to expose such person, or to make any other exhibition of such person to public view or to the view of any number of persons, for the purpose of sexual stimulation of the viewer;

3. Writes, composes, stereotypes, prints, photographs, designs, copies, draws, engraves, paints, molds, cuts, or otherwise prepares, publishes, sells, distributes, keeps for sale, knowingly downloads on a computer, or exhibits any obscene material or child pornography; or

4. Makes, prepares, cuts, sells, gives, loans, distributes, keeps for sale, or exhibits any disc record, metal, plastic, or wax, wire or tape recording, or any type of obscene material or child pornography,

shall be guilty, upon conviction, of a felony and shall be punished by the imposition of a fine of not less than Five Hundred Dollars ($ 500.00) nor more than Twenty Thousand Dollars ($ 20,000.00) or by imprisonment for not less than thirty (30) days nor more than ten (10) years, or by both such fine and imprisonment.

B. Every person who:

1. Willfully solicits or aids a minor child to perform; or

2. Shows, exhibits, loans, or distributes to a minor child any obscene material or child pornography for the purpose of inducing said minor to participate in,

any act specified in paragraphs 1, 2, 3 or 4 of subsection A of this section shall be guilty of a felony, upon conviction, and shall be punished by imprisonment in the custody of the Department of Corrections for not less than ten (10) years nor more than thirty (30) years, except when the minor child is under twelve (12) years of age at the time the offense is committed, and in such case the person shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years.

C. Persons convicted under this section shall not be eligible for a deferred sentence.

D. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

E. For purposes of this section, "downloading on a computer" means electronically transferring an electronic file from one computer or electronic media to another computer or electronic media.

OKLA. STAT. ANN. TIT. 21, § 1021.2 (2010). Minors--Procuring for participation in pornography.

A. Any person who shall procure or cause the participation of any minor under the age of eighteen (18) years in any child pornography or who knowingly possesses, procures, or manufactures, or causes to be sold or distributed any child pornography shall be guilty, upon conviction, of a felony and shall be punished by imprisonment for not more than twenty (20) years or by the imposition of a fine of not more than Twenty-five Thousand Dollars ($ 25,000.00) or by both said fine and imprisonment. Persons convicted under this section shall not be eligible for a deferred sentence. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

B. The consent of the minor, or of the mother, father, legal guardian, or custodian of the minor to the activity prohibited by this section shall not constitute a defense.

OKLA. STAT. ANN. TIT. 21, § 1021.3 (2010). Guardians--Parents--Custodians--Consent to participation of minors in child pornography.

A. Any parent, guardian or individual having custody of a minor under the age of eighteen (18) years who knowingly permits or consents to the participation of a minor in any child pornography shall be guilty of a felony and, upon conviction, shall be imprisoned in the custody of the Department of Corrections for a period of not more than twenty (20) years or a fine of not more than Twenty-five Thousand Dollars ($ 25,000.00) or by both such fine and imprisonment. Persons convicted under this section shall not be eligible for a deferred sentence. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

B. The consent of the minor to the activity prohibited by this section shall not constitute a defense.

OKLA. STAT. ANN. TIT. 21, § 1024.2 (2010). Purchase, procurement or possession of child pornography.

It shall be unlawful for any person to buy, procure or possess child pornography in violation of Sections 1024.1 through 1024.4 of this title. Such person shall, upon conviction, be guilty of a felony and shall be imprisoned for a period of not more than five (5) years or a fine up to, but not exceeding, Five Thousand Dollars ($ 5,000.00) or by both such fine and imprisonment.

OKLA. STAT. ANN. TIT. 21, § 1040.12A (2010). Aggravated possession of child pornography--Penalties--Definitions.

A. Any person who, with knowledge of its contents, possesses one hundred (100) or more separate materials depicting child pornography shall be, upon conviction, guilty of aggravated possession of child pornography. The violator shall be punished by imprisonment in the custody

of the Department of Corrections for a term not exceeding life imprisonment and by a fine in an amount not more than Ten Thousand Dollars ($ 10,000.00). The violator, upon conviction, shall be required to register as a sex offender under the Sex Offenders Registration Act.

B. For purposes of this section:

1. Multiple copies of the same identical material shall each be counted as a separate item;

2. The term "material" means the same definition provided by Section 1040.75 of Title 21 of the Oklahoma Statutes and, in addition, includes all digital and computerized images and depictions; and

3. The term "child pornography" means the same definition provided by Section 1040.80 of Title 21 of the Oklahoma Statutes and, in addition, includes sexual conduct, sexual excitement, sadomasochistic abuse, and performance of material harmful to minors where a minor is present or depicted as such terms are defined in Section 1040.75 of Title 21 of the Oklahoma Statutes.

OKLA. STAT. ANN. TIT. 21, § 1040.13 (2010). Acts prohibited--Felony.

Every person who, with knowledge of its contents, sends, brings, or causes to be sent or brought into this state for sale or commercial distribution, or in this state prepares, sells, exhibits, commercially distributes, gives away, offers to give away, or has in his possession with intent to sell, to commercially distribute, to exhibit, to give away, or to offer to give away any obscene material or child pornography or gives information stating when, where, how, or from whom, or by what means obscene material or child pornography can be purchased or obtained, upon conviction, is guilty of a felony and shall be punished by imprisonment for not more than ten (10) years in prison or by a fine of not more than Ten Thousand Dollars ($ 10,000.00), or by both such imprisonment and fine.

OKLA. STAT. ANN. TIT. 21, § 1115 (2010). Punishment for rape in first degree.

§ 1115. Punishment for rape in first degree

Rape in the first degree is a felony punishable by death or imprisonment in the State Penitentiary, not less than five (5) years, except as provided in Section 3 of this act, in the discretion of the jury, or in case the jury fails or refuses to fix the punishment then the same shall be pronounced by the court.

§ 1115. Punishment for rape in first degree

Rape in the first degree is a felony punishable by death or imprisonment in the custody of the Department of Corrections, for a term of not less than five (5) years, life or life without parole. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. Any person convicted of a second or subsequent violation

of subsection A of Section 1114 of this title shall not be eligible for any form of probation. Any person convicted of a third or subsequent violation of subsection A of Section 1114 of this title or of an offense under Section 888 of this title or an offense under Section 1123 of this title or sexual abuse of a child pursuant to Section 843.5 of this title, or any attempt to commit any of these offenses or any combination of these offenses shall be punished by imprisonment in the custody of the Department of Corrections for life or life without parole.

OKLA. STAT. ANN. TIT. 21, § 1116 (2010). Rape in second degree a felony.

Rape in the second degree is a felony punishable by imprisonment in the State Penitentiary not less than one (1) year nor more than fifteen (15) years.

OKLA. STAT. ANN. TIT. 21, § 1119 (2010). Abduction of person under fifteen.

Every person who takes away or induces to leave any person under the age of fifteen (15) years, from a parent, guardian or other person having the legal charge of the person, without the consent of said parent, guardian, or other person having legal charge, for the purpose of marriage or concubinage, or any crime involving moral turpitude shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars ($ 1,000.00), or by both such fine and imprisonment.

OKLA. STAT. ANN. TIT. 21, § 1123 (2010). Lewd or indecent proposals or acts as to child under 16 or person believed to be under 16--Sexual battery.

A. Any person who shall knowingly and intentionally:

1. Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age for the child to have unlawful sexual relations or sexual intercourse with any person; or

2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification, urinate or defecate upon a child under sixteen (16) years of age or ejaculate upon or in the presence of a child, or force or require a child to look upon the body or private parts of another person or upon

sexual acts performed in the presence of the child or force or require a child to touch or feel the body or private parts of said child or another person,

upon conviction, shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary for not less than one (1) year nor more than twenty (20) years, except as provided in Section 3 of this act. The provisions of this section shall not apply unless the accused is at least three (3) years older than the victim. Any person convicted of a second or subsequent violation of subsection A of this section shall be guilty of a felony and shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of subsection A of this section shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court.

B. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner and without the consent of that person or when committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state.

C. Any person convicted of any violation of this subsection shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary for not more than five (5) years.

Version 2: § 1123. Lewd or indecent proposals or acts as to child under 16 or person believed to be under 16--Sexual battery

A. It is a felony for any person to knowingly and intentionally:

1. Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person; or

2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification:

a. urinate or defecate upon a child under sixteen (16) years of age,

b. ejaculate upon or in the presence of a child,

c. cause, expose, force or require a child to look upon the body or private parts of another person,

d. force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by Sections 1024.1 and 1040.75 of this title,

e. cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or

f. force or require a child to touch or feel the body or private parts of said child or another person.

Any person convicted of any violation of this subsection shall be punished by imprisonment in the custody of the Department of Corrections for not less than three (3) years nor more than twenty (20) years, except when the child is under twelve (12) years of age at the time the offense is committed, and in such case the person shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years. The provisions of this subsection shall not apply unless the accused is at least three (3) years older than the victim. Any person convicted of a second or subsequent violation of this subsection shall be guilty of a felony punishable as provided in this subsection and shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this subsection shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, Section 888 of this title, sexual abuse of a child pursuant to Section 843.5 of this title, or of any attempt to commit any of these offenses or any combination of convictions pursuant to these sections shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

B. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner and without the consent of that person or when committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state.

C. Any person convicted of a violation of subsection B of this section shall be deemed guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years.

D. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

E. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

Effective November 1, 2010:

Section 1123. A. It is a felony for any person to knowingly and intentionally:

1. Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person; or

2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification:

a. urinate or defecate upon a child under sixteen (16) years of age,

b. ejaculate upon or in the presence of a child,

c. cause, expose, force or require a child to look upon the body or private parts of another person,

d. force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by Sections 1024.1 and 1040.75 of this title,

e. cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or

f. force or require a child to touch or feel the body or private parts of said child or another person.

Any person convicted of any violation of this subsection shall be punished by imprisonment in the custody of the Department of Corrections for not less than three (3) years nor more than twenty (20) years, except when the child is under twelve (12) years of age at the time the offense is committed, and in such case the person shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years. The provisions of this subsection shall not apply unless the accused is at least three (3) years older than the victim [A> , EXCEPT WHEN ACCOMPLISHED BY THE USE OF FORCE OR FEAR <A] . Any person convicted of a second or subsequent violation of this subsection shall be guilty of a felony punishable as provided in this subsection and shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this subsection shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, Section 888 of this title, sexual abuse of a child pursuant to Section 843.5 of this title, or of any attempt to commit any of these offenses or any combination of convictions pursuant to these sections shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

B. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner [D> and without <D] [A> : <A]

[A> 1. WITHOUT <A] the consent of that person [D> or when <D] [A> ; <A]

[A> 2. WHEN <A] committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state [A> ; OR <A]

[A> 3. WHEN COMMITTED UPON A PERSON WHO IS AT LEAST SIXTEEN (16) YEARS OF AGE AND IS LESS THAN TWENTY (20) YEARS OF AGE AND IS A STUDENT, OR IN THE LEGAL CUSTODY OR SUPERVISION OF ANY PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL, OR TECHNOLOGY CENTER SCHOOL, BY A PERSON WHO IS EIGHTEEN (18) YEARS OF AGE OR OLDER AND IS AN EMPLOYEE OF THE SAME SCHOOL SYSTEM THAT THE VICTIM ATTENDS <A] .

[A> AS USED IN THIS SUBSECTION, "EMPLOYEE OF THE SAME SCHOOL SYSTEM" MEANS A TEACHER, PRINCIPAL OR OTHER DULY APPOINTED PERSON EMPLOYED BY A SCHOOL SYSTEM OR AN EMPLOYEE OF A FIRM CONTRACTING WITH A SCHOOL SYSTEM WHO EXERCISES AUTHORITY OVER THE VICTIM. <A]

C. [A> NO PERSON SHALL IN ANY MANNER LEWDLY OR LASCIVIOUSLY: <A]

[A> 1. LOOK UPON, TOUCH, MAUL, OR FEEL THE BODY OR PRIVATE PARTS OF ANY HUMAN CORPSE IN ANY INDECENT MANNER RELATING TO SEXUAL MATTERS OR SEXUAL INTEREST; OR <A]

[A> 2. URINATE, DEFECATE OR EJACULATE UPON ANY HUMAN CORPSE. <A]

[A> D. <A] Any person convicted of a violation of subsection B [A> OR C <A] of this section shall be deemed guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years.

[D> D. <D] [A> E. <A] The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

[D> E. <D] [A> F. <A] Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

OKLA. STAT. ANN. TIT. 57, § 582 (2010). Persons and crimes to which act applies.

A. The provisions of the Sex Offenders Registration Act shall apply to any person residing, working or attending school within the State of Oklahoma who, after November 1, 1989, has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term, or is currently serving a sentence or any form of probation or parole for a crime or an attempt to commit a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse or sexual exploitation, Section 852.1, if the offense involved sexual abuse of a child, 865 et seq., 885, 886, 888, 891, if the offense involved sexual abuse or sexual exploitation, 1021, 1021.2, 1021.3, 1024.2, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes.

B. The provisions of the Sex Offenders Registration Act shall apply to any person who after November 1, 1989, resides, works or attends school within the State of Oklahoma and who has been convicted or received a suspended sentence at any time in any court of another state, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands and the United States Virgin Islands, a federal court, an Indian tribal court, a military court, or a court of a foreign country for a crime, attempted crime or a conspiracy to commit a crime which, if committed or attempted in this state, would be a crime, an attempt to commit a crime or a conspiracy to commit a crime provided for in any of said laws listed in subsection A of this section.

C. The provisions of the Sex Offenders Registration Act shall apply to any person who resides, works or attends school within the State of Oklahoma and who has received a deferred judgment at any time in any court of another state, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands and the United States Virgin Islands, a federal court, an Indian tribal court, a military court, or a court of a foreign country for a crime, attempted crime or a conspiracy to commit a crime which, if committed or attempted or conspired to be committed in this state, would be a crime, an attempt to commit a crime or a conspiracy to commit a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A of the

Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse or sexual exploitation, Section 852.1, if the offense involved sexual abuse of a child, 865 et seq., 885, 886, 888, 891, if the offense involved sexual abuse or sexual exploitation, 1021, 1021.2, 1021.3, 1024.2, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes. The provisions of the Sex Offenders Registration Act shall not apply to any such person while the person is incarcerated in a maximum or medium correctional institution of the Department of Corrections.

D. On the effective date of this act, any person registered as a sex offender pursuant to Section 741 of Title 21 of the Oklahoma Statutes shall be summarily removed from the Sex Offender Registry by the Department of Corrections and all law enforcement agencies of any political subdivision of this state, unless the offense involved sexual abuse or sexual exploitation.

E. The provisions of the Sex Offenders Registration Act shall not apply to any such person who has received a criminal history records expungement for a conviction in another state for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any said laws listed in subsection A of this section.

OKLA. STAT. ANN. TIT. 57, § 587 (2010). Penalty.

A. Any person required to register pursuant to the provisions of the Sex Offenders Registration Act who violates any provision of said act shall, upon conviction, be guilty of a felony. Any person convicted of a violation of this section shall be punished by imprisonment in the custody of the Department of Corrections for not more than five (5) years, a fine not to exceed Five Thousand Dollars ($ 5,000.00), or both such fine and imprisonment.

B. Any person required to register pursuant to the Sex Offenders Registration Act who fails to comply with the established guidelines for global position system (GPS) monitoring shall, upon conviction, be guilty of a felony punishable by a fine not to exceed One Thousand Dollars ($ 1,000.00), or by imprisonment in the custody of the county jail for not more than one (1) year, or by both such fine and imprisonment.

OKLA. STAT. ANN. TIT. 57, § 593 (2010). Persons to whom act applies--Crimes to be registered under act--Judge's determination.

A. On and after November 1, 2004, the provisions of the Mary Rippy Violent Crime Offenders Registration Act shall apply to:

1. Any person residing, working or attending school in this state who is subsequently convicted of, or who receives a deferred judgment or suspended sentence for, any crime or attempted crime enumerated in subsection B of this section by any court in this state, another state, the United States, a tribal court, or a military court; or

2. Any person who subsequently enters this state for purposes of residence, work or to attend school and who has been previously convicted of or is subject to a deferred judgment, suspended sentence, probation or parole from any court of another state, the United States, a tribal court, or a military court for any crime or attempted crime which, if committed or attempted in this state, would be a crime substantially similar to any crime enumerated in subsection B of this section.

For purposes of this act, "convicted of" means an adjudication of guilt by a court of competent jurisdiction whether upon a verdict or plea of guilty or nolo contendere.

B. The following crimes and attempts to commit such crimes shall be registered under the Mary Rippy Violent Crime Offenders Registration Act:

1. First degree murder as provided for in Section 701.7 of Title 21 of the Oklahoma Statutes;

2. Second degree murder as provided for in Section 701.8 of Title 21 of the Oklahoma Statutes;

3. Manslaughter in the first degree as defined by Section 711 of Title 21 of the Oklahoma Statutes;

4. Shooting or discharging a firearm with intent to kill, use of a vehicle to facilitate the intentional discharge of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm, as provided for in Section 652 of Title 21 of the Oklahoma Statutes;

5. Assault with intent to kill as provided for in Section 653 of Title 21 of the Oklahoma Statutes;

6. Bombing as provided for in Section 1767.1 of Title 21 of the Oklahoma Statutes;

7. Abuse as specifically provided in subsection D of this section; and

8. Any crime or attempt to commit a crime constituting a substantially similar offense as stated in paragraphs 1 through 7 of this subsection adjudicated by any court of another state, the United States, a tribal court, or a military court.

C. The registration requirements of the Mary Rippy Violent Crime Offenders Registration Act shall not apply to any person while the person is incarcerated in a maximum or medium correctional institution of the Department of Corrections, a private correctional institution, or another state, federal, tribal or military facility, but shall apply to deferred, suspended, probation, parole and discharges.

D. 1. For purposes of the Mary Rippy Violent Crime Offenders Registration Act, the requirement to register for a crime of abuse shall be determined by the judge at the time of sentencing or upon granting the defendant a deferred judgment. The judge shall determine whether the crime for which the defendant is convicted or pleads guilty or nolo contendere under any provision of Section 843.5 of Title 21 of the Oklahoma Statutes or Section 843.1, 843.2, 852 or 852.1 of Title 21 of the Oklahoma Statutes resulted in:

a. physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish to the victim, or

b. deprivation of nutrition, clothing, shelter, health care, or other care or services which caused serious physical or mental injury to the victim,

and whether the facts or nature of the offense warrant registration for public disclosure and protection of victims.

2. Not every offense enumerated in paragraph 1 of this subsection shall require automatic registration under the Mary Rippy Violent Crime Offenders Registration Act, and no other offenses shall be authorized for consideration for registration as a crime of abuse. The judge shall not order any defendant to register under the Mary Rippy Violent Crime Offenders Registration Act if the defendant is required to register pursuant to any provision of the Oklahoma Sex Offenders Registration Act for the same offense.

3. Upon the judge determining the defendant should register pursuant to the Mary Rippy Violent Crime Offenders Registration Act for a crime of abuse as authorized in this subsection, the defendant shall be ordered to register and to comply with all provisions of the Mary Rippy Violent Crime Offenders Registration Act, including, but not limited to, the statutory term of registration.

OKLA. STAT. ANN. TIT. 57, § 599 (2010). Violation—Penalties.

Any person required to register pursuant to the provisions of the Mary Rippy Violent Crime Offenders Registration Act who violates any provision of the act shall, upon conviction, be guilty of a felony. Any person convicted of a violation of this section shall be punished by incarceration in a correctional facility for not more than five (5) years, a fine not to exceed Five Thousand Dollars ($ 5,000.00), or both such fine and imprisonment.

OREGON

OR. REV. STAT. § 137.700 (2010). Offenses requiring imposition of mandatory minimum sentences.

(1) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses listed in subsection (2)(a) of this section and the offense was committed on or after April 1, 1995, or of one of the offenses listed in subsection (2)(b) of this section and the offense was committed on or after October 4, 1997, or of the offense described in subsection (2)(c) of this section and the offense was committed on or after January 1, 2008, the court shall impose, and the person shall serve, at least the entire term of imprisonment listed in subsection (2) of this section. The person is not, during the service of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary leave from custody. The person is not eligible for any reduction in, or based on, the minimum sentence for any reason whatsoever under ORS 421.121 or any other statute. The court may impose a greater sentence if otherwise permitted by law, but may not impose a lower sentence than the sentence specified in subsection (2) of this section.

(2) The offenses to which subsection (1) of this section applies and the applicable mandatory minimum sentences
are:_____
___

(a)(A) Murder, as defined in ORS 163.115..... 300 months

(B) Attempt or conspiracy to commit aggravated murder, as defined in ORS 163.095..... 120 months

(C) Attempt or conspiracy to commit murder, as defined in ORS 163.115..... 90 months

(D) Manslaughter in the first degree, as defined in ORS 163.118..... 120 months

(E) Manslaughter in the second degree, as defined in ORS 163.125..... 75 months

(F) Assault in the first degree, as defined in ORS 163.185..... 90 months

(G) Assault in the second degree, as defined in ORS 163.175..... 70 months

(H) Except as provided in paragraph (b)(G) of this subsection, kidnapping in the first degree, as defined in ORS 163.235..... 90 months

(I) Kidnapping in the second degree, as defined in ORS 163.225..... 70 months

(J) Rape in the first degree, as defined in ORS 163.375

(1)(a), (c) or (d)..... 100 months

(K) Rape in the second degree, as defined in ORS 163.365..... 75 months

(L) Sodomy in the first degree, as defined in ORS 163.405

(1)(a), (c) or (d)..... 100 months

(M) Sodomy in the second degree, as defined in ORS 163.395..... 75 months

(N) Unlawful sexual penetration in the first degree, as defined in ORS 163.411

(1)(a) or (c)..... 100 months

(O) Unlawful sexual penetration in the second degree, as defined in ORS 163.408..... 75 months

(P) Sexual abuse in the first degree, as defined in ORS 163.427..... 75 months

(Q) Robbery in the first degree, as defined in ORS 164.415..... 90 months

(R) Robbery in the second degree, as defined in ORS 164.405..... 70 months

(b)(A) Arson in the first degree, as defined in ORS 164.325, when the offense represented a threat of serious physical injury..... 90 months

(B) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670..... 70 months

(C) Compelling prostitution, as defined in ORS 167.017..... 70 months

(D) Rape in the first degree, as defined in ORS 163.375 (1)(b)..... 300 months

(E) Sodomy in the first degree, as defined in ORS 163.405 (1)(b)..... 300 months

(F) Unlawful sexual penetration in the first degree, as defined in ORS 163.411 (1)(b)..... 300 months

(G) Kidnapping in the first degree, as defined in ORS 163.235, when the offense is committed in furtherance of the commission or attempted commission of an offense listed in subparagraph

(D), (E) or (F) of this paragraph..... 300 months

(c) Aggravated vehicular homicide, as defined in ORS 163.149..... 240 months_____

_____

OR. REV. STAT. § 137.765 (2010). Sexually violent dangerous offenders; definitions; mandatory lifetime post-prison supervision.

(1) As used in this section:

(a) "History of sexual assault" means that a person has engaged in unlawful sexual conduct that:

(A) Was not committed as part of the same criminal episode as the crime for which the person is currently being sentenced; and

(B) Seriously endangered the life or safety of another person or involved a victim under 12 years of age.

(b) "Sexually violent dangerous offender" means a person who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault and presents a substantial probability of committing a crime listed in subsection (3) of this section.

(2) Notwithstanding ORS 161.605, when a person is convicted of a crime listed in subsection (3) of this section, in addition to any sentence of imprisonment required by law, a court shall impose a period of post-prison supervision that extends for the life of the person if:

(a) The person was 18 years of age or older at the time the person committed the crime; and

(b) The person is a sexually violent dangerous offender.

(3) The crimes to which subsection (2) of this section applies are:

(a) Rape in the first degree and sodomy in the first degree if the victim was:

(A) Subjected to forcible compulsion by the person;

(B) Under 12 years of age; or

(C) Incapable of consent by reason of mental defect, mental incapacitation or physical helplessness;

(b) Unlawful sexual penetration in the first degree; and

(c) An attempt to commit a crime listed in paragraph (a) or (b) of this subsection.

Note: 137.765 to 137.771 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

OR. REV. STAT. § 161.605 (2010). Maximum prison terms for felonies.

The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

(1) For a Class A felony, 20 years.

(2) For a Class B felony, 10 years.

(3) For a Class C felony, 5 years.

(4) For an unclassified felony as provided in the statute defining the crime.

OR. REV. STAT. § 161.610 (2010). Enhanced penalty for use of firearm during commission of felony; pleading; minimum penalties; suspension or reduction of penalty.

(1) As used in this section, "firearm" has the meaning given that term in ORS 166.210.

(2) The use or threatened use of a firearm, whether operable or inoperable, by a defendant during the commission of a felony may be pleaded in the accusatory instrument and proved at trial as an element in aggravation of the crime as provided in this section. When a crime is so pleaded, the aggravated nature of the crime may be indicated by adding the words "with a firearm" to the title of the offense. The unaggravated crime shall be considered a lesser included offense.

(3) Notwithstanding the provisions of ORS 161.605 or 137.010 (3) and except as otherwise provided in subsection (6) of this section, if a defendant is convicted of a felony having as an element the defendant's use or threatened use of a firearm during the commission of the crime, the court shall impose at least the minimum term of imprisonment as provided in subsection (4) of this section. Except as provided in ORS 144.122 and 144.126 and subsection (5) of this section, in no case shall any person punishable under this section become eligible for work release, parole, temporary leave or terminal leave until the minimum term of imprisonment is served, less a period of time equivalent to any reduction of imprisonment granted for good time served or time credits earned under ORS 421.121, nor shall the execution of the sentence imposed upon such person be suspended by the court.

(4) The minimum terms of imprisonment for felonies having as an element the defendant's use or threatened use of a firearm in the commission of the crime shall be as follows:

(a) Except as provided in subsection (5) of this section, upon the first conviction for such felony, five years, except that if the firearm is a machine gun, short-barreled rifle, short-barreled shotgun or is equipped with a firearms silencer, the term of imprisonment shall be 10 years.

(b) Upon conviction for such felony committed after punishment pursuant to paragraph (a) of this subsection or subsection (5) of this section, 10 years, except that if the firearm is a machine gun, short-barreled rifle, short-barreled shotgun or is equipped with a firearms silencer, the term of imprisonment shall be 20 years.

(c) Upon conviction for such felony committed after imprisonment pursuant to paragraph (b) of this subsection, 30 years.

(5) If it is the first time that the defendant is subject to punishment under this section, rather than impose the sentence otherwise required by subsection (4)(a) of this section, the court may:

(a) For felonies committed prior to November 1, 1989, suspend the execution of the sentence or impose a lesser term of imprisonment, when the court expressly finds mitigating circumstances justifying such lesser sentence and sets forth those circumstances in its statement on sentencing; or

(b) For felonies committed on or after November 1, 1989, impose a lesser sentence in accordance with the rules of the Oregon Criminal Justice Commission.

(6) When a defendant who is convicted of a felony having as an element the defendant's use or threatened use of a firearm during the commission of the crime is a person who was waived from juvenile court under ORS 137.707 (5)(b)(A), 419C.349, 419C.352, 419C.364 or 419C.370, the court is not required to impose a minimum term of imprisonment under this section.

OR. REV. STAT. § 161.615 (2010). Prison terms for misdemeanors.

Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations:

(1) For a Class A misdemeanor, 1 year.

(2) For a Class B misdemeanor, 6 months.

(3) For a Class C misdemeanor, 30 days.

(4) For an unclassified misdemeanor, as provided in the statute defining the crime.

OR. REV. STAT. § 161.620 (2010). Sentences imposed upon waiver from juvenile court.

Notwithstanding any other provision of law, a sentence imposed upon any person waived from the juvenile court under ORS 419C.349, 419C.352, 419C.364 or 419C.370 shall not include any sentence of death or life imprisonment without the possibility of release or parole nor imposition of any mandatory minimum sentence except that a mandatory minimum sentence under:

(1) ORS 163.105 (1)(c) shall be imposed; and

(2) ORS 161.610 may be imposed.

OR. REV. STAT. § 161.625 (2010). Fines for felonies.

161.620 was added to and made a part of ORS 161.615 to 161.685 by legislative action but was not added to any smaller series in that series. See Preface to Oregon Revised Statutes for further explanation.

(1) A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) $ 500,000 for murder or aggravated murder.

(b) $ 375,000 for a Class A felony.

(c) $ 250,000 for a Class B felony.

(d) $ 125,000 for a Class C felony.

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3)(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section does not apply to a corporation.

OR. REV. STAT. § 161.635 (2010). Fines for misdemeanors.

(1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) $ 6,250 for a Class A misdemeanor.

(b) $ 2,500 for a Class B misdemeanor.

(c) $ 1,250 for a Class C misdemeanor.

(2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3) If a person has gained money or property through the commission of a misdemeanor, then upon conviction thereof the court, instead of imposing the fine authorized for the offense under this section, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.

(4) This section does not apply to corporations.

OR. REV. STAT. § 181.595 (2010). Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction.

(1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency to which a person reports under subsection (3) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (3) of this section.

(b) When a person who is under supervision reports to the agency supervising the person, the supervising agency may require the person to report instead to the Department of State Police, a city police department or a county sheriff's office and provide the supervising agency with proof of the completed registration.

(2) Subsection (3) of this section applies to a person who:

(a) Is discharged, paroled or released on any form of supervised or conditional release from a jail, prison or other correctional facility or detention facility in this state at which the person was confined as a result of:

(A) Conviction of a sex crime;

(B) Having been found guilty except for insanity of a sex crime; or

(C) Having been found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a sex crime;

(b) Is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state;

(c) Is paroled to or otherwise placed in this state after having been found by another United States court to have committed an act while the person was under 18 years of age that would constitute a sex crime if committed in this state by an adult;

(d) Is discharged or placed on conditional release by the juvenile panel of the Psychiatric Security Review Board after having been found to be responsible except for insanity under ORS 419C.411 for an act that would constitute a sex crime if committed by an adult; or

(e) Is discharged by the court under ORS 161.329 after having been found guilty except for insanity of a sex crime.

(3)(a) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff's office or, if the person is under supervision, to the supervising agency:

(A) Within 10 days following discharge, release on parole, post-prison supervision or other supervised or conditional release;

(B) Within 10 days of a change of residence;

(C) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence;

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If the person required to report under this subsection is a youth offender or young person, as defined in ORS 419A.004, who is under supervision, the person shall report to the agency supervising the person.

(c) The obligation to report under this subsection terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(4) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department, the county sheriff's office or the supervising agency:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police bureau of criminal identification.

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(1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency to which a person reports under subsection (4) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (4) of this section.

(b) When a person who is under supervision reports to the agency supervising the person, the supervising agency may require the person to report instead to the Department of State Police, a city police department or a county sheriff's office and provide the supervising agency with proof of the completed registration.

(2) Subsection (4) of this section applies to a person who is discharged, released or placed on probation:

(a) By the court after being convicted in this state of a sex crime;

(b) By the juvenile court after being found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a sex crime;

(c) To this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state; or

(d) To this state after having been found by another United States court to have committed an act while the person was under 18 years of age that would constitute a sex crime if committed in this state by an adult.

(3) The court shall ensure that the person completes a form that documents the person's obligation to report under ORS 181.595 or this section. No later than three working days after the person completes the form required by this subsection, the court shall ensure that the form is sent to the Department of State Police.

(4)(a) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff's office or, if the person is under supervision, to the supervising agency:

(A) Within 10 days following discharge, release or placement on probation;

(B) Within 10 days of a change of residence;

(C) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence;

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If the person required to report under this subsection is a youth offender, as defined in ORS 419A.004, who is under supervision, the person shall report to the agency supervising the person.

(c) The obligation to report under this subsection terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(5) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department, the county sheriff's office or the supervising agency:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police bureau of criminal identification.

PENNSYLVANIA

18 PA. CONS. STAT. ANN. § 1101 (2010). Fines.

A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:

(1) $ 50,000, when the conviction is of murder or attempted murder.

(2) $ 25,000, when the conviction is of a felony of the first or second degree.

(3) $ 15,000, when the conviction is of a felony of the third degree.

(4) $ 10,000, when the conviction is of a misdemeanor of the first degree.

(5) $ 5,000, when the conviction is of a misdemeanor of the second degree.

(6) $ 2,500, when the conviction is of a misdemeanor of the third degree.

(7) $ 300, when the conviction is of a summary offense for which no higher fine is established.

(8) Any higher amount equal to double the pecuniary gain derived from the offense by the offender.

(9) Any higher or lower amount specifically authorized by statute.

18 PA. CONS. STAT. ANN. § 1103 (2010). Sentence of imprisonment for felony.

Except as provided in 42 Pa.C.S. § 9714 (relating to sentences for second and subsequent offenses), a person who has been convicted of a felony may be sentenced to imprisonment as follows:

(1) In the case of a felony of the first degree, for a term which shall be fixed by the court at not more than 20 years.

(2) In the case of a felony of the second degree, for a term which shall be fixed by the court at not more than ten years.

(3) In the case of a felony of the third degree, for a term which shall be fixed by the court at not more than seven years.

18 PA. CONS. STAT. ANN. § 1104 (2010). Sentence of imprisonment for misdemeanors.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment for a definite term which shall be fixed by the court and shall be not more than:

(1) Five years in the case of a misdemeanor of the first degree.

(2) Two years in the case of a misdemeanor of the second degree.

(3) One year in the case of a misdemeanor of the third degree.

18 PA. CONS. STAT. ANN. § 1105 (2010). Sentence of imprisonment for summary offenses.

A person who has been convicted of a summary offense may be sentenced to imprisonment for a term which shall be fixed by the court at not more than 90 days.

18 PA. CONS. STAT. ANN. § 1106 (2010). Restitution for injuries to person or property.

(a) GENERAL RULE.-- Upon conviction for any crime wherein property has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result

of the crime, or wherein the victim suffered personal injury directly resulting from the crime, the offender shall be sentenced to make restitution in addition to the punishment prescribed therefor.

(b) CONDITION OF PROBATION OR PAROLE.-- Whenever restitution has been ordered pursuant to subsection (a) and the offender has been placed on probation or parole, his compliance with such order may be made a condition of such probation or parole.

(c) MANDATORY RESTITUTION.--

(1) The court shall order full restitution:

(i) Regardless of the current financial resources of the defendant, so as to provide the victim with the fullest compensation for the loss. The court shall not reduce a restitution award by any amount that the victim has received from the Crime Victim's Compensation Board or other governmental agency but shall order the defendant to pay any restitution ordered for loss previously compensated by the board to the Crime Victim's Compensation Fund or other designated account when the claim involves a government agency in addition to or in place of the board. The court shall not reduce a restitution award by any amount that the victim has received from an insurance company but shall order the defendant to pay any restitution ordered for loss previously compensated by an insurance company to the insurance company.

(ii) If restitution to more than one person is set at the same time, the court shall set priorities of payment. However, when establishing priorities, the court shall order payment in the following order:

(A) The victim.

(B) The Crime Victim's Compensation Board.

(C) Any other government agency which has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(D) Any insurance company which has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(2) At the time of sentencing the court shall specify the amount and method of restitution. In determining the amount and method of restitution, the court:

(i) Shall consider the extent of injury suffered by the victim, the victim's request for restitution as presented to the district attorney in accordance with paragraph (4) and such other matters as it deems appropriate.

(ii) May order restitution in a lump sum, by monthly installments or according to such other schedule as it deems just.

(iii) Shall not order incarceration of a defendant for failure to pay restitution if the failure results from the offender's inability to pay.

(iv) Shall consider any other preexisting orders imposed on the defendant, including, but not limited to, orders imposed under this title or any other title.

(3) The court may, at any time or upon the recommendation of the district attorney that is based on information received from the victim and the probation section of the county or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution, alter or amend any order of restitution made pursuant to paragraph (2), provided, however, that the court states its reasons and conclusions as a matter of record for any change or amendment to any previous order.

(4) (i) It shall be the responsibility of the district attorneys of the respective counties to make a recommendation to the court at or prior to the time of sentencing as to the amount of restitution to be ordered. This recommendation shall be based upon information solicited by the district attorney and received from the victim.

(ii) Where the district attorney has solicited information from the victims as provided in subparagraph (i) and has received no response, the district attorney shall, based on other available information, make a recommendation to the court for restitution.

(iii) The district attorney may, as appropriate, recommend to the court that the restitution order be altered or amended as provided in paragraph (3).

(d) LIMITATIONS ON DISTRICT JUSTICES.-- Restitution ordered by a magisterial district judge shall be limited to the return of the actual property or its undisputed dollar amount or, where the claim for restitution does not exceed the civil jurisdictional limit specified in 42 Pa.C.S. § 1515(a)(3) (relating to jurisdiction) and is disputed as to amount, the magisterial district judge shall determine and order the dollar amount of restitution to be made.

(e) RESTITUTION PAYMENTS AND RECORDS.-- Restitution, when ordered by a judge, shall be made by the offender to the probation section of the county in which he was convicted or to another agent designated by the county commissioners with the approval of the president judge of the county to collect restitution according to the order of the court or, when ordered by a magisterial district judge, shall be made to the magisterial district judge. The probation section or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution and the magisterial district judge shall maintain records of the restitution order and its satisfaction and shall forward to the victim the property or payments made pursuant to the restitution order.

(f) NONCOMPLIANCE WITH RESTITUTION ORDER.-- Whenever the offender shall fail to make restitution as provided in the order of a judge, the probation section or other agent

designated by the county commissioners of the county with the approval of the president judge to collect restitution shall notify the court within 20 days of such failure. Whenever the offender shall fail to make restitution within 20 days to a magisterial district judge, as ordered, the magisterial district judge shall declare the offender in contempt and forward the case to the court of common pleas. Upon such notice of failure to make restitution, or upon receipt of the contempt decision from a magisterial district judge, the court shall order a hearing to determine if the offender is in contempt of court or has violated his probation or parole.

(g) PRESERVATION OF PRIVATE REMEDIES.-- No judgment or order of restitution shall debar the owner of the property or the victim who sustained personal injury, by appropriate action, to recover from the offender as otherwise provided by law, provided that any civil award shall be reduced by the amount paid under the criminal judgment.

(h) DEFINITIONS.-- As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"CRIME." Any offense punishable under this title or by a magisterial district judge.

"INJURY TO PROPERTY." Loss of real or personal property, including negotiable instruments, or decrease in its value, directly resulting from the crime.

"OFFENDER." Any person who has been found guilty of any crime.

"PERSONAL INJURY." Actual bodily harm, including pregnancy, directly resulting from the crime.

"PROPERTY." Any real or personal property, including currency and negotiable instruments, of the victim.

"RESTITUTION." The return of the property of the victim or payments in cash or the equivalent thereof pursuant to an order of the court.

"VICTIM." As defined in section 479.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929. The term includes the Crime Victim's Compensation Fund if compensation has been paid by the Crime Victim's Compensation Fund to the victim and any insurance company that has compensated the victim for loss under an insurance contract.

18 PA. CONS. STAT. ANN. § 2701 (2010). Simple assault.

(a) OFFENSE DEFINED.-- A person is guilty of assault if he:

(1) attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another;

(2) negligently causes bodily injury to another with a deadly weapon;

(3) attempts by physical menace to put another in fear of imminent serious bodily injury; or

(4) conceals or attempts to conceal a hypodermic needle on his person

and intentionally or knowingly penetrates a law enforcement officer or an officer or an employee of a correctional institution, county jail or prison, detention facility or mental hospital during the course of an arrest or any search of the person.

(b) GRADING.-- Simple assault is a misdemeanor of the second degree unless committed:

(1) in a fight or scuffle entered into by mutual consent, in which case it is a misdemeanor of the third degree; or

(2) against a child under 12 years of age by an adult 21 years of age or older, in which case it is a misdemeanor of the first degree.

18 PA. CONS. STAT. ANN. § 3121 (2010). Rape.

(a) OFFENSE DEFINED.-- A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:

(1) By forcible compulsion.

(2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.

(3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.

(4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.

(5) Who suffers from a mental disability which renders the complainant incapable of consent.

(6) Deleted by 2002, Dec. 9, P.L. 1350, No. 162, § 2, effective in 60 days.

(b) ADDITIONAL PENALTIES.-- In addition to the penalty provided for by subsection (a), a person may be sentenced to an additional term not to exceed ten years' confinement and an additional amount not to exceed $ 100,000 where the person engages in sexual intercourse with a complainant and has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, any substance for the purpose of preventing resistance through the inducement of euphoria, memory loss and any other effect of this substance.

(c) RAPE OF A CHILD.-- A person commits the offense of rape of a child, a felony of the first degree, when the person engages in sexual intercourse with a complainant who is less than 13 years of age.

(d) RAPE OF A CHILD WITH SERIOUS BODILY INJURY.-- A person commits the offense of rape of a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is under 13 years of age and suffers serious bodily injury in the course of the offense.

(e) SENTENCES.-- Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

(1) Subsection (c) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.

(2) Subsection (d) shall be sentenced up to a maximum term of life imprisonment.

18 PA. CONS. STAT. ANN. § 3123 (2010). Involuntary deviate sexual intercourse.

(a) OFFENSE DEFINED.-- A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:

(1) by forcible compulsion;

(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;

(4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;

(5) who suffers from a mental disability which renders him or her incapable of consent; or

(6) Deleted by 2002, Dec. 9, P.L. 1350, No. 162, § 2, effective in 60 days.

(7) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

(b) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE WITH A CHILD.-- A person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age.

(c) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE WITH A CHILD WITH SERIOUS BODILY INJURY.-- A person commits an offense under this section with a child resulting in serious bodily injury, a felony of the first degree, when the person violates this

section and the complainant is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.

(d) SENTENCES.-- Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

(1) Subsection (b) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.

(2) Subsection (c) shall be sentenced up to a maximum term of life imprisonment.

(e) DEFINITION.-- As used in this section, the term "forcible compulsion" includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after the sexual intercourse.

18 PA. CONS. STAT. ANN. § 4304 (2010). Endangering welfare of children.

(a) OFFENSE DEFINED.--

(1) A parent, guardian or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person, commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.

(2) A person commits an offense if the person, in an official capacity, prevents or interferes with the making of a report of suspected child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services).

(3) As used in this subsection, the term "person supervising the welfare of a child" means a person other than a parent or guardian that provides care, education, training or control of a child.

(b) GRADING.-- An offense under this section constitutes a misdemeanor of the first degree. However, where there is a course of conduct of endangering the welfare of a child, the offense constitutes a felony of the third degree.

18 PA. CONS. STAT. ANN. § 7624 (2010). Penalty.

Notwithstanding any other provision of law to the contrary, any Internet service provider who violates section 7622 (relating to duty of Internet service provider) commits:

(1) A misdemeanor of the third degree for a first offense punishable by a fine of $ 5,000.

(2) A misdemeanor of the second degree for a second offense punishable by a fine of $ 20,000.

(3) A felony of the third degree for a third or subsequent offense

punishable by a fine of $ 30,000 and imprisonment for a maximum of seven years.

42 PA. CONS. STAT. ANN. § 9756 (2010). Sentence of total confinement.

(a) GENERAL RULE.-- In imposing a sentence of total confinement the court shall at the time of sentencing specify any maximum period up to the limit authorized by law and whether the sentence shall commence in a correctional or other appropriate institution.

(b) MINIMUM SENTENCE. --

(1) The court shall impose a minimum sentence of confinement which shall not exceed one-half of the maximum sentence imposed.

(2) The minimum sentence imposed under this section may not be reduced through parole prior to the expiration of the minimum sentence unless otherwise authorized by this section or other law.

(3) Except where the maximum sentence imposed is two years or more, and except where a mandatory minimum sentence of imprisonment or total confinement is required by law, the court shall, at the time of sentencing, state whether or not the defendant is eligible to participate in a reentry plan at any time prior to the expiration of the minimum sentence or at the expiration of a specified portion of the minimum sentence. For maximum sentences of less than two years as defined under section 9762(f) (relating to sentencing proceeding; place of confinement), a court may parole a defendant prior to the expiration of the minimum sentence only if the defendant was made eligible to participate in a reentry plan at the time of sentencing. The court shall provide at least ten days' written notice and an opportunity to be heard, pursuant to section 9776 (relating to judicial power to release inmates), to the prosecuting attorney before granting parole pursuant to this subsection. The reentry plan eligibility shall be considered a part of the sentence and subject to the requirements relating to the entry, recording and reporting of sentences.

(B.1) RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SENTENCE. --The court shall determine if the defendant is eligible for a recidivism risk reduction incentive minimum sentence under 61 Pa.C.S. Ch. 45 (relating to recidivism risk reduction incentive). If the defendant is eligible, the court shall impose a recidivism risk reduction incentive minimum sentence in addition to a minimum sentence and maximum sentence except, if the defendant was previously sentenced to two or more recidivism risk reduction incentive minimum sentences, the court shall have the discretion to impose a sentence with no recidivism risk reduction incentive minimum.

(c) PROHIBITION OF PAROLE FOR SUMMARY OFFENSES.-- The court may impose a sentence to imprisonment without the right to parole under this subsection only when:

(1) a summary offense is charged;

(2) sentence is imposed for nonpayment of fines or costs, or both, in which case the sentence shall specify the number of days to be served; and

(3) the maximum term or terms of imprisonment imposed on one or more indictments to run consecutively or concurrently total less than 30 days.

(C.1) SENTENCE OF TOTAL CONFINEMENT COMBINED WITH SENTENCE OF COUNTY INTERMEDIATE PUNISHMENT.-- The court may impose a sentence of imprisonment without parole under this subsection only when:

(1) the period of total confinement is followed immediately by a sentence imposed pursuant to section 9763 (relating to sentence of county intermediate punishment) in which case the sentence of total confinement shall specify the number of days of total confinement also to be served; and

(2) the maximum sentence of total confinement imposed on one or more indictments to run consecutively or concurrently total 90 days or less.

(d) PRISONER RELEASE PLANS.-- This section shall not be interpreted as limiting the authority of the Bureau of Correction as set forth in the act of July 16, 1968 (P.L. 351, No. 173), as amended, relating to prisoner pre-release centers and release plans, or the authority of the court as set forth in the act of August 13, 1963 (P.L. 774, No. 390), as amended, relating to prisoner release for occupational and other purposes.

(e) DEFINITIONS. --As used in this section, the term "reentry plan" is a release plan that may include drug and alcohol treatment, behavioral health treatment, job training, skills training, education, life skills or any other condition deemed relevant by the court.

42 PA. CONS. STAT. ANN. § 9757 (2010). Consecutive sentences of total confinement for multiple offenses.

Whenever the court determines that a sentence should be served consecutively to one being then imposed by the court, or to one previously imposed, the court shall indicate the minimum sentence to be served for the total of all offenses with respect to which sentence is imposed. Such minimum sentence shall not exceed one-half of the maximum sentence imposed.

42 PA. CONS. STAT. ANN. § 9795.1 (2010). Registration.

(a) TEN-YEAR REGISTRATION.-- The following individuals shall be required to register with the Pennsylvania State Police for a period of ten years:

(1) Individuals convicted of any of the following offenses:

18 Pa.C.S. § 2901 (relating to kidnapping) where the victim is a minor.

18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or

structure).

18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

18 Pa.C.S. § 3126 (relating to indecent assault) where the offense is graded as a misdemeanor of the first degree or higher.

18 Pa.C.S. § 4302 (relating to incest) where the victim is 12 years of age or older but under 18 years of age.

18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses) where the actor promotes the prostitution of a minor.

18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to obscene and other sexual materials and performances) where the victim is a minor.

18 Pa.C.S. § 6312 (relating to sexual abuse of children).

18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(2) Individuals convicted of an attempt, conspiracy or solicitation to commit any of the offenses under paragraph (1) or subsection (b)(2).

(3) Individuals currently residing in this Commonwealth who have been convicted of offenses similar to the crimes cited in paragraphs (1) and (2) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or under a former law of this Commonwealth.

(b) LIFETIME REGISTRATION.-- The following individuals shall be subject to lifetime registration:

(1) An individual with two or more convictions of any of the offenses set forth in subsection (a).

(2) Individuals convicted of any of the following offenses:

18 Pa.C.S. § 3121 (relating to rape).

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

18 Pa.C.S. § 3124.1 (relating to sexual assault).

18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

18 Pa.C.S. § 4302 (relating to incest) when the victim is under 12 years of age.

(3) Sexually violent predators.

(4) Individuals currently residing in this Commonwealth who have been convicted of offenses similar to the crimes cited in paragraph (2) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or under a former law of this Commonwealth.

(c) NATURAL DISASTER.-- The occurrence of a natural disaster or other event requiring evacuation of residences shall not relieve an individual of the duty to register or any other duty imposed by this chapter.

42 PA. CONS. STAT. ANN. § 9795.2 (2010). Registration procedures and applicability.

(a) REGISTRATION.--

(1) Offenders and sexually violent predators shall be required to register with the Pennsylvania State Police upon release from incarceration, upon parole from a State or county correctional institution or upon the commencement of a sentence of intermediate punishment or probation. For purposes of registration, offenders and sexually violent predators shall provide the Pennsylvania State Police with all current or intended residences, all information concerning current or intended employment and all information concerning current or intended enrollment as a student.

(2) Offenders and sexually violent predators shall inform the Pennsylvania State Police within 48 hours of:

(i) Any change of residence or establishment of an additional residence or residences.

(ii) Any change of employer or employment location for a period of time that will exceed 14 days or for an aggregate period of time that will exceed 30 days during any calendar year, or termination of employment.

(iii) Any change of institution or location at which the person is enrolled as a student, or termination of enrollment.

(iv) Becoming employed or enrolled as a student if the person has not previously provided that information to the Pennsylvania State Police.

(2.1) Registration with a new law enforcement agency shall occur no later than 48 hours after establishing residence in another state.

(3) The ten-year registration period required in section 9795.1(a) (relating to registration) shall be tolled when an offender is recommitted for a parole violation or sentenced to an additional term of imprisonment. In such cases, the Department of Corrections or county correctional facility shall notify the Pennsylvania State Police of the admission of the offender.

(4) This paragraph shall apply to all offenders and sexually violent predators:

(i) Where the offender or sexually violent predator was granted parole by the Pennsylvania Board of Probation and Parole or the court or is sentenced to probation or intermediate punishment, the board or county office of probation and parole shall collect registration information from the offender or sexually violent predator and forward that registration information to the Pennsylvania State Police. The Department of Corrections or county correctional facility shall not release the offender or sexually violent predator until it receives verification from the Pennsylvania State Police that it has received the registration information. Verification by the Pennsylvania State Police may occur by electronic means, including e-mail or facsimile transmission. Where the offender or sexually violent predator is scheduled to be released from a State correctional facility or county correctional facility because of the expiration of the maximum term of incarceration, the Department of Corrections or county correctional facility shall collect the information from the offender or sexually violent predator no later than ten days prior to the maximum expiration date. The registration information shall be forwarded to the Pennsylvania State Police.

(ii) Where the offender or sexually violent predator scheduled to be released from a State correctional facility or county correctional facility due to the maximum expiration date refuses to provide the registration information, the Department of Corrections or county correctional facility shall notify the Pennsylvania State Police or police department with jurisdiction over the facility of the failure to provide registration information and of the expected date, time and location of the release of the offender or sexually violent predator.

(b) INDIVIDUALS CONVICTED OR SENTENCED BY A COURT OR ADJUDICATED DELINQUENT IN JURISDICTIONS OUTSIDE THIS COMMONWEALTH OR SENTENCED BY COURT MARTIAL.--

(1) to (3) Deleted by 2004, Nov. 24, P.L. 1243, No. 152, § 8, effective Jan. 24, 2005.

(4) An individual who resides, is employed or is a student in this Commonwealth and who has been convicted of or sentenced by a court or court martialed for a sexually violent offense or a similar offense under the laws of the United States or one of its territories or

possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or who was required to register under a sexual offender statute in the jurisdiction where convicted, sentenced or court martialed, shall register at an approved registration site within 48 hours of the individual's arrival in this Commonwealth. The provisions of this subchapter shall apply to the individual as follows:

(i) If the individual has been classified as a sexually violent predator as defined in section 9792 (relating to definitions) or determined under the laws of the other jurisdiction or by reason of court martial to be subject to active notification and lifetime registration on the basis of a statutorily authorized administrative or judicial decision or on the basis of a statute or administrative rule requiring active notification and lifetime registration based solely on the offense for which the individual was convicted, sentenced or court martialed, the individual shall, notwithstanding section 9792, be considered a sexually violent predator and subject to lifetime registration pursuant to section 9795.1(b) (relating to registration). The individual shall also be subject to the provisions of this section and sections 9796 (relating to verification of residence), 9798 (relating to other notification) and 9798.1(c)(1) (relating to information made available on the Internet), except that the individual shall not be required to receive counseling unless required to do so by the other jurisdiction or by reason of court martial.

(ii) Except as provided in subparagraphs (i) and (iv), if the individual has been convicted or sentenced by a court or court martialed for an offense listed in section 9795.1(b) or an equivalent offense, the individual shall, notwithstanding section 9792, be considered an offender and be subject to lifetime registration pursuant to 9795.1(b). The individual shall also be subject to the provisions of this section and sections 9796 and 9798.1(c)(2).

(iii) Except as provided in subparagraphs (i), (ii), (iv) and (v), if the individual has been convicted or sentenced by a court or court martialed for an offense listed in section 9795.1(a) or an equivalent offense, the individual shall be, notwithstanding section 9792, considered an offender and subject to registration pursuant to this subchapter. The individual shall also be subject to the provisions of this section and sections 9796 and 9798.1(c)(2). The individual shall be subject to this subchapter for a period of ten years or for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, whichever is greater, less any credit due to the individual as a result of prior compliance with registration requirements.

(iv) Except as provided in subparagraph (i) and notwithstanding subparagraph (v), if the individual is subject to active notification

in the other jurisdiction or subject to active notification by reason of court martial, the individual shall, notwithstanding section 9792, be considered an offender and subject to this section and sections 9796, 9798 and 9798.1(c)(1). If the individual was convicted of or sentenced in the other jurisdiction or sentenced by court martial for an offense listed in section 9795.1(b) or an equivalent offense, the individual shall be subject to this subchapter for the individual's lifetime. If the individual was convicted of or sentenced in the other jurisdiction or sentenced by court martial for an offense listed in section 9795.1(a) or an equivalent offense, the individual shall be subject to this subchapter for a period of ten years or for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, whichever is greater, less any credit due to the individual as a result of prior compliance with registration requirements. Otherwise, the individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, less any credit due to the individual as a result of prior compliance with registration requirements.

(v) Except as provided in subparagraphs (i), (ii), (iii) and (iv), if the individual is subject to passive notification in the other jurisdiction or subject to passive notification by reason of court martial, the individual shall, notwithstanding section 9792, be considered an offender and subject to this section and sections 9796 and 9798.1(c)(2). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, less any credit due to the individual as a result of prior compliance with registration requirements.

(5) Notwithstanding the provisions of Chapter 63 (relating to juvenile matters) and except as provided in paragraph (4), an individual who resides, is employed or is a student in this Commonwealth and who is required to register as a sex offender under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation as a result of a juvenile adjudication shall register at an approved registration site within 48 hours of the individual's arrival in this Commonwealth. The provisions of this subchapter shall apply to the individual as follows:

(i) If the individual has been classified as a sexually violent predator as defined in section 9792 or determined under the laws of the other jurisdiction to be subject to active notification and lifetime registration on the basis of a statutorily authorized administrative or judicial decision or on the basis of a statute or administrative rule requiring active notification and lifetime

registration based solely on the offense for which the individual was adjudicated, the individual shall, notwithstanding section 9792, be considered a sexually violent predator and subject to lifetime registration pursuant to section 9795.1(b). The individual shall also be subject to the provisions of this section and sections 9796 and 9798.1(c)(1), except that the individual shall not be required to receive counseling unless required to do so by the other jurisdiction.

(ii) Except as provided in subparagraph (i), if the individual is subject to active notification in the other jurisdiction, the individual shall, notwithstanding section 9792, be considered an offender and subject to registration pursuant to this subchapter. The individual shall also be subject to the provisions of this section and sections 9796, 9798 and 9798.1(c)(1). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction, less any credit due to the individual as a result of prior compliance with registration requirements.

(iii) Except as provided in subparagraphs (i) and (ii), if the individual is subject to passive notification in the other jurisdiction, the individual shall, notwithstanding section 9792, be considered an offender and be subject to this section and sections 9796 and 9798.1(c)(2). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction, less any credit due to the individual as a result of prior registration compliance.

(c) REGISTRATION INFORMATION TO LOCAL POLICE.--

(1) The Pennsylvania State Police shall provide the information obtained under this section and sections 9795.3 (relating to sentencing court information) and 9796 (relating to verification of residence) to the chief law enforcement officers of the police departments of the municipalities in which the individual will reside, be employed or enrolled as a student. In addition, the Pennsylvania State Police shall provide this officer with the address at which the individual will reside, be employed or enrolled as a student following his release from incarceration, parole or probation.

(2) The Pennsylvania State Police shall provide notice to the chief law enforcement officers of the police departments of the municipalities notified pursuant to paragraph (1) when an individual fails to comply with the registration requirements of this section or section 9796, and request, as appropriate, that these police departments assist in locating and apprehending the individual.

(3) The Pennsylvania State Police shall provide notice to the chief law enforcement officers of the police departments of the municipalities

notified pursuant to paragraph (1) when they are in receipt of information indicating that the individual will no longer reside, be employed or be enrolled as a student in the municipality.

(d) PENALTY.-- An individual subject to registration under section 9795.1(a) or (b) who fails to register with the Pennsylvania State Police as required by this section may be subject to prosecution under 18 Pa.C.S. § 4915 (relating to failure to comply with registration of sexual offenders requirements).

(e) REGISTRATION SITES.-- An individual subject to section 9795.1 shall register and submit to fingerprinting and photographing as required by this subchapter at approved registration sites.

RHODE ISLAND

R.I. GEN. LAWS § 11-1-2 (2010). Felony, misdemeanor -- Petty misdemeanor, and violation distinguished.

Unless otherwise provided, any criminal offense which at any given time may be punished by imprisonment for a term of more than one year, or by a fine of more than one thousand dollars ($ 1,000), is declared to be a felony; any criminal offense which may be punishable by imprisonment for a term not exceeding one year, or by a fine of not more than one thousand dollars ($ 1,000), or both, is declared to be a misdemeanor; any criminal offense which may be punishable by imprisonment for a term not exceeding six (6) months or by a fine of not more than five hundred dollars ($ 500), or both, is declared to be a petty misdemeanor; and any offense which may be punished by only a fine of not more than five hundred dollars ($ 500) is declared to be a violation.

R.I. GEN. LAWS § 11-2-1 (2010). Abandonment or nonsupport of spouse or children.

Every person who shall abandon his or her spouse or children, leaving them in danger of becoming a public charge, or who shall neglect to provide according to his or her means for the support of his or her spouse or children, or who shall neglect or refuse to aid in the support of his or her spouse and/or children, except as otherwise provided for in § 11-2-1.1, shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for not more than six (6) months.

R.I. GEN. LAWS § 11-5-14 (2010). Assault on child in care of department of children, youth and families.

Any employee of the department of children, youth and families, or any employee of any public or private agency with which the department contracts for services in furtherance of the care or custody of children, who shall commit an assault and battery upon a child in the care of the department shall be deemed to have committed a felony and shall be punished by imprisonment for not less than three (3) years but not more than ten (10) years and a fine of not less than one thousand dollars ($ 1,000) nor more than ten thousand dollars ($ 10,000).

R.I. GEN. LAWS § 11-5-14.1 (2010). Assault on child in care of department of children, youth and families causing serious bodily injury.

(a) Any employee of the department of children, youth and families, or any employee of any public or private agency with which the department contracts for services in furtherance of the care or custody of children who shall commit an assault or battery upon a child in the care of the department, causing serious bodily injury, shall be deemed to have committed a felony and shall be punished by imprisonment for not less than five (5) years but not more than twenty (20) years and a fine of not less than five thousand dollars ($ 5,000) nor more than twenty thousand dollars ($ 20,000).

(b) "Serious bodily injury" means physical injury that:

(1) Creates a substantial risk of death;

(2) Causes protracted loss or impairment of the function of any bodily part, member or organ; or

(3) Causes serious permanent disfigurement.

R.I. GEN. LAWS § 11-5-14.2 (2010). Battery by an adult upon child ten (10) years of age or younger causing serious bodily injury.

(a) Any person eighteen (18) years of age or older who shall commit a battery upon a child ten (10) years of age or younger, causing serious bodily injury, shall be deemed to have committed a felony and shall be punished by imprisonment for not less than five (5) years but not more than twenty (20) years and a fine of not less than five thousand ($ 5,000) dollars nor more than twenty thousand ($ 20,000) dollars.

(b) "Serious bodily injury" means physical injury that:

(1) Creates a substantial risk of death;

(2) Causes protracted loss or impairment of the function of any bodily part, member or organ; or

(3) Causes serious permanent disfigurement.

R.I. GEN. LAWS § 11-9-1 (2010). Exploitation for commercial or immoral purposes.

(a) Every person having the custody or control of any child under the age of sixteen (16) years who shall exhibit, use, or employ, or shall in any manner or under pretense sell, give away, let out or otherwise dispose of any child under the age of sixteen (16) years to any person for or in the vocation, occupation, service, or purpose of rope or wire walking, or as a gymnast, wrestler, contortionist, equestrian performer, acrobat, or rider upon any bicycle or mechanical contrivance, or in any dancing, theatrical, or musical exhibition unless it is in connection with churches, school

or private instruction in dancing or music, or unless it is under the auspices of a Rhode Island society incorporated, or organized without incorporation for a purpose authorized by § 7-6-4; or for or in gathering or picking rags, or collecting cigar stumps, bones or refuse from markets, or in begging, or in any mendicant or wandering occupation, or in peddling in places injurious to the morals of the child; or for or in the exhibition of any child with a disability, or in any illegal, obscene, indecent, or immoral purpose, exhibition, or vocation, injurious to the health or morals or dangerous to the life or limb of the child, or who shall cause, procure or encourage any child under the age of sixteen (16) years to engage in that activity, or who, after being notified by an officer mentioned in § 11-9-3 to restrain the child from engaging in that activity, shall neglect or refuse to do so, shall be held guilty of a misdemeanor and shall, for every such offense, be imprisoned not exceeding one year, or be fined not exceeding two hundred fifty dollars ($ 250), or both, and shall forfeit any right which he or she may have to the custody of the child; provided, that the provisions of this section shall not apply to any child, not a resident of this state, who is engaged in any dancing, theatrical, or musical performance in this state and is accompanied by a parent, guardian, or tutor, when a permit for the appearance of the child is granted by the mayor of the city or the president of the town council of the town, where the performance is to be given; provided, further, that the provisions of this section shall not apply to any child, a resident of this state, who is engaged in any dancing, theatrical, or musical performance in this state on a day when the public schools are not in session in the town or city where the dancing, theatrical or musical performance shall be given (not however on Sunday) if the child is accompanied by a parent, guardian or tutor, when a permit for the appearance of the child is granted by the mayor of the city or the president of the town council of the town where the performance is to be given.

(b) Any person who shall in any manner or under any pretense sell, distribute, let out or otherwise permit any child under eighteen (18) years of age to be used in any book, magazine, pamphlet, or other publication, or in any motion picture film, photograph or pictorial representation, in a setting which taken as a whole suggests to the average person that the child has engaged in, or is about to engage in any sexual act, which shall include, but not be limited to, sodomy, oral copulation, sexual intercourse, masturbation, or bestiality, shall, upon conviction for the first offense be punished by imprisonment for not more than ten (10) years, or a fine of not more than ten thousand dollars ($ 10,000), or both; upon conviction of a subsequent offense, be punished by imprisonment for not more than fifteen (15) years, a fine of not more than fifteen thousand dollars ($ 15,000), or both.

(c) Every person who shall exhibit, use, employ or shall in any manner or under pretense so exhibit, use, or employ any child under the age of eighteen (18) years to any person for the purpose of prostitution or for any other lewd or indecent act shall be imprisoned not exceeding twenty (20) years, or be fined not exceeding twenty thousand dollars ($ 20,000), or both.

R.I. GEN. LAWS § 11-9-1.1 (2010). Child nudity prohibited in publications.

Every person, firm, association, or corporation which shall publish, sell, offer for sale, loan, give away, or otherwise distribute any book, magazine, pamphlet, or other publication, or any photograph, picture, or film which depicts any child, or children, under the age of eighteen (18) years and known to be under the age of eighteen (18) years of age by the person, firm, association, or corporation in a setting which taken as a whole suggests to the average person that the child, or children, is about to engage in or has engaged in, any sexual act, or which depicts any child under eighteen (18) years of age performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality, shall, for the first offense, be punished by imprisonment

for not more than ten (10) years, or by a fine of not more than ten thousand dollars ($ 10,000), or both; for any subsequent offense, by imprisonment for not more than fifteen (15) years, or by a fine of not more than fifteen thousand dollars ($ 15,000), or both. Provided, that artistic drawings, sketches, paintings, sculptures, or other artistic renditions, shall be exempt from the provisions of this section.

R.I. GEN. LAWS § 11-9-1.3 (2010). Child pornography prohibited.

(a) Violations. It is a violation of this section for any person to:

(1) Knowingly produce any child pornography;

(2) Knowingly mail, transport, deliver or transfer by any means, including by computer, any child pornography;

(3) Knowingly reproduce any child pornography by any means, including the computer; or

(4) Knowingly possess any book, magazine, periodical, film, videotape, computer disk, computer file or any other material that contains an image of child pornography.

(b) Penalties.

(1) Whoever violates or attempts or conspires to violate subdivisions (a)(1), (a)(2) or (a)(3) of this section shall be subject to a fine of not more than five thousand dollars ($ 5,000), or imprisoned for not more than fifteen (15) years, or both.

(2) Whoever violates or attempts or conspires to violate subdivision (a)(4) of this section shall be subject to a fine of not more than five thousand dollars ($ 5,000), or imprisoned not more than five (5) years, or both.

(c) Definitions. For purposes of this section:

(1) "Child pornography" means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where:

(i) The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

(ii) Such visual depiction is a digital image, computer image, or computer-generated image of a minor engaging in sexually explicit conduct; or

(iii) Such visual depiction has been created, adapted, or modified to display an identifiable minor engaging in sexually explicit conduct.

(2) "Computer" has the meaning given to that term in section 11-52-1;

(3) "Minor" means any person not having reached eighteen (18) years of age;

(4) "Identifiable minor."

(i) Means a person:

(A) (I) Who was a minor at the time the visual depiction was created, adapted, or modified; or

(II) Whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(ii) Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(B) Shall not be construed to require proof of the actual identity of the identifiable minor.

(5) "Producing" means producing, directing, manufacturing, issuing, publishing or advertising;

(6) "Sexually explicit conduct" means actual:

(i) Graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, or lascivious sexual intercourse where the genitals, or pubic area of any person is exhibited;

(ii) Bestiality;

(iii) Masturbation;

(iv) Sadistic or masochistic abuse; or

(v) Graphic or lascivious exhibition of the genitals or pubic area of any person;

(7) "Visual depiction" includes undeveloped film and videotape and data stored on a computer disk or by electronic means, which is capable of conversion into a visual image;

(8) "Graphic," when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.

(d) Affirmative defenses.

(1) It shall be an affirmative defense to a charge of violating subdivision (a)(1), (a)(2), or (a)(3) of this section that:

(i) The alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

(ii) Each such person was an adult at the time the material was produced; and

(iii) The defendant did not advertise, promote, present, describe or distribute the material in such a manner as to convey the impression that it is or contains a visual depiction of a minor engaging in sexually explicit conduct.

(2) It shall be an affirmative defense to a charge of violating subdivision (a)(4) of this section that the defendant:

(i) Possessed less than three (3) images of child pornography; and

(ii) Promptly and in good faith and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy of it:

(A) Took reasonable steps to destroy each such image; or

(B) Reported the matter to a law enforcement agency and afforded that agency access to each such image.

(e) Severability. If any provision or provisions of this section, or the application of this section to any person or circumstance is held invalid by a court of competent authority, that invalidity does not affect other provisions or applications of this section which can be given effect without that invalid provision or provisions or application of the provision or provisions, and to this end the provisions of this section are declared to be separable and severable.

R.I. GEN. LAWS § 11-9-5 (2010). Cruelty to or neglect of child.

(a) Every person having the custody or control of any child under the age of eighteen (18) years who shall abandon that child, or who shall treat the child with gross or habitual cruelty, or who shall wrongfully cause or permit that child to be an habitual sufferer for want of food, clothing, proper care, or oversight, or who shall use or permit the use of that child for any wanton, cruel, or improper purpose, or who shall compel, cause, or permit that child to do any wanton or wrongful act, or who shall cause or permit the home of that child to be the resort of lewd, drunken, wanton, or dissolute persons, or who by reason of neglect, cruelty, drunkenness, or depravity, shall render the home of that child a place in which it is unfit for that child to live, or who shall neglect or refuse to pay the reasonable charges for the support of that child, whenever the child shall be placed by him or her in the custody of, or be assigned by any court to, any individual, association, or corporation, shall be guilty of a felony and shall for every such offense be imprisoned for not less than one year nor more than three (3) years, or be fined not exceeding one thousand dollars ($ 1,000), or both, and the child may be proceeded against as a neglected child under the provisions of chapter 1 of title 14.

(b) In addition to any penalty provided in this section, any person convicted or placed on probation for this offense may be required to receive psychosociological counseling in child growth, care and development as a part of that sentence or probation. For purposes of this section, and in accordance with § 40-11-15, a parent or guardian practicing his or her religious beliefs which differ from general community standards who does not provide specified medical treatment for a child shall not, for that reason alone, be considered an abusive or negligent parent or guardian; provided, the provisions of this section shall not: (1) exempt a parent or guardian from having committed the offense of cruelty or neglect if the child is harmed under the provisions of (a) above; (2) exempt the department from the provisions of § 40-11-5; or (3) prohibit the department from filing a petition, pursuant to the provisions of § 40-11-15, for medical services for a child, where his or her health requires it.

R.I. GEN. LAWS § 11-9-5.3 (2010). Child abuse -- Brendan's Law.

(a) This section shall be known and may be referred to as "Brendan's Law".

(b) Whenever a person having care of a child, as defined by § 40-11-2(2), whether assumed voluntarily or because of a legal obligation, including any instance where a child has been placed by his or her parents, caretaker, or licensed or governmental child placement agency for care or treatment, knowingly or intentionally:

(1) Inflicts upon a child serious bodily injury, shall be guilty of first degree child abuse.

(2) Inflicts upon a child any other serious physical injury, shall be guilty of second degree child abuse.

(c) For the purposes of this section, "serious bodily injury" means physical injury that:

(1) Creates a substantial risk of death;

(2) Causes protracted loss or impairment of the function of any bodily parts, member or organ, including any fractures of any bones;

(3) Causes serious disfigurement; or

(4) Evidences subdural hematoma, intercranial hemorrhage and/or retinal hemorrhages as signs of "shaken baby syndrome" and/or "abusive head trauma."

(d) For the purpose of this section, "other physical injury" is defined as any injury, other than a serious bodily injury, which arises other than from the imposition of nonexcessive corporal punishment.

(e) Any person who commits first degree child abuse shall be imprisoned for not more than twenty (20) years, nor less than ten (10) years and fined not more than ten thousand dollars ($ 10,000). Any person who is convicted of second degree child abuse shall be imprisoned for not more than ten (10) years, nor less than five (5) years and fined not more than five thousand dollars ($ 5,000).

(f) Any person who commits first degree child abuse on a child age five (5) or under shall not on the first ten (10) years of his or her sentence be afforded the benefit of suspension or deferment of sentence nor of probation for penalties provided in this section; and provided further, that the court shall order the defendant to serve a minimum of eight and one-half (8 1/2) years or more of the sentence before he or she becomes eligible for parole.

(g) Any person who has been previously convicted of first or second degree child abuse under this section and thereafter commits first degree child abuse shall be imprisoned for not more than forty (40) years, nor less than twenty (20) years and fined not more than twenty thousand ($ 20,000) dollars and shall be subject to subsection (f) of this section if applicable. Any person who has been previously convicted of first or second degree child abuse under this section and thereafter commits second degree child abuse shall be imprisoned for not more than twenty (20) years, nor less than ten (10) years and fined not more than ten thousand ($ 10,000) dollars.

R.I. GEN. LAWS § 11-23-2.1 (2010). Penalty for murder of a kidnapped person under the age of eighteen (18).

If any person under the age of eighteen (18) who is kidnapped in violation of § 11-26-1 by a person other than his or her natural or adopted parent dies as a direct result of the kidnapping, then the person convicted of the offense shall be guilty of murder in the first degree and shall be punished by imprisonment for life, and the court may, pursuant to chapter 19.2 of title 12, order that that person not be eligible for parole.

R.I. GEN. LAWS § 11-26-1 (2010). Kidnapping.

(a) Whoever, without lawful authority, forcibly or secretly confines or imprisons another person within this state against his or her will, or forcibly carries or sends another person out of this state, or forcibly seizes or confines or inveigles or kidnaps another person with intent either to cause him or her to be secretly confined or imprisoned within this state against his or her will or to cause him or her to be sent out of this state against his or her will, shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than twenty (20) years.

(b) Where the provisions of The Domestic Violence Prevention Act, chapter 29 of title 12, are applicable, the penalties for violation of this section shall also include the penalties as provided in § 12-29-5.

R.I. GEN. LAWS § 11-26-1.1 (2010). Childsnatching.

(a) Any person who intentionally removes, causes the removal of, or detains any child under the age of eighteen (18) years, whether within or without the state of Rhode Island, with intent to deny another person's right of custody under an existing decree or order of the family court, shall be guilty of a felony, and, upon conviction, shall be punished by imprisonment for a term not more than two (2) years, or a fine of not more than ten thousand dollars ($ 10,000), or both.

(b) It shall be an affirmative defense that:

(1) The person at the time of the alleged violation had lawful custody of the child pursuant to a court order granting legal custody or visitation rights;

(2) The person had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond his or her control, and the person notified and disclosed to the other parent or legal custodian the specific whereabouts of the child and a means by which the child could be contacted or made a reasonable attempt to notify the other parent or lawful custodian of the child of the circumstances and made that disclosure within twenty-four (24) hours after the visitation period had expired and returned the child as soon as possible; or

(3) The person was fleeing an incidence or pattern of domestic violence.

R.I. GEN. LAWS § 11-26-1.2 (2010). Abduction of child prior to court order.

(a) Any parent, or any person acting pursuant to directions from the parent, who shall, after being served with process in an action affecting the family, but prior to the issuance of a temporary or final order determining custody of a minor child, take or entice a child away from the family unit, whether within or without the state of Rhode Island, for the purpose of depriving the other parent of physical custody of the child for a period greater than fifteen (15) days, shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for a term up to two (2) years, or a fine of not more than ten thousand dollars ($ 10,000), or both.

(b) No person shall be deemed to have violated this section if the action:

(1) Is taken to protect the child from imminent physical harm;

(2) Is taken by a parent fleeing from imminent physical harm to himself or herself;

(3) Is consented to by both parents; or

(4) Is otherwise authorized by law.

R.I. GEN. LAWS § 11-26-1.4 (2010). Kidnapping of a minor.

Whoever, without lawful authority, forcibly or secretly confines or imprisons any child under the age of sixteen (16) years within this state against the child's will, or forcibly carries or sends the child out of this state, or forcibly seizes, confines, inveigles, or kidnaps the child with intent either to cause the child to be secretly confined or imprisoned within this state against his or her will, or with the intent of sexually assaulting or molesting the child as defined in chapter 37 of this title, or with the intent to abuse the child as defined in chapter 9 of this title, shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for life or for any term not less than twenty (20) years. However, nothing contained in this section shall be deemed to make the reasonable lawful acts of a parent in caring for his or her child a violation of this section.

R.I. GEN. LAWS § 11-26-1.5 (2010). Enticement of children.

(a) A person shall be guilty of a felony if that person attempts to persuade, or persuades a minor child under the age of sixteen (16) years, whether by words or actions or both, with intent to engage in felonious conduct against that child to either:

(1) Leave the child's home or school;

(2) Enter a vehicle or building; or

(3) Enter an area, with the intent that the child shall be concealed from public view; while the person is acting without the authority of: (i) the custodial parent of the child, (ii) the state of Rhode Island or a political subdivision of the state, or (iii) one having legal custody of the minor child. Nothing contained in this section shall be construed to prevent the lawful detention of a minor child or the rendering of aid or assistance to a minor child.

(b) Every person convicted of a violation of the provisions of this section shall be guilty of a felony, and shall be punished by imprisonment for not more than five (5) years, or by a fine of not more than five thousand dollars ($ 5,000), or by both fine and imprisonment.

(c) Every person convicted of, or placed on probation for a violation of this section, may be ordered to attend appropriate professional counseling to address his or her behavior.

R.I. GEN. LAWS § 11-37-8.2 (2010). Penalty for first degree child molestation sexual assault.

Every person who shall commit first degree child molestation sexual assault shall be imprisoned for a period of not less than twenty-five (25) years and may be imprisoned for life.

R.I. GEN. LAWS § 11-37-8.2.1 (2010). Penalty for first degree child molestation sexual assault -- Jessica Lunsford Child Predator Act of 2006.

(a) Title and Legislative Intent. The title of this section shall be "The Jessica Lunsford Child Predator Act of 2006". In enacting this section the general assembly intends that in order to ensure the safety of victims the most dangerous child predators be electronically monitored via an active global positioning system in order to ensure that their whereabouts can be easily ascertained by law enforcement and other responsible authorities at all times while providing treatment to offenders.

(b) Every person who shall violate the provisions of subdivisions 11-37-8.2.1(b)(1) -- 11-37-8.2.1(b)(2) listed herein shall be electronically monitored via an active global positioning system for life and, as a condition of parole and probation, and for the duration of any period of his or her probation following his or her parole shall attend a sex offender treatment program to address his or her criminally offensive behavior, as determined by the department of probation and parole. The persons subject to this condition of parole shall include:

(1) Persons who commit first degree child molestation sexual assault on or after January 1, 2007 and the victim of the sexual assault is twelve (12) years of age or younger; or

(2) Persons who shall violate the conditions of § 11-37-8.1 on or after January 1, 2007 and be determined a high-risk of re-offense (level 3) offender under the conditions of § 11-37.1-12, and the person is deemed a child predator as defined in subsection 11-37-8.2.1(g) or have committed the offense in conjunction with circumstances involving kidnapping, torture or aggravated battery, and provided further that the victim to the offense is fourteen (14) years of age or younger.

(3) Any person who violates the terms of the global position monitoring conditions shall be guilty of a misdemeanor.

(c) Any costs associated with the requirements of this section shall be borne by the offender and the court is hereby authorized and empowered to utilize all resources available to collect the funds for these costs unless the court finds that the defendant is indigent. In such cases costs shall be waived in order to promote this section's legislative intent.

(d) Harboring.

(1) Any person who has reason to know that a person convicted of first degree child molestation as defined by § 11-37-8.1 or 11-37-8.2.1 is not complying or has not complied with the

requirements of this section where applicable and who with the intent to assist the child molester in eluding a law enforcement agency that is seeking to find the child molester to question the child molester about or to arrest the child molester for his or her non-compliance with the requirements of this section and who:

(i) knowingly withholds information from or willfully fails to notify the law enforcement agency about the child molester's non-compliance with the requirements of this section; or

(ii) harbors or attempts to harbor or assists another person in harboring or attempting to harbor the child molester; or

(iii) knowingly conceals or attempts to conceal or assists another person in concealing or attempting to conceal the child molester; or

(iv) provides information to the law enforcement agency regarding the child molester that the person knows to be false information commits a felony and shall be subject to imprisonment for a period of five (5) years. Nothing in this subsection shall be construed as limiting the discretion of the judges to impose additional sanctions authorized in sentencing.

(2) Any person who permits a child predator as defined by this section to reside with them knowing that the child predator has failed to comply with the requirements of subsection 11-37-8.2.1(b) commits a felony punishable by up to five (5) years imprisonment and/or a five thousand dollar ($ 5,000) fine.

(e) Any person who intentionally tampers with damages or destroys any electronic monitoring equipment required by this section pursuant to a court order or parole board order unless such person is the owner of the equipment or an agent of the owner performing ordinary maintenance and repairs commits a felony and shall be imprisoned for not less than one nor more than five (5) years.

(f) The department of corrections, prior to the release from incarceration of any child predator, shall ensure that the child predator's fingerprints are taken and forwarded to the bureau of criminal identification (BCI) division within the department of attorney general within forty-eight (48) hours after release from incarceration. The fingerprint card shall be clearly marked "Child Predator Registration Card".

(g) For the purposes of this section "child predator" shall be defined as any person convicted of any violation of § 11-37-8.1, and who on a prior occasion has been convicted of a violation of § 11-37-8.1 or § 11-37-8.3.

R.I. GEN. LAWS § 11-37-8.4 (2010). Penalty for second degree child molestation sexual assault.

Every person who shall commit second degree child molestation sexual assault shall be imprisoned for not less than six (6) years nor more than thirty (30) years.

R.I. GEN. LAWS § 11-37-8.9 (2010). Penalty for indecent solicitation of a child.

Every person who shall commit indecent solicitation of a child shall be imprisoned for not less than five (5) years.

R.I. GEN. LAWS § 11-37-10 (2010). Subsequent offenses.

If a person is convicted of a second or subsequent offense under the provisions of §§ 11-37-2, 11-37-4, 11-37-8, 11-37-8.1, and 11-37-8.3, the sentence imposed under these sections for the second or subsequent offenses shall not be less than twice the minimum number of years of sentence for the most recent offense.

R.I. GEN. LAWS § 11-37.1-3 (2010). Registration required -- Persons covered.

(a) Any person who, in this or any other jurisdiction: (1) has been convicted of a criminal offense against a victim who is a minor, (2) has been convicted of a sexually violent offense, (3) has been determined to be a sexually violent predator, (4) has committed an aggravated offense as defined in § 11-37.1-2, or (5) is a recidivist, as defined in § 11-37.1-4, shall be required to register his or her current address with the local law enforcement agency having jurisdiction over the city or town in which the person having the duty to register resides for the time period specified in § 11-37.1-4.

(b) Any person who is: (1) a nonresident worker who has committed an offense that is subject to registration in the state of his or her residence and who is employed or carrying on a vocation in Rhode Island as defined in § 11-37.1-2(g), or (2) a nonresident student as defined by § 11-37.1-2(m) who has committed an offense that is subject to registration in the state of his or her residence and who is attending an educational institution in Rhode Island, shall be required to register his or her current address and the address of his or her place of employment or school attended with the local law enforcement agency having jurisdiction over the city or town in which the nonresident worker or student is employed or attending school.

(c) Any person having a duty to register as a sex offender in subsection (a) of this section who is enrolled at, employed at or carrying on a vocation at an institution of higher education shall have an additional duty to register the information described in subsection (a) of this section with the local law enforcement agency in the city or town where the primary campus of the institution of higher education at which the person is enrolled, employed or carrying on a vocation who is located for the period of time they are enrolled at, employed at or carrying on a vocation at the institution of higher education.

(d) If a person is registered as a sex offender in another state for an offense which, if committed within the jurisdiction of this state, would require the person to register as a sex offender, then that person, upon moving to or returning to this state, shall register as a sex offender in the same manner as if the offense were committed within Rhode Island.

R.I. GEN. LAWS § 11-37.1-10 (2010). Penalties.

(a) Any person who is required to register or verify his or her address or give notice of a change of address or residence, who knowingly fails to do so, shall be guilty of a felony and upon conviction be imprisoned not more than ten (10) years, or fined not more than ten thousand dollars ($ 10,000), or both.

(b) Any person who is required to register or verify his or her address or give notice of a change of address or residence, who knowingly fails to do so, shall be in violation of the terms of his or her release, regardless of whether or not the term was a special condition of his or her release on probation, parole or home confinement or other form of supervised release.

(c) Any person who is required to register or verify his or her address, who knowingly resides within three hundred feet (300') of any school, public or private, shall be guilty of a felony and upon conviction may be imprisoned not more than five (5) years, or fined not more than five thousand dollars ($ 5,000) or both.

R.I. GEN. LAWS § 12-19-21 (2010). Habitual criminals.

(a) If any person who has been previously convicted in this or any other state of two (2) or more felony offenses arising from separate and distinct incidents and sentenced on two (2) or more occasions to serve a term in prison is, after the convictions and sentences, convicted in this state of any offense punished by imprisonment for more than one year, that person shall be deemed a "habitual criminal." Upon conviction, the person deemed a habitual criminal shall be punished by imprisonment in the adult correctional institutions for a term not exceeding twenty-five (25) years, in addition to any sentence imposed for the offense of which he or she was last convicted. No conviction and sentence for which the person has subsequently received a pardon granted on the ground that he or she was innocent shall be considered a conviction and sentence for the purpose of determining whether the person is a habitual criminal.

(b) Whenever it appears a person shall be deemed a "habitual criminal," the attorney general, within forty-five (45) days of the arraignment, but in no case later than the date of the pretrial conference, may file with the court a notice specifying that the defendant, upon conviction, is subject to the imposition of an additional sentence in accordance with this section; provided, that in no case shall the fact that the defendant is alleged to be a habitual offender be an issue upon the trial of the defendant, nor shall it be disclosed to the jury. Upon any plea of guilty or nolo contendere or verdict or finding of guilty of the defendant, a hearing shall be held by the court sitting without a jury to determine whether the person so convicted is a habitual criminal. Notice shall be given to the defendant and the attorney general at least ten (10) days prior to the hearing. Duly authenticated copies of former judgments and commitments which comprise the two (2) or more prior convictions and imprisonments required under this section shall be prima facie evidence of the defendant's former convictions and imprisonments. If it appears by a preponderance of the evidence presented that the defendant is a habitual criminal under this section, he or she shall be sentenced by the court to an additional consecutive term of imprisonment not exceeding twenty-five (25) years; and provided further, that the court shall order the defendant to serve a minimum number of years of the sentence before he or she becomes eligible for parole.

R.I. GEN. LAWS § 12-29-5 (2010). Disposition of domestic violence cases.

(a) Every person convicted of or placed on probation for a crime involving domestic violence or whose case is filed pursuant to § 12-10-12 where the defendant pleads nolo contendere, in addition to any other sentence imposed or counseling ordered, shall be ordered by the judge to attend, at his or her own expense, a batterer's intervention program appropriate to address his or her violent behavior. This order shall be included in the conditions of probation. Failure of the

defendant to comply with the order shall be a basis for violating probation and/or the provisions of § 12-10-12. This provision shall not be suspended or waived by the court.

(b) Every person convicted of or placed on probation for a crime involving domestic violence, as enumerated in § 12-29-2 or whose case if filed pursuant to § 12-10-12 where the defendant pleads guilty or nolo contendere, in addition to other court costs or assessments imposed, shall be ordered to pay a one hundred twenty-five dollar ($ 125) assessment. Eighty percent (80%) of the assessment collected pursuant to this section shall be provided to the Rhode Island Coalition Against Domestic Violence for programs to assist victims of domestic violence and twenty percent (20%) of the assessment shall be deposited as general revenue.

(c) (1) Every person convicted of an offense punishable as a misdemeanor involving domestic violence as defined in § 12-29-2 shall:

(i) For a second violation be imprisoned for a term of not less than ten (10) days and not more than one year.

(ii) For a third and subsequent violation be deemed guilty of a felony and be imprisoned for a term of not less than one year and not more than ten (10) years.

(2) No jail sentence provided for under this section can be suspended.

(3) Nothing in this subsection shall be construed as limiting the discretion of the judges to impose additional sanctions authorized in sentencing.

SOUTH CAROLINA

S.C. CODE ANN. § 16-1-20 (2009). Penalties for classes of felonies.

(A) A person convicted of classified offenses, must be imprisoned as follows:

(1) for a Class A felony, not more than thirty years;

(2) for a Class B felony, not more than twenty-five years;

(3) for a Class C felony, not more than twenty years;

(4) for a Class D felony, not more than fifteen years;

(5) for a Class E felony, not more than ten years;

(6) for a Class F felony, not more than five years;

(7) for a Class A misdemeanor, not more than three years;

(8) for a Class B misdemeanor, not more than two years;

(9) for a Class C misdemeanor, not more than one year.

(B) For all offenders sentenced on or after July 1, 1993, the minimum term of imprisonment required by law does not apply to the offenses listed in Sections 16-1-90 and 16-1-100 unless the offense refers to a mandatory minimum sentence or the offense prohibits suspension of any part of the sentence. Offenses listed in Section 16-1-10(C) and (D) are exempt and minimum terms of imprisonment are applicable. No sentence of imprisonment precludes the timely execution of a death sentence.

(C) This chapter does not apply to the minimum sentences established for fines or community service.

S.C. CODE ANN. § 16-1-90 (2009). Crimes classified as felonies.

(A) The following offenses are Class A felonies and the maximum terms established for a Class A felony, as set forth in Section 16-1-20(A), apply: 10-11-325(B)(2) Detonating an explosive or destructive device or igniting an incendiary device upon the capitol grounds or within the capitol building resulting in death to a person where there was not malice aforethought
16-3-50 Manslaughter--voluntary
16-3-652 Criminal sexual conduct
First degree
16-3-655(C)(2) Criminal sexual conduct, 1st degree, with minor less than 16, 2nd offense
16-3-656 Assault with intent to commit criminal sexual conduct
First degree
16-3-658 Criminal sexual conduct where victim is legal spouse (separated)
First degree
16-3-910 Kidnapping
16-3-920 Conspiracy to commit kidnapping
16-3-1075(B)(2) Carjacking (great bodily injury)
16-11-110(A) Arson in the first degree
16-11-330(A) Robbery while armed with a deadly weapon
16-11-380(A) Entering bank with intent to steal money, securities for money, or property, by force, intimidation, or threats
16-11-390 Safecracking
16-11-532(D)(2) Injuring real property when illegally obtaining nonferrous metals and the act results in the death of a person
16-23-720(A)(2) Detonating a destructive device or causing an explosion, or intentionally aiding, counseling, or procuring an explosion by means of detonation of a destructive device which results in the death of a person where there was not malice aforethought
24-13-450 Taking of a hostage by an inmate
43-35-85(F), 16-3-1050(F) Abuse or neglect of a vulnerable adult resulting in death
44-53-370 Prohibited Acts A, penalties (b)(1) (narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II) second, third, or subsequent offense
44-53-370(e)(2)(a)2 Prohibited Acts A, penalties (trafficking in cocaine, 10 grams or more but less than 28 grams)
Second offense
44-53-370(e)(2)(b)2 Prohibited Acts, penalties (trafficking in cocaine, 28 grams or more but less than 100 grams)
Second offense
44-53-370(e)(5)(a)2 Prohibited Acts, penalties (trafficking in LSD, 100 dosage units or more but less than 500 dosage units)

Second offense
44-53-370(e)(5)(b)2 Prohibited Acts, penalties (trafficking in LSD, 500 dosage units or more but less than 1,000 dosage units)
Second offense
44-53-370(e)(5)(a)3 Prohibited Acts, penalties (trafficking in LSD, 100 dosage units or more, but less than 500 dosage units)
Third or subsequent offense
44-53-370(e)(5)(b)3 Prohibited Acts, penalties (trafficking in LSD, 500 dosage units or more, but less than 1,000 dosage units)
Third or subsequent offense
44-53-370(e)(6)(d) Prohibited Acts, penalties (trafficking in flunitrazepam, 5 kilograms or more)
44-53-370(e)(8)(a)(ii) Trafficking in MDMA or ecstasy, 100 dosage units but less than 500--Second offense
44-53-370(e)(8)(a)(iii) Trafficking in MDMA or ecstasy, 100 dosage units but less than 500--Third or subsequent offense
44-53-370(e)(8)(b)(ii) Trafficking in MDMA or ecstasy, 100 dosage units but less than 1000--Third or subsequent offense
44-53-370(e)(8)(b)(iii) Trafficking in MDMA or ecstasy, 100 dosage units but less than 1000--Third or subsequent offense
44-53-370(g)(1)(b) Prohibited Acts A, penalties (distribution of narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II with intent to commit a crime)
Second offense
44-53-370(g)(1)(c) Prohibited Acts A, penalties (distribution of narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II with intent to commit a crime)
Third or subsequent offense
44-53-375(B)(2) Manufacture, distribution of methamphetamine or cocaine base, second offense
44-53-375(B)(3) Manufacture, distribution, etc., methamphetamine, or cocaine base
Third or subsequent offense
44-53-375(C)(1)(b) Trafficking in ice, crank, or crack cocaine (10 grams or more but less than 28 grams)
Second offense
44-53-375(C)(2)(b) Trafficking in ice, crank, or crack cocaine (28 grams or more but less than 100 grams)
Second offense
55-1-30(3) Unlawful removing or damaging of airport facility or equipment when death results
56-5-1030(B)(3) Interference with traffic-control devices or railroad signs or signals prohibited when death results from violation
58-17-4090 Penalty for obstruction of railroad

(B) The following offenses are Class B felonies and the maximum terms established for a Class B felony, as set forth in Section 16-1-20(A), apply:10-11-325(B)(3) Detonating an explosive or destructive device or igniting an incendiary device upon the capitol ground or within the capitol building resulting in injury to a person
10-11-325(B)(4) Detonating an explosive or destructive device or igniting an incendiary device upon the capitol grounds or within the capitol building resulting in damage to real or personal property
16-11-110(B) Arson in the second degree
16-23-720(A)(3) Detonating a destructive device, or causing an explosion, or aiding, counseling, or procuring an explosion by means of detonation of a destructive device resulting in injury to a person

16-23-720(B) Causing an explosion by means of a destructive device, or aiding, counseling, or procuring an explosion by means of a destructive device which results in damage to real or personal property, or attempting to injure a person or damage or destroy real or property by means of a destructive device
44-53-370(e)(1)(a)(3) Trafficking in marijuana, 10 pounds or more (third or subsequent offense)
44-53-370(e)(2)(b)1 Prohibited Acts, penalties (trafficking in cocaine, 28 grams or more, but less than 100 grams)
First offense
44-53-370(e)(3)(a)1 Prohibited Acts A, penalties (trafficking in illegal drugs, 4 grams or more, but less than 14 grams)
44-53-370(e)(5)(b)1 Prohibited Acts, penalties (trafficking in LSD, 500 dosage units or more, but less than 1000 dosage units)
First offense
44-53-370(e)(6)(a)(2) Prohibited Acts, penalties (trafficking in flunitrazepam, 1 gram)
Second or subsequent offense
44-53-370(e)(6)(c) Prohibited Acts, penalties (trafficking in flunitrazepam, 1000 grams but less than 5 kilograms)
44-53-370(e)(7)(b) Trafficking in gamma hydroxybutyric acid (second or subsequent offense)
44-53-370(e)(8)(b)(i) Trafficking in MDMA or ecstasy, 100 dosage units but less than 1000--First offense
44-53-370(e)(8)(c) Trafficking in MDMA or ecstasy, 1000 or more dosage units
44-53-370(g)(2)(c) Prohibited Acts A, penalties (distribution of controlled substances with intent to commit a crime)
Third or subsequent offense
44-53-375(C)(2)(a) Trafficking in ice, crank, crack cocaine 28 grams or more, but less than 100 grams
First offense
50-21-113(A)(2) Operating or controlling a moving water device while under the influence of alcohol, drugs, or a combination of both when death results
50-21-130(A)(3) Failure of an operator of a vessel involved in a collision resulting in death to stop and render assistance
56-5-750(C)(2) Failure to stop for a law enforcement vehicle (death occurs)
56-5-1210(A)(3) Failure to stop a vehicle involved in an accident when death occurs
56-5-2945(A)(2) Causing great bodily injury or death by operating vehicle while under influence of drugs or alcohol, death resulting

(C) The following offenses are Class C felonies and the maximum terms established for a Class C felony, as set forth in Section 16-1-20(A), apply:16-3-70 Administering or attempting to administer poison
16-3-75 Unlawful and malicious tampering with human drug product or food
16-3-85(C)(2) Aiding in the death of a child by abuse or neglect
16-3-95(A) Inflicting great bodily injury upon a child
16-3-220 Lynching in the second degree
16-3-620 Assault and battery with intent to kill
16-3-653 Criminal sexual conduct
Second degree
16-3-655(C)(3) Criminal sexual conduct, 2nd degree, with minor between 11 and 14 or at least 14 and less than 16 if actor in familial or custodial position
16-3-656 Assault with intent to commit criminal sexual conduct
Second degree

16-3-658 Criminal sexual conduct in second degree where victim is legal spouse (separated)
16-3-810 Engaging child under 18 for sexual performance
16-3-1075(B)(1) Carjacking
16-11-330(B) Attempted armed robbery
16-11-350 Train robbery by stopping train
16-11-360 Robbery after entry upon train
16-11-380(B) Stealing money, securities for money, or property, by force, intimidation, or threats, from a person who has just used a bank night depository, an ATM, or another automated banking device
16-15-395 Sexual exploitation of a minor
16-15-415 Promoting prostitution of a minor
25-7-30 Giving information respecting national or state defense to foreign contacts (violation during peacetime)
44-53-370(b)(2) Prohibited Acts A, penalties (manufacture or possession of other substances in Schedule I, II, III, with intent to distribute)
Third or subsequent offense
44-53-370(e)(1)(a)2 Prohibited Acts A, penalties (trafficking in marijuana, 10 pounds or more, but less than 100 pounds)
Second offense
44-53-370(e)(6)(b) Prohibited Acts, penalties (trafficking in flunitrazepam, 100 grams but less than 1000 grams)
44-53-370(g)(1)(a) Prohibited Acts A, penalties (distribution of narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II with intent to commit a crime)
First offense
44-53-370(g)(2)(b) Prohibited Acts A, penalties (distribution of controlled substances with intent to commit a crime)
Second offense
44-53-440 Distribution of controlled substance under Sections 44-53-370(a) and 44-53-375(B) to persons under 18
44-53-475 Transportation or attempt to transfer monetary instruments derived from unlawful drug activity
44-53-475(A)(1) Financial transactions involving property derived from unlawful drug activity
44-53-475(A)(3) Concealment of property derived from unlawful drug activity
58-15-870 Injuring railroad or electric railway generally if act endangers life

(D) The following offenses are Class D felonies and the maximum terms established for a Class D felony, as set forth in Section 16-1-20(A), apply:10-11-325(A) Possessing, having readily accessible, or transporting onto the capitol grounds or within the capitol building an explosive, destructive, or incendiary device
16-1-55 Accessory after the fact of a Class A, B, or C Felony
16-3-930 Knowingly subjecting another person to forced labor or services, or recuiting, harboring, transporting, providing, or obtaining by any means a person knowing that the person will be subject to forced labor or services
16-3-1090(B) Assist another person in committing suicide
16-3-1730(C) Stalking within ten years of a conviction of harassment or stalking
16-11-312 Burglary--second degree
16-11-325 Common law robbery
16-11-525(D)(1) Injuring real property when illegally obtaining nonferrous metals and the act results in great bodily injury to person
16-15-140 Committing or attempting lewd act upon child under 16

16-15-355 Disseminating obscene material to a minor 12 years or younger
16-23-720(C) Possessing, manufacturing, transporting, distributing, possessing with the intent to distribute any explosive device, substance, or material configured to damage, injure, or kill a person, or possessing materials which when assembled constitute a destructive device
16-23-720(D) Threaten by means of a destructive weapon
16-23-720(E) Harboring one known to have violated provisions relating to bombs, weapons of mass destruction and destructive devises
16-23-730 Communicating or transmitting to a person that a hoax device or replica is a destructive device or detonator with intent to intimidate or threaten injury, obtain property, or interfere with the ability of a person or government to conduct its affairs
16-23-750 Communicating or aiding and abetting the communication of a threat or conveying false information concerning an attempt to kill, injure, or intimidate a person or damage property or destroy by means of an explosive, incendiary, or destructive device (second or subsequent offense)
24-3-210 Furloughs for qualified inmates of state prison system--Failure to return (See section 24-13-410)
24-13-410(B) Escaping or attempting to escape from prison or possessing tools or weapons used to escape
24-13-470 Inmate throwing bodily fluids on a correctional facility employee
43-35-85(B) Abusing or neglecting a vulnerable adult that results in great bodily injury
43-35-85(D), 16-3-1050(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury
44-53-370(b)(1) Prohibited Acts A, penalties (narcotic drugs in Schedule I (b) and (c), LSD, and Schedule II)
First offense
44-53-370 Prohibited Acts A, penalties (g)(2)(a) (distribution of controlled substances with intent to commit a crime)
First offense
44-53-375(B)(1) Manufacture, distribution, etc., methamphetamine or cocaine
First offense
44-53-445(B)(2) Distribution, manufacture, sale, or possession of crack cocaine within proximity of a school
44-53-577 Unlawful to hire, solicit, direct a person under 17 years of age to transport, conceal, or conduct financial transaction relating to unlawful drug activity
50-21-113(A)(1) Operating a moving water device while under the influence of alcohol or drugs where great bodily injury results
56-5-2945(A)(1) Causing great bodily injury by operating vehicle while under influence of drugs or alcohol

(E) The following offenses are Class E felonies and the maximum terms established for a Class E felony, as set forth in Section 16-1-20(A), apply:7-25-50 Bribery at elections
Second offense
7-25-60 Procuring or offering to procure votes by bribery
Second or subsequent offense
7-25-80 Threatening, intimidating, or abusing voters
8-1-20 Illegal collecting and retaining rebates, commissions, or discounts (public officers/employees)
8-13-705 Offering, giving, soliciting, or receiving anything of value to influence action of public employee, member, or official
9-16-350 Use of any information concerning State Retirement Systems Investment Panel activities by member or employee to obtain economic interest

15-49-20(H) Falsifying affidavit in order to obtain employment after having been convicted of an offense requiring registration as a sex offender
16-1-55 Accessory after the fact of a Class D Felony
16-1-57 Third or subsequent conviction of certain property crimes
16-3-615 Spousal sexual battery
16-3-625 Resisting arrest with deadly weapon
16-3-635(C) Assault and battery against an emergency medical service provider, firefighter, or home health care provider
16-3-654 Criminal sexual conduct
Third degree
16-3-656 Assault with intent to commit criminal sexual conduct
Third degree
16-3-820 Promoting, producing, or directing a sexual performance by a child under 18
16-3-1060 No person may accept fee, compensation, etc. (for relinquishing the custody of a child for adoption)
16-3-1730(B) Stalking while injunction or restraining order prohibiting this conduct is in effect
16-7-160(2) Illegal use of stink bombs or other devices containing foul or offensive odors--bodily harm results
16-8-20(B)(2) Teaching, demonstrating the use, application, or making of a firearm or destructive device (second or subsequent offense)
16-8-250(B) Preventing or attempting to prevent a witness or victim from attending or giving testimony at a trial that concerns criminal gang activity
16-9-220 Acceptance of bribes by officers
16-9-320(B) Assaulting police officer serving process or while resisting arrest
16-9-340 Intimidation of court officials, jurors, or witnesses
16-9-410(C)(1) Aiding escapes from prison, for prisoners serving term of incarceration
16-11-110(C) Arson--third degree
16-11-313 Burglary--third degree
Second offense
16-11-510(B)(1) Malicious injury to animals and personal property (value $ 5,000 or more)
16-11-520(B)(1) Malicious injury to real property (value $ 5,000 or more)
16-11-523(C)(3) Injuring real property when illegally obtaining nonferrous metals where the value of the injury is $ 5,000 or more
16-11-535 Malicious injury to place of worship
16-11-580(C)(1) Forest products violation (value more than $ 1,000 but less than $ 5,000)
16-11-580(C)(2) Forest products violation (value more than $ 5,000)
16-11-580(C)(2) Forest products violation (value at least $ 5,000)
16-11-740 Malicious injury to telegraph, telephone, or electric utility system
16-13-10(B)(1) Forgery (value $ 5,000 or more)
16-13-30(B)(2) Grand larceny (value $ 5,000 or more)
16-13-40(3) Stealing of bonds and the like (value $ 5,000 or more)
16-13-50(1) Stealing livestock, confiscation of motor vehicle, or other chattel (value $ 5,000 or more)
16-13-70(B)(1) Stealing of vessels and equipment, payment of damages (value $ 5,000 or more)
16-13-110(B)(3) Shoplifting (value $ 5,000 or more)
16-13-170 Entering house or vessel without breaking in with intent to steal, attempt to enter
16-13-180(3) Receiving stolen goods (value $ 5,000 or more)
16-13-210(1) Embezzlement of public funds (value $ 5,000 or more)
16-13-230(B)(3) Breach of trust with fraudulent intent (value $ 5,000 or more)
16-13-240(1) Obtaining signature or property by false pretenses (value $ 5,000 or more)
16-13-260(1) Obtaining property under false tokens or letters (value $ 5,000 or more)

16-13-290(1) Securing property by fraudulent impersonation of officer (value over $ 200)
16-13-420(B)(1) Failure to return rented objects, fraudulent appropriation (value $ 5,000 or more)
16-13-425(3) Unlawful failure to return rented video or cassette tape (value $ 5,000 or more)
16-13-430(C)(1) Fraudulent acquisition or use of food stamps (value $ 5,000 or more)
16-13-510 Financial identity fraud
16-15-335 Unlawful to hire, employ, use, or permit any person under 18 to do anything violating obscenity statutes
16-15-342 Criminal solicitation of a minor
16-15-345 Unlawful to disseminate obscene material to any person under 18 years of age
16-15-385 Dissemination of obscene material to minors is unlawful
16-15-387 Employing a person under eighteen to appear in public in the state of sexually explicit nudity
16-15-405(D) Sexual exploitation of a minor
Second degree
16-15-410 Sexual exploitation of a minor
Third degree
16-17-470(C) Aggravated voyeurism
16-17-495(D) Transport of child by physical force or threat of physical force with intent to avoid custody order
16-17-550 Bribery of athletes and athletic officials
16-17-600(A),(B) Destruction or desecration of human remains or repositories--destroys, damages, or desecrates human remains and vandalizes, desecrates, injures gravestones or memorials
16-17-640 Blackmail
16-21-80(3) Receiving, possessing, concealing, selling, or disposing of stolen vehicle (value $ 5,000 or more)
16-23-220 Unlawful transportation of machine gun or sawed-off shotgun or rifle
16-23-230 Unlawful storing, keeping, or possessing machine gun or sawed-off shotgun or rifle
16-23-240 Unlawful selling, renting, or giving away of machine gun or sawed-off shotgun or rifle
16-23-440(A) Discharging firearms at or into dwellings
16-23-440(B) Discharging firearms at or into a vehicle, aircraft, watercraft, or other device
16-23-530 Possession of a gun by an illegal alien
16-23-750 Communicating or aiding and abetting the communication of a threat or conveying false information concerning an attempt to kill, injure, or intimidate a person or damage or destroy property by means of an explosive, incendiary, or destructive device (first offense)
16-25-20(E) Cause, offer, or attempt to cause injury to a person's household and violate the terms of an order of protection
16-25-65(B) Commission of criminal domestic violence of a high and aggravated nature
17-13-50 Right to be informed of grounds for arrest, consequences of refusal to answer or false answer
23-29-90 Penalties (violations of Subversive Activities Registration Act)
23-31-340 Penalties (violation of article regulating use and possession of machine guns, sawed-off shotguns, and rifles)
23-31-360 Unregistered possession of machine guns by licensed manufacturer
23-36-170(b) Violation of South Carolina Explosives Control Act
Second offense
24-3-910 Penalty for penitentiary employee's connivance at escape of prisoners
24-3-950 Contraband (possession by prisoner or furnishing prisoner with or attempt to furnish)
24-7-155 Furnishing or possessing contraband in county or municipal prisons prohibited
24-13-420 Harboring or employing escaped convicts
24-13-430(2) Participating in riot by prisoners

24-13-440 Carrying or concealing weapon by inmates
25-7-50 False reports, insubordination, obstruction of recruiting during war
25-7-70 Sabotage
34-3-10 Use of word "bank" or "banking" by other than banking institutions
34-11-60 Drawing and uttering fraudulent check, draft, or other written order (more than $ 1,000, see Section 34-11-90(b)) Third and subsequent offenses
34-13-90 Penalty for improper borrowing by directors or officers
35-1-508(a)(1) Violation of Title 35, Chapter 1 when investor loses twenty thousand dollars or more
36-9-410(C)(3) Unlawful disposal of personal property that is subject to a perfected security interest whose value is $ 5,000 or more
38-38-720(3) Making a false statement or representation regarding a fraternal benefit society (second or subsequent offense)
38-55-170(1) Presenting false claim for payment (insurance companies) (value $ 5,000 or more)
38-55-540(A)(4) Knowingly making false statement or misrepresentation resulting in economic advantage of fifty thousand dollars or more, first offense
38-55-540(A)(5) Knowingly making false statement or misrepresentation resulting in economic advantage of any amount, second offense
39-9-208(B) Uniform weights and measures law violation
39-15-1190(B)(1)(a)(iv) Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, Second Offense
39-15-1190(B)(1)(b)(ii) Trafficking in counterfeit marks, Second or Subsequent Offense
39-22-90(A)(8) State warehouse system violation if the amount of the violation is $ 5,000 or more
39-73-325 Violation of regulation under State Commodity Code
40-83-30(J) Participating in the use of a false document in connection with acts as an immigration assistant
44-23-1080(2) Furnishing Department of Mental Health patients or prisoners with firearms or dangerous weapons
44-23-1150(C)(1) First degree sexual misconduct
44-29-145 Exposing others to Human Immuno Deficiency Virus
44-52-165(A)(3) Possession of firearms or dangerous weapons by patient receiving inpatient services operated by Department of Mental Health
44-52-165(B)(1) Intentionally allowing patient receiving inpatient services by Department of Mental Health to possess alcoholic beverages or controlled substances
44-52-165(B)(2) Intentionally allowing patient receiving inpatient services by Department of Mental Health to possess firearms or dangerous weapons
44-53-365 Taking or exercising control over another person's controlled substance--Second offense
44-53-370(b)(2) Prohibited Acts A, penalties (manufacture or possession of other substances in Schedule I, II, III, flunitrazepam, or a controlled substance analogue with intent to distribute) Second offense
44-53-370(d)(3) Possession of cocaine, third or subsequent offense
44-53-370(e)(1)(a)1 Prohibited Acts A, penalties (trafficking in marijuana, 10 pounds or more, but less than 100 pounds)
44-53-370(e)(2)(a)1 Prohibited Acts A, penalties (trafficking in cocaine, 10 grams or more, but less than 28 grams)
44-53-370(e)(4)(a)1 Prohibited Acts A, penalties (trafficking in methaqualone, 15 grams or more, but less than 150 grams)
44-53-370(e)(5)(a)1 Prohibited Acts, penalties (trafficking in LSD, 100 dosage units or more, but less than 500 dosage units)

First offense
44-53-370(e)(6)(a)(1) Prohibited acts, penalties (trafficking in flunitrazepam, 1 gram but less than 100 grams)
First offense
44-53-370(e)(7)(a) Trafficking in gamma hydroxybutyric acid (first offense)
44-53-370(e)(8)(a)(i) Trafficking in MDMA or ecstasy, 100 dosage units but less than 500--First offense
44-53-375(A) Possession of less than one gram of methamphetamine or cocaine base, third or subsequent offense
44-53-375(C)(1)(a) Trafficking in ice, crank, or crack cocaine 10 grams or more, but less than 28 grams
First offense
44-53-376(B) Knowingly causing to be disposed any waste from the production of methamphetamine or knowingly assisting, soliciting, or conspiring with another to dispose of the waste, Second Offense
44-53-378 Manufacturing and exposing a child to methamphetamines
44-53-398(H)(5) Possessing, manufacturing, delivering, distributing, dispensing, administering, purchasing, selling, or possessing with intent to distribute any substance that contains any amount of ephedrine or pseudoephedrine which has been altered from its original condition, Second Offense
44-53-440 Distribution of controlled substance under Section 44-53-370(a) and (b) to persons under 18 violation
44-53-445(B)(1) Distribution, manufacture, or sale of controlled substance within proximity of school (other than crack cocaine)
44-53-1530(1)(b) Distribution of anabolic steroids (second or subsequent offense)
44-53-1530(4)(b) Possession of anabolic steroids, 100 or more doses (second or subsequent offense)
44-55-1510 Prohibition of discharge of fumes of acids or similar substances
44-53-1680(B) Knowingly disclosing information in violation of the Prescription Monitoring Program
44-53-1680(C) Using prescription monitoring information in a manner or for a purpose in violation of the Prescription Monitoring Program
45-2-40(B)(1) Inflicting $ 500 or more in damages to a lodging establishment while using or possessing a controlled substance, beer, wine, or alcohol
46-1-20(1) Stealing crops from the field (value $ 5,000 or more)
46-1-40(1) Stealing tobacco plants from bed (value $ 5,000 or more)
46-1-60(B)(1) Making away with produce before payment (value $ 5,000 or more)
46-1-70(B)(1) Factors or commission merchants failing to account for produce (value $ 5,000 or more)
47-19-120(C)(2) Interference with person performing official duties under chapter on poultry inspection--use of deadly weapon in commission of violation
48-23-265(C)(2) Forest products violation second or subsequent offense (value at least $ 5,000)
49-1-50(C)(1) Sale of drifted timber, lumber ($ 5,000 or more value)
50-21-115 Reckless homicide by operation of a boat (reclassified from Class F felony in 2002)
50-21-130(A)(2) Failure of an operator of a vessel involved in a collision resulting in great bodily injury to stop and render assistance
55-1-30(2) Unlawful removing or damaging of airport facility or equipment when injury results
55-1-40 Unlawful entry of aircraft, damaging, or removing equipment
56-5-750(C)(1) Failure to stop for a law enforcement vehicle (great bodily harm occurs)
56-5-1030(B)(2) Interference with traffic-control devices or railroad sign or signals prohibited--injury results

56-5-1210(A)(2) Failure to stop a vehicle involved in an accident when great bodily injury results
56-5-2910 Reckless homicide
56-5-4975(C) Operation of unlicensed ambulance without removing exterior markings, sirens, etc., with intent to commit terrorist act
56-29-30(A) Unlawful to own, operate, or conduct a chop shop or to transport or sell a motor vehicle to a chop shop
58-15-850 Breaking and entering or shooting into cars
63-5-70 Unlawful neglect of child or helpless person by legal custodian
63-5-70(a) Causing harm to a child
63-13-200 Committing certain crimes near a childcare facility
63-19-1670 Furnishing contraband to a juvenile in the custody of the Department of Juvenile Justice

(F) The following offenses are Class F felonies and the maximum terms established for a Class F felony, as set forth in Section 16-1-20(A), apply:7-25-50 Bribery at elections
First offense
7-25-60 Procuring or offering to procure votes by bribery
First offense
7-25-190 Illegal conduct at elections generally
8-13-725(B) Public official disclosing confidential information
8-14-60 Intentional use of a false document in connection with public employment
8-29-10(F) Intentional use of a false document or aiding in the use of a false document to obtain a public benefit
11-48-90(A) Sale or possession of counterfeit cigarettes
12-21-2716 Unlawful manufacture or sale of slugs to be used in coin-operated devices
12-21-4150 Posing as a bingo player with the intent to defraud bingo customers
12-21-6040(A) Revealing facts contained in report under Marijuana and Controlled Substance Tax Act
12-54-44(B)(1) Wilful attempt to evade or defeat tax imposed
12-54-44(B)(2) Wilful failure to collect or truthfully account for and pay over tax money
12-54-44(B)(6)(a)(i) Wilfully subscribing to false or fraudulent tax return
12-54-44(B)(6)(a)(ii) Wilfully assisting in false or fraudulent tax return
12-54-44(B)(6)(b) Violation of prohibition against preparing returns by person convicted of preparing false return
16-1-55 Accessory after the fact of a Class E felony
16-3-60 Involuntary manslaughter
16-3-95(B) Inflicting great bodily injury on a child by a person responsible for the child's welfare
16-3-630 Assault of a correctional facility employee
16-3-1040(A) Threatening life, person or family of public official
16-3-1720(C) Stalking (with prior conviction)
16-3-1730(A) Stalking
16-5-10 Conspiracy against civil rights
16-5-130(1) Penalties for instigating, aiding or participating in riot--resists enforcement of statute of state or United States, obstruct public officer, Carries weapon, etc.
16-8-20(B)(1) Demonstrating the use of a bomb (first offense)
16-8-240(A) Committing or threatening acts of violence with the intent to coerce, induce, or solicit another person to participate in gang activity, second offense
16-9-10(B)(1) Perjury and subordination of perjury
16-9-30 False swearing before persons authorized to administer oaths
16-9-210 Giving or offering bribes to officers

16-9-230 Acceptance of rebates or extra compensation
16-9-260 Corrupting jurors, arbitrators, umpires, or referees
16-9-270 Acceptance of bribes by jurors, arbitrators, umpires, or referees
16-9-460 Movement and harboring intended to further illegal entry or detection
16-11-20 Making, mending or possessing tools or other implements capable of being used in crime
16-11-125 Making false claim or statement in support of claim to obtain insurance benefits for fire or explosion loss
16-11-130 Burning personal property to defraud insurer
16-11-150 Burning lands of another without consent
Second and subsequent offense
16-11-170 Wilfully burning lands of another
16-11-190 Wilfully and maliciously attempts to burn
16-11-313(B) Burglary--third degree
First offense
16-11-510(B)(2) Malicious injury to animals and personal property (value over $ 1,000 up to $ 5,000)
16-11-520(B)(2) Malicious injury to real property (value over $ 1,000 up to $ 5,000)
16-11-523(C)(2) Injuring real property while illegally obtaining nonferrous metals where the value of the injury is greater than $ 1,000 but less than $ 5,000
16-11-617 Unlawful to cultivate or attempt to cultivate marijuana on land of another
16-11-725(B)(2) Rummaging through or stealing another person's household garbage
16-11-910 and 16-11-915 Transfer of recorded sounds for unauthorized use or sale
16-11-930 Illegal distribution of recording without name and address of manufacturer and designation of featured artist (See Section 16-11-920(B))
16-13-10(B)(2) Forgery (value less than $ 5,000)
16-13-30(B)(1) Grand larceny (value over $ 1,000 up to $ 5,000)
16-13-40(2) Stealing of bonds and the like (value over $ 1,000 up to $ 5,000)
16-13-50(2) Stealing livestock, confiscation of motor vehicle or other chattel (value over $ 1,000 up to $ 5,000)
16-13-70(B)(2) Stealing of vessels and equipment--payment of damages (value over $ 1,000 up to $ 5,000)
16-13-110(B)(2) Shoplifting (value over $ 1,000 up to $ 5,000)
16-13-160 Breaking into motor vehicles or tanks, pumps, and other containers where fuel or lubricants are stored
16-13-180(2) Receiving stolen goods (value over $ 1,000 up to $ 5,000)
16-13-210(2) Embezzlement of less than $ 5,000 in public funds
16-13-230(B)(2) Breach of trust with fraudulent intent (value over $ 1,000 up to $ 5,000)
16-13-240(2) Obtaining signature or property by false pretenses (value over $ 1,000 up to $ 5,000)
16-13-260(2) Obtaining property under false tokens or letters (value over $ 1,000 up to $ 5,000)
16-13-420(B)(2) Failure to return rented objects, fraudulent appropriation (value over $ 1,000 up to $ 5,000)
16-13-425(A)(2) Unlawful failure to return rented video or cassette tape (value over $ 1,000 up to $ 5,000)
16-13-430(C)(2) Fraudulent acquisition or use of food stamps (value over $ 1,000 up to $ 5,000)
16-13-470(B)(2) Defrauding a drug or alcohol screening test (second or subsequent offense)
16-13-510(E) Financial identity fraud and identity fraud
16-13-512(C)(2) Unlawfully printing information on credit and debit card receipts
16-13-525(D) Display or possession of a false identification or document for the purpose of proving lawful presence--Second and subsequent offense

16-14-20 Financial transaction card theft
16-14-40 Financial transaction card forgery
16-14-60(a) Financial transaction card fraud--value of things of value exceeds five hundred dollars in a six-month period
16-14-60(g) Financial transaction card fraud
16-14-70 Criminal possession of financial transaction card forgery devices
16-14-80(B)(2) Criminally receiving goods and services fraudulently obtained with financial transaction card (value over $ 500)
16-15-10 Bigamy
16-15-120 Buggery
16-15-305(A) Unlawfully disseminating, processing, or promoting obscenity
16-15-425(C) Participation in the prostitution of a minor
16-16-20(2) Computer crime--First degree
16-17-410 Conspiracy
16-17-470(B)(2) Voyeurism (second or subsequent offense)
16-17-495(B) Transporting a child under sixteen years of age with the purpose of concealing the child or avoiding a custody order or statute
16-17-600(C) Destruction or desecration of human remains or repositories--destroys, tears down, injures fencing, trees, flowers, or shrubs around a repository of human remains
16-17-722(B) Knowingly file a false police report regarding a felony
16-21-10 Altering, forging, or counterfeiting certificate of title, registration card, or license plate, misrepresentation or concealment in application
16-21-40(A)(2), (A)(4) Removing or falsifying identification number of vehicle or engine and buying, receiving, or selling such vehicle or engine
16-21-80(2) Receiving, possessing, concealing, selling, or disposing of stolen vehicle (value over $ 1,000 up to $ 5,000)
16-23-30 Sale or delivery of pistol to and possession by certain persons unlawful, stolen pistols (See Section 16-23-50)
16-23-410 Pointing firearms at a person
16-23-415 Taking a firearm, stun gun, or taser device from a law enforcement officer
16-23-420 Carrying or displaying firearms in public buildings or adjacent areas
16-23-430 Carrying weapons on school property
16-23-480 Manufacture or possession of article designed to cause damage by fire or other means
16-23-490 Possession of firearm or knife during commission or attempt to commit violent crime
16-23-520 Use, transportation, manufacture, possession, purchase, or sale of teflon-coated ammunition
16-23-740 Hindering certain individuals or devices during the detection, disarming, or destruction of a destructive device
16-25-20(B)(3) Criminal domestic violence--Third offense
16-25-20 Commission of criminal domestic violence--Third or subsequent offense
16-25-125(E) Unlawful entry upon the grounds of a domestic violence shelter while possessing a dangerous weapon
16-27-30 Animal fighting or baiting
16-27-40 Presence at facility where animal fighting or baiting is taking place
Third and subsequent offenses
17-15-90(1) Wilful to appear before a court when released in connection with a charge for a felony or while awaiting sentencing
17-30-50(A) Interception of wire, electronic, or oral communications
17-30-55(A) Sending or manufacturing device for unlawful interception of wire, oral or electronic communications
20-4-60(B)(2) Possession firearm at time of criminal domestic violence

20-4-375(A) Making, presenting, filing, or attempting to file a false, fictitious, or fraudulent foreign protection order
23-3-470(B)(3) Failure of sex offender to register
Third or subsequent offense
23-3-475(B)(3) Providing false information when registering as a sex offender
Third or subsequent offense
23-3-510(2) Committing a felony by using information obtained from the sex offender registry
23-3-535(D)(3) Sex offender's failure to vacate a residence that is within one thousand feet of a school, daycare center, children's recreational facility, park, or public playground--Second offense
23-3-540(I) Sex offender failing to comply with reporting requirements
23-3-540(L) Sex offender removing or tampering with monitoring device
23-31-160 False information or evidence on firearms license application (See Section 23-31-190)
23-31-190 Penalties, violation concerning regulation of pistols
23-36-170(a) Penalty (violation of South Carolina Explosives Control Act)
First offense
23-50-50(B) Divulging privileged communication, protected information, or a protected identity with intent to obtain monetary gain or other benefit
24-1-270 Trespass or loitering on or refusal to leave state correctional properties
27-32-120(B) Violation of vacation time sharing plans
Third or subsequent offense
33-56-145(A) Defrauding a charity (second or subsequent offense)
33-56-145(B) Giving false information with respect to registering a charity (second or subsequent offense)
34-3-110(B) Crimes against a federally chartered or insured financial institution
35-1-508(a)(2) Violation of Title 35, Chapter 1 when an investor loses less than twenty thousand dollars, but more than one thousand dollars
36-9-410(C)(2) Unlawful disposal of personal property that is subject to a perfected security interest whose value is more than $ 1,000 but less than $ 5,000
38-9-150 Return of deposited securities (making false affidavit)
38-13-170 Making or aiding in making false statement (Insurance)
38-43-245 Licensed insurance producer fraudulently submitting application for insurance
38-55-170(2) Presenting false claim for payment (Insurance) (value over $ 1,000 up to $ 5,000)
38-55-540(A)(3) Knowingly making false statement or misrepresentation resulting in economic advantage of between ten and fifty thousand dollars, first offense
39-15-1190(B)(1)(a)(iii) Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of $ 10000 or more but less than $ 50000; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark
39-15-1190(B)(1)(b)(i) Trafficking in counterfeit marks, First Offense
39-22-90(A)(1)-(4), (9) Prohibited acts. State Warehouse System (See Section 39-22-90(B))
39-23-80(B)(2) Adulterated, misbranded, or new drugs and devices
Second offense
39-23-80(B)(3) Adulterated, misbranded, or new drugs and devices--with intent to defraud or mislead
40-5-310 Unlawful practice of law by a person
41-8-70 Intentional use of a false document in connection with private employment
43-35-85(B), (C), (D), 16-3-1050(B), (C), (D) Abuse, neglect, or exploitation of a vulnerable adult
44-4-380 Falsification of document of gift or refusal of gift of body part
44-23-1150(C)(2) Second degree sexual misconduct

44-41-80 Performing unlawful abortion
44-41-85(A) Performing a partial-birth abortion
44-43-375(A) Purchase or sale of body part for transplantation or therapy
44-53-40(B) Obtaining certain drugs, devices, preparations, or compounds by fraud, deceit, or the like
Second or subsequent offense
44-53-365 Taking or exercising control over another person's controlled substance-First offense
44-53-370(b)(2) Prohibited Acts A, penalties (manufacture or possession of other substances in Schedule I, II, III, flunitrazepam, or a controlled substance analogue with intent to distribute)
First offense
44-53-370(b)(3) Prohibited Acts A, penalties (manufacture or possession of Schedule IV drugs except for flunitrazepam with intent to distribute)
Second or subsequent offense
44-53-370(d)(1) Prohibited Acts A, penalties (possession of narcotic drugs in Schedule I (b), (c), LSD, and Schedule II)
Second, third, or subsequent offenses
44-53-370(d)(3) Possession of cocaine, second offense
44-53-375(A) Possession of less than one gram of methamphetamine or cocaine base, second offense
44-53-376(B) Knowingly causing to be disposed any waste from the production of methamphetamine or knowingly assisting, soliciting, or conspiring with another to dispose of the waste, First Offense
44-53-380 Prohibited Acts B, penalties
44-53-390 Prohibited Acts C, penalties
44-53-395 Prohibited acts, penalties (prescription drugs)
Second or subsequent offense
44-53-398(H)(5) Possessing, manufacturing, delivering, distributing, dispensing, administering, purchasing, selling, or possessing with intent to distribute any substance that contains any amount of ephedrine or pseudoephedrine which has been altered from its original condition, First Offense
44-53-1530(1)(a) Distribution of anabolic steroids (first offense)
44-63-161(B) Making false statement on or altering official certificate or record
45-2-40(B)(2) Inflicting more than $ 1,000 but less than $ 5,000 in damages to a lodging establishment while using or possessing a controlled substance, beer, wine, or alcohol
46-1-20(2) Stealing crops from the field (value over $ 1,000 up to $ 5,000)
46-1-40(2) Stealing tobacco plants from bed (value over $ 1,000 up to $ 5,000)
46-1-60(B)(2) Making away with produce before payment (value over $ 1,000 up to $ 5,000)
46-1-70(B)(2) Factors or commission merchants failing to account for produce (value over $ 1,000 up to $ 5,000)
46-1-75(B)(2) Maliciously damaging farm product, research facility or equipment valued at $ 500 or more
46-41-30(2) Unlawful to engage in business as dealer without license (agricultural products)
Second or subsequent offense
47-1-40(B) Torture, torment, mutilate, cruelly kill, or inflict excessive or repeated unnecessary pain or suffering upon an animal
47-3-630 Torturing, mutilating, injuring, disabling, poisoning, or killing a police dog
47-3-760(B)(2) Penalty for owner of dangerous animal which attacks and injures a human
Second or subsequent offense
49-1-50(C)(2) Sale of drifted lumber or timber (value over $ 1,000 up to $ 5,000)
50-11-95(D) Engaging in Computer Assisted Remote Hunting, Second and Subsequent Offense
54-7-815 Unlawful salvage of certain sunken warships
55-1-30(1) Unlawful removing or damaging of airport facility or equipment

56-1-1100 Habitual traffic offenders, violation of free vehicle registration for disabled veterans
56-5-750(B)(2) Failure to stop for a law enforcement vehicle--Second or subsequent offense (no death or injury occurs)
56-5-1030(B)(1) Interference with traffic-control devices or railroad sign or signals
56-5-2780(B)(2) Unlawful passing a school bus when death results
56-5-2930 Driving under influence of liquor, drugs, or like substances unlawful (See Section 56-5-2940(4))
56-5-4975(B) Operation of unlicensed ambulance without removing exterior markings, sirens, etc., with intent to commit felony
Fourth or subsequent offense
56-29-30(B) Unlawful to alter, counterfeit, deface, destroy, disguise, etc. a vehicle identification number
56-29-30(C)(1) Unlawful to buy, dispose, sell, transfer, or possess a motor vehicle or part with tampered identification number
56-29-30(D) Attempt to violate Motor Vehicle Chop Shop, Stolen, and Altered Property Act
56-29-30(E) Conspiracy to violate Motor Vehicle Chop Shop, Stolen, and Altered Property Act
58-13-740 Violation of provisions concerning transportation of explosive compounds
58-15-820 Wilful obstruction of railroad or electric railway
58-17-4100 Shooting or throwing missile at trains
59-150-260(A) Intentional making, altering, forging, uttering, passing, or counterfeiting a state lottery game ticket
59-150-260(B) Influencing or attempting to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials
59-150-270(A) Knowing or intentionally making a material false statement in an application for a license or proposal to conduct lottery activities or a material false entry in a book or record which is compiled or submitted to the lottery board
59-150-400(D) Conspiracy

S.C. CODE ANN. § 16-1-110 (2009). Crimes classified as misdemeanors.

(A) The following offenses are Class A misdemeanors and the maximum terms established for a Class A misdemeanor, as set forth in Section 16-1-20(A), apply: 4-11-130 Disbursing officers may not exceed or transfer appropriations
4-17-70 Wilful injury to courthouse or jail
5-21-30 Municipal officers prohibited from contracting with municipality
5-21-40 Officers required to account to municipality for interest collected on deposits
7-5-325 Fraudulent change of address by elector for registration for voting purposes
7-13-1920 Tampering with voting machine
7-25-10 False swearing in applying for registration (election laws)
7-25-70 Procuring or offering to procure votes by threats
7-25-110 Voting more than once at elections
7-25-120 Impersonating a voter
7-25-160 Wilful neglect or corrupt conduct on the part of managers
7-25-170 Wilful neglect or corrupt conduct by officers other than managers
8-11-30 Payment or receipt of salary not due to state officers or employees
9-1-1160(A) Collection of members contribution, failure to make payroll reports and remittances (State Retirement System)
10-11-315 Defacing, destroying or attempting to deface or destroy a monument or flag on the capitol grounds
10-11-320 Carrying or discharging a firearm on the capitol grounds or in the capitol building

10-11-360 Violation of article concerning offenses on capitol grounds and in capitol building
11-1-20 Failure to account for interest on deposit of public funds
11-1-40 Contracts in excess of tax or appropriation, diverting public funds
11-9-20 Disbursing officers exceeding or transferring appropriations
12-2-70 Neglect or misconduct of county auditor or treasurer
12-28-1500(F) An operator of a refinery, terminal, or bulk plant failure to provide an automated shipping document to a driver of a fuel transportation vehicle receiving taxable motor fuel
12-28-1545(B) Licensed importer failure to meet requirements regarding fuel which has not been dyed, nor tax paid or accrued by the supplier
12-28-1550(C) Failure to meet requirements for exporting fuel
12-28-1555(D) Operation of a motor vehicle with dyed fuel
12-28-1560(D) Knowingly engaging or knowingly aiding and abetting another person to engage in a motor fuel business without a license
12-28-1720(C) Truck drivers who violate certain shipping requirements for the second and subsequent times
12-28-1940(B) Refusing to allow certain inspections for the purpose of evading the payment of taxes
12-54-44(B)(6)(c)(i) Concealing goods on which tax imposed with intent to evade assessment or collection
12-54-44(B)(6)(c)(ii) Wilful failure to pay over money received from third party to discharge payor's tax liability
16-3-635(B) Assault and battery against an emergency medical service provider, firefighter, or home health care provider
16-3-730 Publishing name of victim of criminal sexual conduct unlawful
16-3-1050(G) Threatening, intimidating, or attempting to intimidate a vulnerable adult subject to an investigation
16-3-1050(H) Obstructing or impeding an investigation pursuant to Chapter 35 of Title 43
16-3-1720(A) Harassment in the first degree
16-3-1720(B) Harassment in the first degree when a restraining order is in effect
16-5-40 Duty of officers to execute warrants
16-7-160(1) Illegal use of stink bombs or other devices containing foul or offensive odors
16-7-170 Entering public buildings for purpose of destroying records or other property
16-11-30 Possession of master keys and nonowner key sets while engaged in crime
16-11-140 Burning of crops and other kinds of personal property
16-11-560 Burning, cutting untenanted or unfinished buildings
16-11-570 Injury or destruction of building or crops by tenant
16-11-770(B)(3) Committing illegal graffiti vandalism, third or subsequent offense
16-11-920(A)(3) Operation of an audiovisual recording device in a motion picture theatre with intent to record, third offense
16-13-10 Forgery that does not involve a dollar amount
16-13-150 Purse snatching (not grand larceny or robbery)
16-13-380 Theft of electric current (second or subsequent offense)
16-13-385 Tampering with a utility meter
Second and subsequent offense
16-13-470(B)(1) Defrauding a drug or alcohol screening test (first offense)
16-15-130 Indecent exposure
16-15-250 Communicating obscene messages (nontelephonic)
16-16-20(3)(i) (reclassified as Class C misdemeanor in 2002)
16-17-470(A) Eavesdropping or peeping
16-17-470(B)(1) Voyeurism (first offense)
16-17-490 Contributing to the delinquency of a minor

16-17-495(C) Returning a child under sixteen years of age within three days of a violation of a custody order or statute
16-17-505(3) Knowingly selling cigarettes in packages that violate federal law
16-17-650(A)(2) Engaging in cock fighting, game fowl or illegal game fowl testing, Second Offense
16-17-680(D)(3) Unlawful purchase of nonferrous metals
16-17-685(D)(3) Transporting nonferrous metals, third or subsequent offense
16-21-60(A) Use of vehicle without permission (intent to deprive)
16-23-465 Additional penalty for unlawfully carrying pistol or firearm on premises of business selling alcoholic liquors, beers, or wines for on premises consumption
16-23-470 Illegal possession of teargas or ammunition for teargas
16-23-530 Knowingly selling or providing a gun to an illegal alien
16-25-120(D) Trespass on grounds or structure of domestic violence shelter
16-25-125(E) Unlawful entry upon the grounds of a domestic violence shelter
17-7-510 Burying body without notice or inquiry
22-9-140 Penalty for failing to execute process of magistrate's court
23-1-20 Peace officers may not be employed on contingent basis
23-3-535(D)(2) Sex offender's failure to vacate a residence that is within one thousand feet of a school, daycare center, children's recreational facility, park, or public playground--Second offense
25-7-20 Obtaining or giving information respecting national or state defense
29-1-30 Wilful sale of property on which lien exists
35-1-508(a)(3) Violation of Title 35, Chapter 1 when an investor loses less than one thousand dollars, or if no losses are proven
37-13-50 Regulation of subleasing and loan assumption of a motor vehicle
38-7-140 Failure to pay money due or to supply information required
38-13-140 Refusal to exhibit records, false statements (Insurance)
38-38-720(2) Making a false statement or representation regarding a fraternal benefit society if the amount of the economic benefit received is $ 1,000 or more (first offense)
38-43-190 Fraud regarding payment of insurance premium
38-55-80 Loans to directors or officers (Insurance)
38-55-150 Accepting premiums or assessments in insolvent company (Insurance)
38-55-160 Insuring uninsurable persons with intent to defraud
38-55-173(B)(1) Vehicle glass repairer offering or making certain payments of $ 1000 or more
38-55-540(A)(2) Knowingly making false statement or misrepresentation resulting in economic advantage of between one and ten thousand dollars, first offense
38-59-50 Payment or settlement of benefits in merchandise or service prohibited (Insurance)
39-15-750 Destruction of brand or removal or transfer of timber
39-15-1190(B)(1)(a)(ii) Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of more than $ 2000 but less than $ 10000; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark
40-5-320 Practice of law by corporations and voluntary associations unlawful
40-5-350 Soliciting legal business unlawful
40-5-360 Splitting fees with laymen unlawful
40-54-80 Violations of chapter concerning dealers in precious metals--Third or subsequent offenses
43-5-40 Unlawful publication or other use of records
43-7-60 False claim, statement, or representation by a medical provider
43-7-70 False statement of representation on an application for public assistance
43-33-40 Unlawful interference with rights of blind or other physically disabled person

43-35-85(G) Threatening, intimidating, or attempting to intimidate a vulnerable adult subject to an investigation
43-35-85(H) Obstructing an investigation pursuant to the Omnibus Adult Protection Act
44-31-360 Violation of article concerning tuberculosis prisoners and inmates of institutions
44-37-30 Offenses related to neonatal testing
44-41-36(A) Performing an abortion on an unemancipated minor
44-41-350 Performing an abortion without satisfying "A Woman's Right to Know" provision, third or subsequent offense
44-53-370(b)(3) Prohibited Acts A, penalties (Schedule IV drugs except for flunitrazepam) First offense
44-53-370(d)(3) Possession of cocaine, first offense
44-53-398(H)(3) Purchasing a product containing ephedrine or pseudoephedrine from any person other than a manufacturer or registered wholesale distributor, Second Offense
44-79-120 Violation of chapter concerning Physical Fitness Services Act
45-9-90 Equal enjoyment and privileges to public accommodations
46-17-460 Violation of chapter concerning agricultural commodities marketing
46-19-270 Displaying sign showing Department of Agriculture approval prior to approval
46-25-80 Violations of chapter concerning fertilizer law
46-41-30(1) Unlawful to engage in business as dealer without license, penalties for violation (agricultural products)--First offense
47-3-630 Torturing, mutilating, injuring, disabling, poisoning, or killing a police dog or horse.
47-3-760(B)(1) Penalty for owner of dangerous animal which attacks and injures a human--First offense
47-3-960 Injuring, disabling or killing guide dog
47-17-100(A) Violation of a Meat and Meat Food Regulations Inspection Law, with intent to defraud
47-19-120(C)(1) Interference with person performing official duties under chapter on poultry inspection
47-21-80(A) Penalty for violation of Farm Animal and Research Facilities Protection Act
48-27-250 Violation of chapter concerning registration of foresters
48-49-60(a) Violations of chapter concerning SC Mountain Ridge Protection Act
50-1-85(4) Negligent use of firearms or archery tackle when death results.
50-11-100(B) Construction of a fence which impedes the free range of deer
50-13-350 Unlawful to fish or trespass in private artificial ponds used to breed fish or oysters
50-13-1460 Use of explosives to take fish
50-13-1470 Failure to report use of explosives to take fish
50-21-112(B)(3) Operating a water device while under the influence of alcohol (third offense)
50-21-117(B)(3) Operation of a water device while this privilege is suspended for operation under the influence of alcohol, third or subsequent offense
54-1-40 Criminal liability for unskillful or negligent management of steamboat
56-1-460(A)(2)(c) Driving while license canceled, suspended, or revoked--Third and subsequent offenses
56-5-750(B)(1) Failure to stop for a law enforcement vehicle--First offense (no death or injury occurs)
56-5-2930 Unlawful for persons to drive under influence of liquor, drugs, or like substances (See Section 56-5-2940(3))--Third offense
57-7-20(C) Putting a foreign substance on a highway with malice and personal injury results
58-17-4040 Gross carelessness or negligence in the operation of a train
58-23-920 Insurance required of owners of motor vehicles transporting goods for hire Second and subsequent offenses

59-25-250(A) Revocation or suspension of certificate, powers and duties of Court of Common Pleas, warrant for production of witnesses
59-41-80 Violation of chapter concerning grants to private school pupils
59-63-450 No child may be counted in enrollment more than once
59-102-150 Prohibited acts by athlete agents
61-4-170 Sale of a beverage containing alcohol which resembles a vegetable, or fruit or soft drink
61-6-4180 Possession of a firearm while unlawfully manufacturing, transporting, or selling alcoholic liquors

(B) The following offenses are Class B misdemeanors and the maximum terms established for a Class B misdemeanor, as set forth in Section 16-1-20(A), apply:12-21-2540 Use of altered or counterfeit tickets or reuse of tickets
12-21-2714 Use of slug or any false coin to operate automatic vending machine or other machine requiring coin for operation
12-21-3070 Improper use, alteration or reuse of stamps and for failure to pay tax, make any report on, or submit required information
14-7-380 Jury commissioners guilty of fraud
16-3-410 Sending or accepting challenge to fight (with a deadly weapon)
16-3-420 Carrying or delivering challenge, serving as second
16-5-130(2), (3) Instigating, aiding, or participating in riot
16-8-240(A) Committing or threatening acts of violence with the intent to coerce, induce, or solicit another person to participate in gang activity, first offense
16-9-410(C)(2) Aiding escapes from prison, for prisoners charged with noncapital offenses
16-9-420 Aiding escape from custody of officers
16-11-580(C)(1) Forest products violation (value more than $ 1,000 but less than $ 5,000)
16-11-910 and 16-11-915 Transfer of recorded sounds for unauthorized use or sale (See Section 16-11-920(C))
16-11-920(A)(2) Operation of an audiovisual recording device in a motion picture theatre with intent to record, second offense
16-11-930 Illegal distribution of recordings without name and address of manufacturer and designation of featured artist (See Section 16-11-940(B))
16-13-65 Selling aquaculture products or damaging facilities valued at greater than $ 100 (third or subsequent offense)
16-13-437 False statement or representation about income to a public housing agency
16-16-20(3)(c) Computer crime--second degree--Second or subsequent offense
16-16-20(4) Computer Crime Act--third degree--Second or subsequent offense
16-17-10 Barratry
16-17-510 Enticing enrolled child from attendance in public or private school
16-17-560 Assault or intimidation on account of political opinions or exercise of civil rights
16-17-610 Soliciting emigrants without licenses
23-17-110 Purchases by sheriff or deputy at sheriff's sale
23-31-370 False statement to obtain special license
23-31-400(C) Use of a firearm while under the influence of alcohol or a controlled substance
23-35-130 Manufacture, storage, transportation, or possession of certain fireworks illegal
23-41-60 Violation of arson reporting immunity act
25-1-150 Unauthorized wearing of military insignia
25-1-2180 Assault upon military personnel
25-7-60 Conspiracy (treason or sabotage during war)
25-7-80 Concealing or harboring violator of chapter on treason; sabotage
27-29-150 Violating provisions of Uniform Land Sales Practice Act

30-15-50 Forgery of discharge (veterans)
31-17-520(2)(c) License for travel trailer dealer--Third and subsequent offenses
32-1-290 Making or assisting in making contracts when actual delivery not contemplated, or operating bucket shop
34-11-90(b) Drawing and uttering fraudulent check $ 5,000 or less, first offense
34-39-130 Wilful violation of section, requiring license for engaging in business of deferred presentment service
34-41-20 Wilful violation of section, requiring license for engaging in business of either Level I or Level II check-cashing service
38-2-20 Penalty for a person convicted of a misdemeanor contained in Title 38
38-2-30 Acting without license required by Title 38 on insurance
38-21-340 Criminal prosecutions (Insurance Holding Company Regulatory Act)
38-43-160 Unlawfully representing an unlicensed insurer
38-43-240 Other offenses by insurance agent
38-45-150 Insurance Broker Chapter Violation
38-47-60 Adjuster acting for unauthorized company (See Section 38-2-20)
38-51-20 Acting as an administrator of an insurance benefit plan without a license
38-55-60 Discrimination in the conduct of an insurance business
38-55-340 Connection of Undertakers with certain insurers article violation
38-63-10 Circulation of false or misleading information by an agent or officer of a life insurer
38-73-80 Withholding or giving false information to the Insurance Commissioner regarding surety rates
38-77-1160 Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting--Immunity Act violation
39-23-80(B)(1) Prohibited acts (concerning adulterated, misbranded, or new drugs and devices)--First offense
39-25-50(a) Penalties, effect of guaranty from supplier or article, liability of advertising media--Second or subsequent offense
39-33-1320 Violation concerning butterfat content and weight of milk--Second and subsequent offenses
40-15-212 Unlawful practice or aiding or abetting in the unlawful practice of dentistry, dental hygiene, or dental technological work
40-29-180 Violation of chapter concerning manufactured housing
40-37-200(A) Practicing optometry unlawfully
40-43-86(EE) Possessing, dispensing, or distributing drugs, or devices without a prescription from a licensed practitioner
40-59-200 Violation of residential builders licensing provisions
44-41-80(b) Performing or soliciting unlawful abortion, testimony of woman may be compelled
44-53-40(B) Obtaining certain drugs, devices, preparations, or compounds by fraud, deceit, or the like--First offense
44-53-370(b)(4) Prohibited Acts A, penalties (possession of Schedule V drugs)--Second and subsequent offenses
44-53-370(d)(1) Prohibited Acts A, penalties (possession of controlled substances in Schedules I (b), (c), II, and LSD)--First offense
44-53-395 Prohibited acts, penalties (prescription drugs)--First offense
44-53-1680(A) Knowingly failing to submit prescription monitoring information to the bureau of drug control
44-56-130 Unlawful acts (Hazardous Waste Management Act) (See Section 44-56-140)--Second or subsequent offense
40-81-200 Athletic Commission licensing violation
40-81-480 Events involving combative sports or weapons violation

44-55-1360 Worker, sewage and waste water disposal violation
44-93-150(C) Infectious Waste Management Act violation (second offense or subsequent offense)
44-96-100(B) Wilful violation of solid waste regulations, second or subsequent offenses
44-96-450(B) Wilful violation of Solid Waste Act Second or subsequent offenses
46-33-60 Penalty on out-of-state shippers
47-1-40(A) Cruelty to animals--Third or subsequent offense
47-1-50 Cruelty to animals in one's possession
48-1-90 Causing or permitting pollution of environment prohibited (See Section 48-1-320)
48-1-320 Violation (Pollution Control Act)
48-1-340 False statement, representations or certifications, falsifying, tampering with or rendering inaccurate monitoring devices or methods
48-23-265(C)(1) Forest products violation first offense (value at least $ 5,000)
48-27-230 Endorsement of documents by registrants, illegal endorsements
48-43-550(f) Regulations as to removal of discharges of pollutants
49-1-20 Permitting logs and the like to obstruct or interfere with navigation of rivers or harbors
50-1-85(3) Use of a firearm or archery tackle while hunting or returning from hunting, in a criminally negligent manner when bodily injury results
50-11-96 Introducing a fertility control agent or chemical substance into any wildlife without a permit
50-11-430 Illegal taking of bears and bear parts
50-11-2640(B) Bringing into State or importing live coyote or fox without permit--Second offense
50-13-1440 Using explosives to take fish unlawful--Third offense
51-3-150 Trespass upon state park property
56-5-5030 Devices to emit smoke screen, noisome gases, or odors prohibited
56-15-310(B)(3) Dealer wholesaler license violation (third or subsequent offense)
56-16-140(B)(3) Failure to secure a license as a motorcycle dealer or wholesaler
58-13-10 Opening or injuring package, parcel, or baggage by employee of carrier unlawful
58-15-840 Taking or removing brasses, bearings, waste, or packing from railroad cars
58-15-860 Injuring or destroying electric signals or other structures or mechanisms
61-6-4010(B)(3) Unlawful manufacture, possession or sale of alcoholic liquors--Third or subsequent offense
61-6-4025(c) Possession of unlawfully acquired or manufactured alcoholic liquors in a vehicle, vessel, or aircraft--Third or subsequent offense
61-6-4030(c) Transportation of alcoholic liquors in a taxi or other vehicle for hire--Third or subsequent offense
61-6-4040(c) Rendering aid in unlawful transportation of alcoholic liquors--Third or subsequent offense
61-6-4060(B)(3) Unlawful storage of alcoholic liquor in a place of business--Third or subsequent offense
61-6-4100(c) Manufacture, sale, or possession of unlawful distillery--Third or subsequent offense
61-6-4110(c) Knowingly permitting or allowing a person to locate an unlawful distillery on a premise--Third or subsequent offense
61-6-4120(c) Unlawful manufacture, transport, or possession of materials used in the manufacture of alcoholic liquors--Third or subsequent offense
61-6-4130(c) Present at a place where alcoholic liquors are unlawfully manufactured--Third or subsequent offense
61-6-4150(c) Unlawful sale of alcoholic liquor from a vehicle, vessel, or aircraft--Third or subsequent offense

61-6-4155(B)(3) Use, offer for use, purchase, offer for purchase, sell, offer to sell, or possession of an alcohol without liquid device--Third and subsequent offense
61-6-4160(c) Unlawful sale of alcoholic liquors on Sundays, election days, and other day--Third or subsequent offense
61-6-4170(B)(3) Advertisement of alcoholic liquors from billboards--Third or subsequent offense
63-9-2050 Submitting false claim for benefits

(C) The following offenses are Class C misdemeanors and the maximum terms established for a Class C misdemeanor, as set forth in Section 16-1-20(A), apply:1-7-400 Circuit solicitors disabled by intoxicants
2-15-120 Confidentiality of records (Legislative Audit Council) penalty for violations
2-17-130 Penalties for violations of lobbyist chapter
2-17-140 Penalties for filing groundless complaint
5-21-500 Diverting municipal funds allocated to bond payments for other purposes
6-1-120(C) Disclosure of taxpayer information
7-25-20 Fraudulent registration or voting
7-25-100 Allowing ballot to be seen, removing ballot from voting place, improper assistance
7-25-200 Unlawful to pay a candidate to file or withdraw from candidacy
8-1-30 Knowingly allowing false claims by witnesses or jurors of mileage traveled
8-1-80 Misconduct in office, habitual negligence, and the like
8-9-10 Delivery by officer of books and papers to successor (public officers/employees)
8-9-30 Delivery by officer of monies on hand to successor
8-13-320(9)(c) Penalty for wilful filing of groundless complaint with Ethics Commission
8-13-320(10)(g) Penalty for wilful release of confidential information relating to ethics investigation
8-13-540(1) Penalty for wilful filing of groundless complaint with Senate or House Ethics Committee
8-13-1520 Penalty for violation of ethics chapter
9-1-40 Penalties for making false statement or record (South Carolina Retirement System)
9-8-220 Penalty for false statements or falsification of records (Judges' and Solicitors' Retirement System)
9-9-210 False statements and falsification of records (General Assembly Retirement System)
9-11-320 False statements and falsification of records (Police Officers' Retirement System)
10-9-260 Interfering with state, board or licensees, mining without license
11-15-90 Failure to make payment or remit funds for payment of obligations
11-15-290 Public officer failure to make investments in accordance with article
11-48-30(C)(3) Sale or possession of cigarettes of a manufacturer not included in the state directory
11-48-100 Knowingly violating tobacco regulations
12-21-2710 Unlawful possession or operation of gaming devices
12-21-2830 Record required of gross receipts, record subject to inspection, violations
12-24-70(B) Submitting false information on an affidavit accompanied by a deed
12-28-2345 Unlawful alteration of petroleum products shipping information
12-54-44(B)(3) Wilful failure to pay estimated tax or keep required records
12-54-44(B)(4) Wilful furnishing of false statement required for tax purposes
12-54-44(B)(5) Wilfully providing employer with false information which decreases tax withheld
12-54-44(B)(6)(c)(iii) Wilful delivery to tax department of fraudulent document
12-54-240 Disclosure of records of and reports and returns filed with the Department of Revenue by employees and agents of the department and the State Auditor's Office prohibited
13-7-80 Violation of provisions concerning nuclear energy

14-7-1720 Penalty for disclosing State Grand Jury information
14-17-580 Clerk is responsible for books, papers, and other property
14-23-680 Judge responsible for books, papers, and property of office
16-1-55 Accessory after the fact to a Class B Misdemeanor
16-3-530 Penalties, hazing
16-3-610 Assault with concealed weapon
16-3-612 Assault and battery against school personnel
16-3-1050(A) Failure to report abuse, neglect, or exploitation of a vulnerable adult
16-3-1340 Victim's compensation fund, soliciting employment to pursue claim or award
16-3-1710(B) Harassment in the second degree
16-3-1720(D) Harassment first degree with use of licensing or registration information
16-5-50 Penalty for hindering officers or rescuing prisoners
16-7-110 Wearing masks and the like (See Section 16-7-140)
16-7-120 Placing burning or flaming cross in public place (See Section 16-7-140)
16-7-150 Slander and libel
16-9-260 Corruption of jurors, arbitrators, umpires, or referees
16-9-270 Acceptance of bribes by jurors, arbitrators, umpires, or referees
16-9-320(A) Opposing or resisting law enforcement officer serving process
16-9-370(a) Taking money or reward to compound or conceal offense
16-11-150(a) Burning lands of another without consent--First offense
16-11-180 Negligently allowing fire to spread to lands or property of another--Second or subsequent offense
16-11-700(E) Littering (exceeding 500 lbs. or 100 cu. ft. in volume)
16-11-730 Malicious injury to or interference with microwave, radio, or television facilities; unauthorized use of such facilities
16-11-750 Unlawful injury or interference with electric lines
16-11-770(B)(2) Committing illegal graffiti vandalism, second offense
16-11-820 Theft of cable television service unlawful use without payment (See Section 16-11-855)--Second and subsequent offense
16-11-825 Theft of cable television, unauthorized connection or use of device to cable television system (See Section 16-11-855)--Second and subsequent offenses
16-11-830 Theft of cable television service, aid, abet, or attempt (See Section 16-11-855)--Second and subsequent offenses
16-11-835 Advertisement or sale of instrument designed to avoid payment for cable services (See Section 16-11-855)--Second and subsequent offenses
16-11-840 Unauthorized device to decode or descramble cable television signal (See Section 16-11-855)--Second and subsequent offenses
16-11-845 Use, sale, or installation of a converter or similar device for unauthorized reception of cable signals (See Section 16-11-855)--Second and subsequent offenses
16-11-910 Transfer of recorded sounds for unauthorized use or sale (See Section 16-11-920(E))
16-11-915 Unauthorized sale of article containing live performances (See Section 16-11-920(E))
16-11-920(A)(1) Operation of an audiovisual recording device in a motion picture theatre with intent to record, first offense
16-11-930 Illegal distribution of recordings without name and address of manufacturer and designation of feature artist (See Section 16-11-940(D))
16-13-15 Falsifying or altering transcript or diploma, fraudulent use of falsified or altered transcript or diploma penalty
16-13-65 Stealing aquaculture products or damaging aquaculture facilities whose value is greater than $ 100 (first offense)
16-13-300 Fraudulent removal or secreting of personal property attached or levied on
16-13-400 Avoiding or attempting to avoid payment of telecommunications

16-13-410(1) Making or possessing device, plans or instruction which can be used to violate Section 16-3-400
16-14-60 Financial transaction card fraud
16-14-60(a) Financial transaction card fraud--value of things of value does not exceed five hundred dollars in any six-month period
16-14-60(a)(2)(d) Financial transaction card fraud--using financial transaction card to exceed certain balances or authorized lines of credit
16-14-60(b) Financial transaction card fraud by a person authorized to furnish anything of value upon presentation of a financial transaction card if the value does not exceed five hundred dollars in a six-month period
16-14-60(c) Financial transaction card fraud--filing of false application to an issuer of a financial transaction card
16-14-60(d) Financial transaction card fraud--filing of false notice or report of theft
16-14-80 Criminally receiving goods and services fraudulently obtained
16-15-50 Seduction under promise of marriage
16-15-60 Adultery or fornication
16-15-100 Prostitution; further acts (See Section 16-15-110(3))--Third or subsequent offenses
16-15-90 Prostitution (See Section 16-15-110(3))--Third or subsequent offenses
16-15-325 Participation in preparation of obscene material prohibited
16-16-20(3)(c) Computer crime--second degree--First offense
16-17-310 Imitation of organizations' names, emblems, and the like
16-17-500(3) Providing tobacco products to a minor
16-17-520 Disturbance of religious worship
16-17-540 Bribery with respect to agents, servants, or employees
16-17-650(A)(1) Engaging in cockfighting, game fowl or illegal game fowl fighting testing, First Offense
16-17-680(D)(2) Unlawful purchase or transportation of nonferrous metals, second offense
16-17-685(D)(2) Transporting nonferrous metals, second offense
16-17-700 Tattooing
16-17-720 Impersonating law enforcement officer
16-17-735 Impersonation of state or local official or employee or law enforcement officer or asserting authority of state law in connection with a sham legal process
16-19-10 Setting up lotteries
16-19-40 Unlawful games and betting
16-16-20(3)(c) Computer Crime Act--Second degree--First offense
16-21-60(B) Use of vehicle without permission (Temporary purpose only)
16-21-70 Use of bicycle or other vehicle without permission, but without intent to steal
16-23-20 Unlawful carrying of pistol (See Section 16-23-50(A)(2))
16-23-450 Placing loaded trap gun, spring gun, or like device
16-23-730 Manufacturing, possessing, transporting, distributing, using, aiding, counseling, or conspiring in the use of a hoax device or replica of a destructive device or detonator that causes a person to believe that the hoax device or replica is a destructive device or detonator
16-25-20 Commission of Criminal Domestic Violence, second offense
16-25-20(B)(2) Criminal domestic violence, second offense
16-27-40 Penalty (Animal Fighting or Baiting Act)--Second offense
17-15-90(2) Wilful failure to appear before a court when released in connection with a charge for a misdemeanor
17-28-350 Willful and malicious destruction of physical evidence or biological material. Second and subsequent offense
17-29-20 Installation of pen register or tap and trace device
17-30-50(B)(1) Interception of wire, electronic or oral communications--First offense

20-3-210 Unlawful advertising for purpose of procuring divorce (See Section 20-3-220)
22-9-170 Oppression in office or other misconduct, punishment
23-3-470(B)(2) Failure of sex offender to register--Second offense
23-3-475(B)(2) Providing false information when registering as a sex offender--Second offense
23-17-40 Liability of sheriff for official misconduct for remaining in contempt after attachment
23-19-130 Penalties for failure to pay over monies (by sheriff)
23-31-215(M) Carrying a concealed weapon into a prohibited environment
23-31-225 Carrying a concealable weapon into the dwelling place of another without permission
23-35-140 Issuance of rules and regulations concerning permissible fireworks--Third offense (See Section 23-35-150(3))
23-35-150(3) Violation concerning fireworks and explosives--Third and subsequent offenses
23-37-50 Violations concerning safety glazing materials
23-39-40 Prohibited acts (Hazardous Waste Management Act)--Second and subsequent offenses (See Section 23-39-50(a))
23-50-50(B) Divulging privileged communication, protected information, or a protected identity
24-3-410 Sale of prison-made products on open market generally prohibited
24-3-420 Violations of article governing prison industries other than Section 24-3-410
24-5-90 Discrimination in treatment of prisoners unlawful
24-27-300 Frivolous complaints or appeals filed by a prisoner
25-1-440(c)(1) Fraudulent or wilful misstatement of fact in application for financial federal disaster assistance
25-1-1420 Unlawful purchase or receipt of military property
25-15-20 Improper use of Confederate Crosses of Honor
27-18-350(D) Refusal to deliver property under Uniform Unclaimed Property Act
30-2-50 Use of personal information from a public body for commercial solicitation
33-56-140 Illegal charitable organization of professional solicitations
33-56-145(A) Defrauding a charity (first offense)
33-56-145(B) Giving false information with respect to registering a charity (first offense)
34-1-120 Penalties for obstructing commissioner of banking
34-3-70 False statements concerning solvency of bank
34-3-90 Penalties (violation of Sections 34-1-60, 34-1-70, 34-3-310, 34-3-320, 34-5-10 to 34-5-80 and 34-5-100 to 34-5-150 regarding banks and banking generally)
34-11-30 Receipt of deposits or trusts after knowledge of insolvency (banks and banking generally)
34-11-60 Drawing and uttering fraudulent check, draft, or other written order or stopping payment on check, draft, or order with intent to defraud (more than $ 200)--First offense
34-19-110 Use of words "safe deposit" or "safety deposit"
34-25-90(b) Wilfully entering false statements in bank records by an officer, director, agent, or employee of a bank holding company or a subsidiary of it
34-28-390 Penalties and remedies (violations concerning savings and loan acquisition and holding companies)
34-28-740 False statement affecting credit or standing of savings association
34-36-70 Violation of a provision that regulates loan brokers
37-5-302 Disclosure violations (Consumer Protection Code)
37-5-303 Fraudulent use of cards (Consumer Protection Code)
37-5-310(a), (b) Wilful violations (Consumer Protection Code)
37-11-120 Violation of a provision concerning the licensing and regulation of Continuing Care Retirement Communities
38-13-200 Penalty for refusing to be examined under oath (Insurance)
38-27-80(d) Cooperation of officers, owners, and employees (violation) (Insurance)
38-49-40 Violation of a provision that regulates Motor Vehicle Physical Damage Appraisers

39-9-200 Misuse of commercial weights and measures (See Section 39-9-208(A))
39-11-170 Violation of a provision that regulates weighmasters (second or subsequent offense)
39-15-460 Unauthorized alteration, change, removal, or obliteration of registered mark or brand (labels and trademarks)
39-15-470 Purchase or receipt of containers marked or branded from other than registered owner
39-15-480 Unauthorized possession of marked or branded containers (trade and commerce)
39-15-490 Effect of refusal to deliver containers to lawful owner (trade and commerce)
39-15-500 Taking or sending containers out of State without consent of owner
39-15-1190 Intentional use of counterfeit mark or trafficking in goods carrying the mark
39-15-1190(B)(1)(a)(i) Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of $ 2000 or less; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark
39-17-340 Penalties (violation of article concerning grading of watermelons)
39-19-60 Penalty for disposal of stored cotton without consent of owner
39-22-90(A)(5)-(7) Prohibited acts. State Warehouse System (See Section 39-22-90(B))
39-41-570 Penalties (violation of article concerning deception in sale of liquid fuels, lubricating oils and greases)
39-75-50 Selling, offering for sale, or delivering for introduction into this State nonconforming regrooved tires
40-1-200 Penalty for unlawful practice of a profession or submitting false information to obtain a license to practice a profession
40-2-200 Certified Public Accountants and Public Accountants regulations violations
40-3-200 Engaging in practice of architecture in violation of chapter or knowingly submitting false information for purpose of obtaining license
40-6-200 Penalties (violation of chapter concerning auctioneers)--Second offense
40-7-200 Practicing barbering unlawfully or submitting false information to obtain barbering license
40-8-110(K) Failure to make required contribution to care and maintenance trust fund or a merchandise account fund
40-8-190 Submitting false information to procure cemetery operator's license
40-10-200 Violation of First Protection Sprinkler Act
40-11-200 Illegal practice as licensed contractor
40-18-150 Penalties (violation of chapter concerning detective and private security agencies)
40-23-200 Practice as environmental systems operator in violation of Title 40, Chapter 23
40-31-20 Penalties (violation of chapter concerning naturopathy)
40-35-200(C) Administering a nursing home, residential care facility or habilitation center without a license
40-36-200 Knowingly submitting false information to obtain license to practice as occupational therapist or as occupational therapy assistant
40-38-200 Violation of chapter regulating Opticians
40-41-60 License required for erection of lightening rods
40-41-220 Encamping and trading in animals or commodities by nomadic individuals without license unlawful
40-43-140 Unlawful use of titles, declarations, and signs--unlawful dispensing, compounding, and sale of drugs (pharmacists)
40-47-112 Attending to a patient while under the influence of drugs or alcohol
40-47-200 Submitting false information for purpose of obtaining a license to practice medicine
40-51-220 Penalties (violation of chapter on podiatry)
40-54-80 Violations of chapter concerning dealers in precious metals Second offense
40-63-200 Practice as social worker in violation of Title 40, Chapter 63
40-68-150(B) Staff Leasing Services violation

40-79-200(A) Penalty (violation of South Carolina Regulation of Burglar Alarm System Businesses Act)
40-82-200 Failure to obtain a license to engage in liquified petroleum gas activities
41-1-60 Certain transactions between carriers or shippers and labor organizations prohibited, penalties
41-15-50 Light at entrance to elevator shafts required when elevator is in operation
41-15-320(e) Penalties (wilfully violating safety or health rule or regulation)--Subsequent offense
41-25-30 Private personnel placement services applications and licensing (violations) (See Section 41-25-90)
41-25-40 Private personnel placement services; duties of licensees (See Section 41-25-90)
41-25-50 Prohibited activities or conduct of personnel agencies (See Section 41-25-90)
41-25-60 Advertisements in South Carolina of firms located outside its jurisdiction (See Section 41-25-90)
41-25-70 Prohibited activities or conduct of employers or person seeking employment (private personnel agencies) (See Section 41-25-90)
41-25-80 Confidentiality of record and files (private personnel agencies) (See Section 41-25-90)
42-9-360 Receiving fees, consideration, or gratuity for services not approved by the commission or the court
42-15-90 Receipt of fees, other consideration, or a gratuity not approved by the Worker's Compensation Commission
43-5-25 Wilful use of payment for purpose not in best interest of child, protective payee
43-5-950 Violations of article concerning women, infants, and children supplemental food program
43-35-85(A) Failure to report abuse, neglect, or exploitation of a vulnerable adult
44-2-140 Underground Petroleum Response Bank Act violation
44-6-180(B) Medically Indigent Assistance Act confidentiality violation
44-6-200 Falsification of information regarding eligibility for Medically Indigent Assistance Program
44-17-860 Unlawful taking of person from mental health facility without permission
44-22-100(C) Unlawful to disclose records of mental health patient or former patient
44-22-220(C) Unlawful to wilfully deny a patient his rights afforded him under chapter
44-23-240 Causing unwarranted confinement (mentally ill)
44-23-1150(D) Submitting inaccurate or untruthful information concerning sexual misconduct
44-24-210 Unlawful without prior authorization to take child from grounds of inpatient facility
44-26-210 Denial of rights to a mentally retarded client
44-32-120(F) Unlawful body piercing
44-34-100(F) Tattooing violation
44-41-31(C) False representation on an affidavit for abortion
44-43-580 Trafficking in dead bodies
44-53-50(E) Sale of cleaning agents containing phosphates prohibited
44-53-370(b)(4) Prohibited Acts A, penalties (manufacture or possession of Schedule V drugs with intent to distribute)--First offense
44-53-370(d)(2) Prohibited Acts A, penalties (possession of other controlled substances in Schedules I through V)--Second and subsequent offense
44-53-370(d)(3) Prohibited Acts A, penalties (possession of 28 grams (1 oz.) or less of marijuana or 10 grams or less of hashish)--Second and subsequent offense
44-53-398(H)(3) Purchasing a product containing ephedrine or pseudoephedrine from any person other than a manufacturer or registered wholesale distributor, First Offense
44-53-445(B)(3) Purchase of controlled substance including crack cocaine within proximity of school

44-53-590 Penalty for use of property in manner which makes it subject to forfeiture (as provided in Sections 44-53-520 and 44-53-530)
44-53-1530(2)(b) Possession of anabolic steroids, ten or fewer doses (second or subsequent offense)
44-53-1530(3)(a) Possession of anabolic steroids, 11 to 99 doses (first offense)
44-55-80 Unlawful acts (violation of State Safe Water Drinking Act) (See Section 44-55-90(a))
44-56-130 Unlawful acts (Hazardous Waste Management Act) (See Section 44-56-140C.)--First offense
44-56-490(C) Wilfully violating a provision of the Drycleaning Facility Restoration Trust Fund provisions
44-63-161(C) Willful violation of regulation or order relative to recording, reporting, or filing information with Bureau of Vital Statistics
44-93-150(C) Infectious Waste Management Act violation (first offense)
44-96-100(B) Wilful violation of solid waste regulations, first offense
44-96-450(B) Wilful violation of Solid Waste Act--First offense
45-9-85 Violation of confidentiality of Section 45-9-60 (Equal enjoyment and privileges to public accommodations, complaints, hearings, etc.)
46-1-50 Firing turpentine farms
46-1-75 Maliciously damaging farm product, research facility or equipment valued at less than $ 500
46-10-100 Penalties (violation of article concerning boll weevil eradication)
46-23-80 Penalty (violation of South Carolina Noxious Weed Act)
46-41-170(1) Penalty (violation of chapter concerning dealers and handlers of agriculture products) Second or subsequent offense
46-50-60 Violation of Southern Interstate Dairy Compact
47-9-10 Marking, branding, or disfiguring large animals of another--Second or subsequent offense
47-9-30 Use of horse, mare, or mule without permission
47-9-410 Violations (article concerning livestock generally)
47-17-60 Prohibited acts (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a))
47-17-70 Slaughtering or processing except in compliance with article prohibited (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a))
47-17-80 Records (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a))
47-21-80(B) Penalty for violation of Farm Animal and Research Facilities Protection Act (violation of Section 47-21-60)
48-39-170(A) Penalties (violation of chapter concerning coastal tidelands and wetlands)--Second or subsequent offense
50-1-125(2), (3), and (4) Trafficking in wildlife
50-1-136 Penalties for conspiracy (violation of provisions of Title 50 relating to fish, game, and watercraft)
50-5-1535 Unlawful taking, possessing, buying, selling, or shipping of short nose sturgeon
50-5-2305(D) Unlawful catching of wild rock (second or subsequent offense)
50-9-1200 Hunting or fishing while under suspension
50-11-95 Engaging in Computer Assisted Remote Hunting, First Offense
50-11-710 Night hunting and illegal use of artificial lights while hunting
50-11-720 Night hunting for deer or bear
50-11-852 Molesting or killing a bald eagle
50-11-1920 Violation of food service permit to sell exotic farm-raised venison
50-11-2640(B) Bringing into State or importing live coyote or fox without permit--First offense

50-13-1410 Unlawful to pollute waters so as to injure fish and shellfish
50-13-1440 Using explosives to take fish unlawful--Second offense
50-15-80(b) Penalties, violation of Sections 50-15-40(c) or 50-15-50(d), (e)
50-18-270(C) Placing or releasing species imported from another state into waters of State--Second offense
50-18-285(C) Damaging or poisoning aquaculture products or facilities--Second offense
50-21-112(B)(2) Operating a water device while under the influence of alcohol or drugs (second offense)
50-21-130(A)(1) Failure of an operator of a vessel involved in a collision resulting in property damage to stop and render assistance
52-5-10 Race horses must not be entered under assumed names or out of proper class
52-5-40 Misrepresenting or concealing former performance of race horse
54-7-810(B)(1) Violation of Underwater Antiquities Act
55-1-100(F) Unlawful to operate or act as a flight crew member of aircraft while under the influence of alcohol or drugs
55-8-140(c) Penalty (violation of Uniform Aircraft Financial Responsibility Act)
56-1-25 Disclosure of Department of Motor Vehicles confidential information
56-3-150 Illegal operation of foreign vehicle
56-5-1210(A)(1) Failure to stop a vehicle involved in an accident when injury results but great bodily injury or death does not occur
56-5-1220 Failure to comply with the duties of a driver involved in an accident
56-5-2930 Unlawful for narcotic users or persons under influence of liquor, drugs or like substances to drive (See Section 56-5-2940(2))--Second offense
56-5-4975(A) Operation of unlicensed ambulance without removing exterior markings, sirens, etc
56-11-250 Failure of a motor carrier to apply for a registration card and identification marker
56-17-10 Failure to purchase a license, keep records, supply information when required by law
56-19-240 Application for certificate, form, and contents (vehicle title)
56-19-480 Transfer and surrender of certificates, license plates, registration cards, and manufacturers serial plates of vehicles sold as salvage, abandoned, scrapped, or destroyed--Second and subsequent offenses
56-31-50(C) Rental company making a false report regarding certain personal property taxes
56-31-50(D) Misrepresentation of the amount of personal property taxes on a private passenger motor vehicle or rental vehicle paid or the amount of surcharges collected
57-25-145(C) Placing an outdoor sign advertising an adult or sexually-oriented business within one mile of a public highway
58-15-870 Injuring railroad or electric railway generally
58-15-1110 Violation by Railroads of Interstate Commerce Act
58-17-2760 Criminal penalty on individuals for violation of transportation of freight
58-17-4030 Injury due to negligence or carelessness of general railroad law
58-17-4050 Injury due to wilful violation of general railroad law
58-23-920 Insurance required of owners of motor vehicles transporting goods for hire--First offense
59-5-130 Members shall not contract with State Board of Education
59-69-260 Officials shall not acquire interest in claims or contracts (school funds)
61-2-240 Interference with an officer or use of abusive language by an officer or another person
61-4-1530 Operation of brewery or winery without permit
61-6-4010(B)(2) Unlawful manufacture, possession or sale of alcoholic liquors--Second offense
61-6-4025(b) Possession of unlawfully acquired or manufactured alcoholic liquors in a vehicle, vessel, or aircraft--Second offense
61-6-4030(b) Transportation of alcoholic liquors in a taxi or other vehicle for hire--Second offense

61-6-4040(b) Rendering aid in unlawful transportation of alcoholic liquor--Second offense
61-6-4060(B)(2) Unlawful storage of alcoholic liquor in a place of business--Second offense
61-6-4100(b) Manufacture, sale, or possession of unlawful distillery--Second offense
61-6-4110(b) Knowingly permitting or allowing a person to locate an unlawful distillery on a premise--Second offense
61-6-4120(b) Unlawful manufacture, transport, or possession of materials used in the manufacture of alcoholic liquors--Second offense
61-6-4130(b) Present at a place where alcoholic liquors are unlawfully manufactured--Second offense
61-6-4150(b) Unlawful sale of alcoholic liquor from a vehicle, vessel, or aircraft--Second offense
61-6-4160(b) Unlawful sale of alcoholic liquors on Sundays, election days, and other days--Second offense
61-6-4170(B)(2) Advertisement of alcoholic liquors from billboard--Second offense
61-6-4200 Unlawful disposal, rescue, or attempted disposal or rescue of alcoholic liquors
61-8-50 Violation of a restraining order against unlawful sale, barter, exchange, storage, or possession of alcoholic liquors
62-2-901 Destruction of or failure to deliver a will to a Judge of Probate
63-3-620 Contempt of court
63-5-20 Failure to provide reasonable support to a spouse or minor child
63-7-940 Dissemination of classified information
63-7-1990(A) Dissemination of confidential reports
63-11-1350 Disclosure of confidential records
63-13-40(B) Unlawful application for employment by an ex-convict
63-13-180(C) Unlawful application for employment by ex-convict
63-13-190(C) Unlawful application for employment by ex-convict
63-17-1070(B) Unlawful release of information

S.C. CODE ANN. § 16-1-120 (2009). Increased sentences for repeat offenders.

(1) When an individual, who was convicted of a Class A, B, or C felony offense or an exempt offense which provides for a maximum term of imprisonment of twenty years or more and sentenced to a period of time, has been released from prison, whether on parole or by completion of the sentence, is convicted of another felony offense, the individual shall have added to the sentence imposed for the subsequent conviction such additional time as provided below:

(A) if the subsequent offense was committed within forty-five days of his release, five years shall be added to the sentence mandated by the subsequent conviction.

(B) if the subsequent offense was committed within ninety days of his release, four years shall be added to the sentence mandated by the subsequent conviction.

(C) if the subsequent offense was committed within one hundred eighty days of his release, three years shall be added to the sentence mandated by the subsequent conviction.

(D) if the subsequent offense was committed within two hundred seventy days of his release, two years shall be added to the sentence mandated by the subsequent conviction.

(E) if the subsequent offense was committed within three hundred sixty days of his release, one year shall be added to the sentence mandated by the subsequent conviction.

(2) When subsection (1) requires an individual to have additional time added to the sentence mandated by a subsequent conviction, if the maximum sentence mandated for the subsequent conviction is less than the additional time mandated by subsection (1), the additional time which must be added to the sentence mandated by the subsequent conviction shall be equal to the maximum sentence provided for the conviction.

(3) No portion of the additional term provided for herein may be suspended and no such additional term may be reduced by any early release program, work credit, or similar program but must be served in full.

S.C. CODE ANN. § 16-3-85 (2009). Homicide by child abuse; definitions; penalty; sentencing.

(A) A person is guilty of homicide by child abuse if the person:

(1) causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life; or

(2) knowingly aids and abets another person to commit child abuse or neglect, and the child abuse or neglect results in the death of a child under the age of eleven.

(B) For purposes of this section, the following definitions apply:

(1) "child abuse or neglect" means an act or omission by any person which causes harm to the child's physical health or welfare;

(2) "harm" to a child's health or welfare occurs when a person:

(a) inflicts or allows to be inflicted upon the child physical injury, including injuries sustained as a result of excessive corporal punishment;

(b) fails to supply the child with adequate food, clothing, shelter, or health care, and the failure to do so causes a physical injury or condition resulting in death; or

(c) abandons the child resulting in the child's death.

(C) Homicide by child abuse is a felony and a person who is convicted of or pleads guilty to homicide by child abuse:

(1) under subsection (A)(1) may be imprisoned for life but not less than a term of twenty years; or

(2) under subsection (A)(2) must be imprisoned for a term not exceeding twenty years nor less than ten years.

(D) In sentencing a person under this section, the judge must consider any aggravating circumstances including, but not limited to, a defendant's past pattern of child abuse or neglect of a child under the age of eleven, and any mitigating circumstances; however, a child's crying does not constitute provocation so as to be considered a mitigating circumstance.

S.C. CODE ANN. § 16-3-653 (2009). Criminal sexual conduct in the second degree.

(1) A person is guilty of criminal sexual conduct in the second degree if the actor uses aggravated coercion to accomplish sexual battery.

(2) Criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than twenty years according to the discretion of the court.

S.C. CODE ANN. § 16-3-654 (2009). Criminal sexual conduct in the third degree.

(1) A person is guilty of criminal sexual conduct in the third degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:

(a) The actor uses force or coercion to accomplish the sexual battery in the absence of aggravating circumstances.

(b) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than ten years, according to the discretion of the court.

S.C. CODE ANN. § 16-3-655 (2009). Criminal sexual conduct with a minor; aggravating and mitigating circumstances; penalties; repeat offenders.

(A) A person is guilty of criminal sexual conduct with a minor in the first degree if:

(1) the actor engages in sexual battery with a victim who is less than eleven years of age; or

(2) the actor engages in sexual battery with a victim who is less than sixteen years of age and the actor has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for an offense listed in Section 23-3-430(C) or has been ordered to be included in the sex offender registry pursuant to Section 23-3-430(D).

(B) A person is guilty of criminal sexual conduct with a minor in the second degree if:

(1) the actor engages in sexual battery with a victim who is fourteen years of age or less but who is at least eleven years of age; or

(2) the actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim. However, a person may not be convicted of a violation of the provisions of this item if he is eighteen years of age or less when

he engages in consensual sexual conduct with another person who is at least fourteen years of age.

(C)(1) A person convicted of a violation of subsection (A)(1) is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum of twenty-five years, no part of which may be suspended or probation granted, or must be imprisoned for life. In the case of a person pleading guilty or nolo contendere to a violation of subsection (A)(1), the judge must make a specific finding on the record regarding whether the type of conduct that constituted the sexual battery involved sexual or anal intercourse by a person or intrusion by an object. In the case of a person convicted at trial for a violation of subsection (A)(1), the judge or jury, whichever is applicable, must designate as part of the verdict whether the conduct that constituted the sexual battery involved sexual or anal intercourse by a person or intrusion by an object. If the person has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for first degree criminal sexual conduct with a minor who is less than eleven years of age or a federal or out-of-state offense that would constitute first degree criminal sexual conduct with a minor who is less than eleven years of age, he must be punished by death or by imprisonment for life, as provided by this section. For the purpose of determining a prior conviction under this subsection, the person must have been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent on a separate occasion, prior to the instant adjudication, for first degree criminal sexual conduct with a minor who is less than eleven years of age or a federal or out-of-state offense that would constitute first degree criminal sexual conduct with a minor who is less than eleven years of age. In order to be eligible for the death penalty pursuant to this section, the sexual battery constituting the current offense and any prior offense must have involved sexual or anal intercourse by a person or intrusion by an object. If any prior offense that would make a person eligible for the death penalty pursuant to this section occurred prior to the effective date of this act and no specific finding was made regarding the nature of the conduct or is an out-of-state or federal conviction, the determination of whether the sexual battery constituting the prior offense involved sexual or anal intercourse by a person or intrusion by an object must be made in the separate sentencing proceeding provided by this section and proven beyond a reasonable doubt and designated in writing by the judge or jury, whichever is applicable. If the judge or jury, whichever is applicable, does not find that the prior offense involved sexual or anal intercourse by a person or intrusion by an object, then the person must be sentenced to imprisonment for life. For purposes of this subsection, imprisonment for life means imprisonment until death.

(2) A person convicted of a violation of subsection (A)(2) is guilty of a felony and, upon conviction, must be imprisoned for not less than ten years nor more than thirty years, no part of which may be suspended or probation granted.

(3) A person convicted of a violation of subsection (B) is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years according to the discretion of the court.

(D) If the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to subsections (D)(1) and (D)(2), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, "life imprisonment" means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. No person sentenced to life imprisonment, pursuant to this subsection, is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life

imprisonment required by this section. Under no circumstances may a female who is pregnant be executed, so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death imposed pursuant to this section to life imprisonment under the provisions of Section 14 of Article IV of the Constitution of South Carolina, 1895, the commutee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(1) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty-four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pled guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only such evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States, or the State of South Carolina, or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.

(2) In sentencing a person, upon conviction or adjudication of guilt of a defendant pursuant to this section, the judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

(a) Statutory aggravating circumstances:

(i) The victim's resistance was overcome by force.

(ii) The victim was prevented from resisting the act because the actor was armed with a dangerous weapon.

(iii) The victim was prevented from resisting the act by threats of great and immediate bodily harm, accompanied by an apparent power to inflict bodily harm.

(iv) The victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing his resistance.

(v) The crime was committed by a person with a prior conviction for murder.

(vi) The offender committed the crime for himself or another for the purpose of receiving money or a thing of monetary value.

(vii) The offender caused or directed another to commit the crime or committed the crime as an agent or employee of another person.

(viii) The crime was committed against two or more persons by the defendant by one act, or pursuant to one scheme, or course of conduct.

(ix) The crime was committed during the commission of burglary in any degree or kidnapping.

(b) Mitigating circumstances:

(i) The defendant has no significant history of prior criminal convictions involving the use of violence against another person.

(ii) The crime was committed while the defendant was under the influence of mental or emotional disturbance.

(iii) The defendant was an accomplice in the crime committed by another person and his participation was relatively minor.

(iv) The defendant acted under duress or under the domination of another person.

(v) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

(vi) The age or mentality of the defendant at the time of the crime.

(vii) The defendant was below the age of eighteen at the time of the crime.

The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation. The jury, if its verdict is a recommendation of death, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances, which it found beyond a reasonable doubt. The jury, if it does not recommend death, after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt. In nonjury cases, the judge shall make the designation of the statutory aggravating circumstance or circumstances. Unless at least one of the statutory aggravating circumstances enumerated in this section is found, the death penalty must not be imposed.

Where a statutory aggravating circumstance is found and a recommendation of death is made, the trial judge shall sentence the defendant to death. The trial judge, before imposing the death penalty, shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice, passion, or any other arbitrary factor. Where a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury, the trial judge shall sentence the defendant to life imprisonment as provided in subsection (D)(4). Before dismissing the jury, the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt. If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt, it shall not make a sentencing recommendation. Where a statutory aggravating circumstance is not found, the trial judge shall sentence the defendant to life imprisonment. No person sentenced to life imprisonment under this section is eligible for parole or to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the sentence required by this section. If the jury has found a statutory aggravating circumstance or circumstances beyond a reasonable doubt, the jury shall designate this finding, in

writing, signed by all the members of the jury. The jury shall not recommend the death penalty if the vote for such penalty is not unanimous as provided. If members of the jury after a reasonable deliberation cannot agree on a recommendation as to whether or not the death sentence should be imposed on a defendant upon conviction or adjudication of guilt of a defendant pursuant to this section, the trial judge shall dismiss such jury and shall sentence the defendant to life imprisonment, as provided in subsection (D)(4).

(3) Notwithstanding the provisions of Section 14-7-1020, in cases involving capital punishment a person called as a juror must be examined by the attorney for the defense.

(4) In a criminal action pursuant to this section, which may be punishable by death, a person may not be disqualified, excused, or excluded from service as a juror by reason of his beliefs or attitudes against capital punishment unless such beliefs or attitudes would render him unable to return a verdict according to law.

(E)(1) In all cases in which an individual is sentenced to death pursuant to this section, the trial judge shall, before the dismissal of the jury, verbally instruct the jury concerning the discussion of its verdict. A standard written instruction shall be promulgated by the Supreme Court for use in capital cases brought pursuant to this section.

(2) The verbal instruction shall include:

(a) the right of the juror to refuse to discuss the verdict;

(b) the right of the juror to discuss the verdict to the extent that the juror so chooses;

(c) the right of the juror to terminate any discussion pertaining to the verdict at any time the juror so chooses;

(d) the right of the juror to report any person who continues to pursue a discussion of the verdict or who continues to harass the juror after the juror has refused to discuss the verdict or communicated a desire to terminate discussion of the verdict; and

(e) the name, address, and phone number of the person or persons to whom the juror should report any harassment concerning the refusal to discuss the verdict or the juror's decision to terminate discussion of the verdict.

(3) In addition to the verbal instruction of the trial judge, each juror, upon dismissal from jury service, shall receive a copy of the written jury instruction set forth in subsection (1).

(F)(1) Whenever the death penalty is imposed pursuant to this section, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of South Carolina. The clerk of the trial court, within ten days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of South Carolina together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court of South Carolina.

(2) The Supreme Court of South Carolina shall consider the punishment as well as any errors by way of appeal.

(3) With regard to the sentence, the court shall determine:

(a) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor; and

(b) Whether the evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection (D)(2)(a); and

(c) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(4) Both the defendant and the State shall have the right to submit briefs within the time provided by the court and to present oral arguments to the court.

(5) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:

(a) affirm the sentence of death; or

(b) set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court of South Carolina in its decision, and the extracts prepared as hereinafter provided for, shall be provided to the resentencing judge for his consideration. If the court finds error prejudicial to the defendant in the sentencing proceeding conducted by the trial judge before the trial jury as outlined under subsection (D)(1), the court may set the sentence aside and remand the case for a resentencing proceeding to be conducted by the same or a different trial judge and by a new jury impaneled for such purpose. In the resentencing proceeding, the new jury, if the defendant does not waive the right of a trial jury for the resentencing proceeding, shall hear evidence in extenuation, mitigation, or aggravation of the punishment in addition to any evidence admitted in the defendant's first trial relating to guilt for the particular crime for which the defendant has been found guilty.

(6) The sentence review shall be in addition to direct appeal, if taken, and the review and appeal shall be consolidated for consideration. The court shall render its decision on all legal errors, the factual substantiation of the verdict, and the validity of the sentence.

(G)(1) Whenever the solicitor seeks the death penalty pursuant to this section, he shall notify the defense attorney of his intention to seek such penalty at least thirty days prior to the trial of the case. At the request of the defense attorney, the defense attorney shall be excused from all other trial duties ten days prior to the term of court in which the trial is to be held.

(2)(a) Whenever any person is charged with first degree criminal sexual conduct with a minor who is less than eleven years and the death penalty is sought, the court, upon determining that such person is unable financially to retain adequate legal counsel, shall appoint two attorneys to defend such person in the trial of the action. One of the attorneys so appointed shall have at least five years' experience as a licensed attorney and at least three years' experience in the actual trial of felony cases, and only one of the attorneys so appointed shall be the public defender or a

member of his staff. In all cases where no conflict exists, the public defender or member of his staff shall be appointed if qualified. If a conflict exists, the court shall then turn first to the contract public defender attorneys, if qualified, before turning to the Office of Indigent Defense.

(b) Notwithstanding any other provision of law, the court shall order payment of all fees and costs from funds available to the Office of Indigent Defense for the defense of the indigent. Any attorney appointed shall be compensated at a rate not to exceed fifty dollars per hour for time expended out of court and seventy-five dollars per hour for time expended in court. Compensation shall not exceed twenty-five thousand dollars and shall be paid from funds available to the Office of Indigent Defense for the defense of indigent represented by court-appointed, private counsel.

(3)(a) Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed twenty thousand dollars as the court shall deem appropriate. Payment of such fees and expenses may be ordered in cases where the defendant is an indigent represented by either court-appointed, private counsel or the public defender.

(b) Court-appointed counsel seeking payment for fees and expenses shall request these payments from the Office of Indigent Defense within thirty days after the completion of the case. For the purposes of this statute, exhaustion of the funds shall occur if the funds administered by the Office of Indigent Defense and reserved for death penalty fees and expenses have been reduced to zero. If either the Death Penalty Trial Fund or the Conflict Fund has been exhausted in a month and the other fund contains money not scheduled to be disbursed in that month, then the Indigent Defense Commission must transfer a sufficient amount from the fund with the positive fund balance to the fund with no balance and pay the obligation to the extent possible.

(4) Payment in excess of the hourly rates and limit in subsection (2) or (3) is authorized only if the court certifies, in a written order with specific findings of fact, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred. Upon a finding that timely procurement of such services cannot await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

(5) After completion of the trial, the court shall conduct a hearing to review and validate the fees, costs, and other expenditures on behalf of the defendant.

(6) The Supreme Court shall promulgate guidelines on the expertise and qualifications necessary for attorneys to be certified as competent to handle death penalty cases brought pursuant to this section.

(7) The Office of Indigent Defense shall maintain a list of death penalty qualified attorneys who have applied for and received certification by the Supreme Court as provided for herein. In the event the court-appointed counsel notifies the chief administrative judge in writing that he or she does not wish to provide representation in a death penalty case, the chief administrative judge shall advise the Office of Indigent Defense which shall forward a name or names to the chief administrative judge for consideration. The appointment power is vested in the chief

administrative judge. The Office of Indigent Defense shall establish guidelines as are necessary to ensure that attorneys' names are presented to the judges on a fair and equitable basis, taking into account geography and previous assignments from the list. Efforts shall be made to present an attorney from the area or region where the action is initiated.

(8) The payment schedule set forth herein, as amended by Act 164 of 1993, shall apply to any case for which trial occurs on or after July 1, 1993.

(9) Notwithstanding another provision of law, only attorneys who are licensed to practice in this State and residents of this State may be appointed by the court and compensated with funds appropriated to the Death Penalty Trial Fund in the Office of Indigent Defense. This proviso shall not pertain to any case in which counsel has been appointed on the effective date of this act.

(10) The judicial department biennially shall develop and make available to the public a list of standard fees and expenses associated with the defense of an indigent person in a death penalty case.

(H) Notwithstanding any other provision of law, in any trial pursuant to this section where the maximum penalty is death or in a separate sentencing proceeding following such trial, the defendant and his counsel shall have the right to make the last argument.

S.C. CODE ANN. § 16-3-910 (2009). Kidnapping.

Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16-3-20.

S.C. CODE ANN. § 16-3-1045 (2009). Use or employment of person under eighteen to commit certain crimes.

(A) It is unlawful for any person at least eighteen years of age to knowingly and intentionally:

(1) use, solicit, direct, hire, persuade, induce, entice, coerce, or employ a person under eighteen years of age to commit a violent crime as defined in Section 16-1-60, the crime of lynching as a result of mob violence prohibited by Article 3, Chapter 3 of this title, or the unlawful distribution of cocaine, crack cocaine, heroin, marijuana, or LSD;

(2) conspire to use, solicit, direct, hire, persuade, induce, entice, coerce, or employ a person under eighteen years of age to commit a violent crime as defined in Section 16-1-60, the crime of lynching as a result of mob violence prohibited by Article 3, Chapter 3 of this title, or the unlawful distribution of cocaine, crack cocaine, heroin, marijuana, or LSD.

(B) Any person who violates subsections (A)(1) or (A)(2) is guilty of a felony and, upon conviction, must be punished by a term of imprisonment of not less than five years nor more than fifteen years. Each violation of this section constitutes a separate offense.

(C) The felonies established in this section are supplemental to and do not supersede any other provisions of law which make the conduct referred to in subsection (A) unlawful.

S.C. CODE ANN. § 16-3-1050 (2009). Failure to report, perpetrating or interfering with an investigation of abuse, neglect or exploitation of a vulnerable adult; penalties.

(A) A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has actual knowledge that abuse, neglect, or exploitation has occurred and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year. A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has reason to believe that abuse, neglect, or exploitation has occurred or is likely to occur and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is subject to disciplinary action as may be determined necessary by the appropriate licensing board.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to Chapter 35 of Title 43, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned not more than three years.

As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

S.C. CODE ANN. § 16-15-140 (2009). Committing or attempting lewd act upon child under sixteen.

It is unlawful for a person over the age of fourteen years to wilfully and lewdly commit or attempt a lewd or lascivious act upon or with the body, or its parts, of a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the person or of the child.

A person violating the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than fifteen years, or both.

S.C. CODE ANN. § 16-15-305 (2009). Disseminating, procuring or promoting obscenity unlawful; definitions; penalties; obscene material designated contraband.

(A) It is unlawful for any person knowingly to disseminate obscenity. A person disseminates obscenity within the meaning of this article if he:

(1) sells, delivers, or provides or offers or agrees to sell, deliver, or provide any obscene writing, picture, record, digital electronic file, or other representation or description of the obscene;

(2) presents or directs an obscene play, dance, or other performance, or participates directly in that portion thereof which makes it obscene;

(3) publishes, exhibits, or otherwise makes available anything obscene to any group or individual; or

(4) exhibits, presents, rents, sells, delivers, or provides; or offers or agrees to exhibit, present, rent, or to provide: any motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, video tapes and recordings, or any matter or material of whatever form which is a representation, description, performance, or publication of the obscene.

(B) For purposes of this article any material is obscene if:

(1) to the average person applying contemporary community standards, the material depicts or describes in a patently offensive way sexual conduct specifically defined by subsection (C) of this section;

(2) the average person applying contemporary community standards relating to the depiction or description of sexual conduct would find that the material taken as a whole appeals to the prurient interest in sex;

(3) to a reasonable person, the material taken as a whole lacks serious literary, artistic, political, or scientific value; and

(4) the material as used is not otherwise protected or privileged under the Constitutions of the United States or of this State.

(C) As used in this article:

(1) "sexual conduct" means:

(a) vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted, whether between human beings, animals, or a combination thereof;

(b) masturbation, excretory functions, or lewd exhibition, actual or simulated, of the genitals, pubic hair, anus, vulva, or female breast nipples including male or female genitals in a state of sexual stimulation or arousal or covered male genitals in a discernably turgid state;

(c) an act or condition that depicts actual or simulated bestiality, sado-masochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed;

(d) an act or condition that depicts actual or simulated touching, caressing, or fondling of, or other similar physical contact with, the covered or exposed genitals, pubic or anal regions, or female breast nipple, whether alone or between humans, animals, or a human and an animal, of the same or opposite sex, in an act of actual or apparent sexual stimulation or gratification; or

(e) an act or condition that depicts the insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.

(2) "patently offensive" means obviously and clearly disagreeable, objectionable, repugnant, displeasing, distasteful, or obnoxious to contemporary standards of decency and propriety within the community.

(3) "prurient interest" means a shameful or morbid interest in nudity, sex, or excretion and is reflective of an arousal of lewd and lascivious desires and thoughts.

(4) "person" means any individual, corporation, partnership, association, firm, club, or other legal or commercial entity.

(5) "knowingly" means having general knowledge of the content of the subject material or performance, or failing after reasonable opportunity to exercise reasonable inspection which would have disclosed the character of the material or performance.

(D) Obscenity must be judged with reference to ordinary adults except that it must be judged with reference to children or other especially susceptible audiences or clearly defined deviant sexual groups if it appears from the character of the material or the circumstances of its dissemination to be especially for or directed to children or such audiences or groups.

(E) As used in this article, "community standards" used in determining prurient appeal and patent offensiveness are the standards of the area from which the jury is drawn.

(F) It is unlawful for any person knowingly to create, buy, procure, or process obscene material with the purpose and intent of disseminating it.

(G) It is unlawful for a person to advertise or otherwise promote the sale of material represented or held out by them as obscene.

(H) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than ten thousand dollars, or both.

(I) Obscene material disseminated, procured, or promoted in violation of this section is contraband and may be seized by appropriate law enforcement authorities.

S.C. CODE ANN. § 16-15-335 (2009). Permitting minor to engage in any act constituting violation of this article prohibited; penalties.

An individual eighteen years of age or older who, in any manner, knowingly hires, employs, uses, or permits a person under the age of eighteen years to do or assist in doing an act or thing constituting an offense pursuant to this article and involving any material, act, or thing he knows or reasonably should know to be obscene within the meaning of Section 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

S.C. CODE ANN. § 16-15-342 (2009). Criminal solicitation of a minor; defenses; penalties.

(A) A person eighteen years of age or older commits the offense of criminal solicitation of a minor if he knowingly contacts or communicates with, or attempts to contact or communicate with, a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5) or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person under the age of eighteen, or person reasonably believed to be under the age of eighteen.

(B) Consent is a defense to a prosecution pursuant to this section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is at least sixteen years old.

(C) Consent is not a defense to a prosecution pursuant to this section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is under the age of sixteen.

(D) It is not a defense to a prosecution pursuant to this section, on the basis of consent or otherwise, that the person reasonably believed to be under the age of eighteen is a law enforcement agent or officer acting in an official capacity.

(E) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than ten years, or both.

S.C. CODE ANN. § 16-15-387 (2009). Employment of person under eighteen to appear in public in state of sexually explicit nudity; mistake of age; penalties.

(A) It is unlawful for a person to employ a person under the age of eighteen years to appear in a state of sexually explicit nudity, as defined in Section 16-15-375(6), in a public place.

(B) Mistake of age is not a defense to a prosecution pursuant to this section. A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five thousand dollars, or both.

S.C. CODE ANN. § 16-15-395 (2009). First degree sexual exploitation of a minor defined; presumptions; defenses; penalties.

(A) An individual commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity;

(2) permits a minor under his custody or control to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity;

(3) transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(4) records, photographs, films, develops, duplicates, produces, or creates a digital electronic file for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity.

(B) In a prosecution under this section, the trier of fact may infer that a participant in a sexual activity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution under this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than twenty years. No part of the minimum sentence of imprisonment may be suspended nor is the individual convicted eligible for parole until he has served the minimum term of imprisonment. Sentences imposed pursuant to this section must run consecutively with and commence at the expiration of another sentence being served by the person sentenced.

S.C. CODE ANN. § 16-15-405 (2009). Second degree sexual exploitation of a minor defined; presumptions; defenses; penalties.

(A) An individual commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) records, photographs, films, develops, duplicates, produces, or creates digital electronic file material that contains a visual representation of a minor engaged in sexual activity; or

(2) distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity.

(B) In a prosecution under this section, the trier of fact may infer that a participant in sexual activity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution under this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than ten years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence.

S.C. CODE ANN. § 16-15-410 (2009). Third degree sexual exploitation of a minor defined; penalties; exception.

(A) An individual commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in sexual activity depicted as a minor through its title, text, visual representation, or otherwise is a minor.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years.

(D) This section does not apply to an employee of a law enforcement agency, including the State Law Enforcement Division, a prosecuting agency, including the South Carolina Attorney General's Office, or the South Carolina Department of Corrections who, while acting within the employee's official capacity in the course of an investigation or criminal proceeding, is in possession of material that contains a visual representation of a minor engaging in sexual activity.

S.C. CODE ANN. § 16-17-495 (2009). Custodial interference.

(A)(1) When a court of competent jurisdiction in this State or another state has awarded custody of a child under the age of sixteen years or when custody of a child under the age of sixteen years is established pursuant to Section 63-17-20(B), it is unlawful for a person with the intent to violate the court order or Section 63-17-20(B) to take or transport, or cause to be taken or transported, the child from the legal custodian for the purpose of concealing the child, or circumventing or avoiding the custody order or statute.

(2) When a pleading has been filed and served seeking a determination of custody of a child under the age of sixteen, it is unlawful for a person with the intent to circumvent or avoid the custody proceeding to take or transport, or cause to be taken or transported, the child for the purpose of concealing the child, or circumventing or avoiding the custody proceeding. It is

permissible to infer that a person keeping a child outside the limits of this State for more than seventy-two hours without notice to a legal custodian intended to violate this subsection.

(B) A person who violates subsection (A)(1) or (2) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

(C) If a person who violates subsection (A)(1) or (2) returns the child to the legal custodian or to the jurisdiction of the court in which the custody petition was filed within three days of the violation, the person is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

(D) Notwithstanding the provisions of this section, if the taking or transporting of a child in violation of subsections (A)(1) or (2), is by physical force or the threat of physical force, the person is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.

(E) A person who violates the provisions of this section may be required by the court to pay necessary travel and other reasonable expenses including, but not limited to, attorney's fees incurred by the party entitled to the custody or by a witness or law enforcement.

S.C. CODE ANN. § 17-25-45 (2009). Life sentence for person convicted for certain crimes.

(A) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a most serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has one or more prior convictions for:

(1) a most serious offense;

(2) a federal or out-of-state conviction for an offense that would be classified as a most serious offense under this section; or

(3) any combination of the offenses listed in items (1) and (2) above.

(B) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has two or more prior convictions for:

(1) a serious offense;

(2) a most serious offense;

(3) a federal or out-of-state offense that would be classified as a serious offense or most serious offense under this section; or

(4) any combination of the offenses listed in items (1), (2), and (3) above.

(C) As used in this section:

(1) "Most serious offense" means: 16-1-40 Accessory, for any offense enumerated in this item
16-1-80 Attempt, for any offense enumerated in this item
16-3-10 Murder
16-3-30 Killing by poison
16-3-40 Killing by stabbing or thrusting
16-3-50 Voluntary manslaughter
16-3-85(A)(1) Homicide by child abuse
16-3-85(A)(2) Aiding and abetting homicide by child abuse
16-3-210 Lynching, First degree
16-3-430 Killing in a duel
16-3-620 Assault and battery with intent to kill
16-3-652 Criminal sexual conduct, First degree
16-3-653 Criminal sexual conduct, Second degree
16-3-655 Criminal sexual conduct with minors, except where evidence is presented at the criminal proceeding and the court, after the conviction, makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct where the victim was younger than the actor, as contained in Section 16-3-655(3)
16-3-656 Assault with intent to commit criminal sexual conduct, First and Second degree
16-3-910 Kidnapping
16-3-920 Conspiracy to commit kidnapping
16-3-1075 Carjacking
16-11-110(A) Arson, First degree
16-11-311 Burglary, First degree
16-11-330(A) Armed robbery
16-11-330(B) Attempted armed robbery
16-11-540 Damaging or destroying building, vehicle, or other property by means of explosive incendiary, death results
24-13-450 Taking of a hostage by an inmate
25-7-30 Giving information respecting national or state defense to foreign contacts during war
25-7-40 Gathering information for an enemy
43-35-85(F) Abuse or neglect of a vulnerable adult resulting in death
55-1-30(3) Unlawful removing or damaging of airport facility or equipment when death results
56-5-1030(B)(3) Interference with traffic-control devices or railroad signs or signals prohibited when death results from violation
58-17-4090 Obstruction of railroad, death results.

(2) "Serious offense" means:

(a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

(b) those felonies enumerated as follows: 16-3-220 Lynching, Second degree

16-3-810 Engaging child for sexual performance

16-9-220 Acceptance of bribes by officers

16-9-290 Accepting bribes for purpose of procuring public office

16-11-110(B) Arson, Second degree

16-11-312(B) Burglary, Second degree

16-11-380(B) Theft of a person using an automated teller machine

16-13-210(1) Embezzlement of public funds

16-13-230(B)(3) Breach of trust with fraudulent intent

16-13-240(1) Obtaining signature or property by false pretenses

38-55-540(3) Insurance fraud

44-53-370(e) Trafficking in controlled substances

44-53-375(C) Trafficking in ice, crank, or crack cocaine

44-53-445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school

56-5-2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below: 16-1-40 Accessory before the fact for any of the offenses listed in subitems (a) and (b)
16-1-80 Attempt to commit any of the offenses listed in subitems (a) and (b)
43-35-85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.

(3) "Conviction" means any conviction, guilty plea, or plea of nolo contendere.

(D) Except as provided in subsection (E), no person sentenced pursuant to this section shall be eligible for early release or discharge in any form, whether by parole, work release, release to ameliorate prison overcrowding, or any other early release program, nor shall they be eligible for earned work credits, education credits, good conduct credits, or any similar program for early release.

(E) For the purpose of this section only, a person sentenced pursuant to this section may be paroled if:

(1) the Department of Corrections requests the Department of Probation, Parole, and Pardon Services to consider the person for parole; and

(2) the Department of Probation, Parole, and Pardon Services determines that due to the person's health or age he is no longer a threat to society; and

(a) the person has served at least thirty years of the sentence imposed pursuant to this section and has reached at least sixty-five years of age; or

(b) the person has served at least twenty years of the sentence imposed pursuant to this section and has reached at least seventy years of age; or

(c) the person is afflicted with a terminal illness where life expectancy is one year or less; or

(d) the person can produce evidence comprising the most extraordinary circumstances.

(F) For the purpose of determining a prior or previous conviction under this section and Section 17-25-50, a prior or previous conviction shall mean the defendant has been convicted of a most serious or serious offense, as may be applicable, on a separate occasion, prior to the instant adjudication. There is no requirement that the sentence for the prior or previous conviction must have been served or completed before a sentence of life without parole can be imposed under this section.

(G) The decision to invoke sentencing under Section 17-25-45(B) is in the discretion of the solicitor. The provisions of Section 17-25-45(A) shall be mandatory.

(H) Where the solicitor is required to seek or determines to seek sentencing of a defendant under this section, written notice must be given by the solicitor to the defendant and defendant's counsel not less than ten days before trial.

S.C. CODE ANN. § 17-25-135 (2009). Entry of sex offenders on Central Registry of Child Abuse and Neglect upon conviction of certain crimes.

(A) When a person is convicted of or pleads guilty or nolo contendere to an "Offense Against the Person" as provided for in Title 16, Chapter 3, an "Offense Against Morality or Decency" as provided for in Title 16, Chapter 15, criminal domestic violence, as defined in Section 16-25-20, criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65, or the common law offense of assault and battery of a high and aggravated nature, and the act on which the conviction or the plea of guilty or nolo contendere is based involved sexual or physical abuse of a child, the court shall order that the person's name, any other identifying information, including, but not limited to, the person's date of birth, address, and any other identifying characteristics, and the nature of the act which led to the conviction or plea be placed in the Central Registry of Child Abuse and Neglect established by Subarticle 13, Article 3, Chapter Title 637, . The clerk shall forward the information to the Department of Social Services for this purpose in accordance with guidelines adopted by the department.

(B) For purposes of this section:

(1) "Physical abuse" means inflicting physical injury upon a child or encouraging or facilitating the infliction of physical injury upon a child by any person including, but not limited to, a person responsible for the child's welfare, as defined in Section 63-7-20.

(2) "Sexual abuse" means:

(a) actual or attempted sexual contact with a child; or

(b) permitting, enticing, encouraging, forcing, or otherwise facilitating a child's participation in prostitution or in a live performance or photographic representation of sexual activity or sexually

explicit nudity; by any person including, but not limited to, a person responsible for the child's welfare, as defined in Section 63-7-20.

SOUTH DAKOTA

S.D. CODIFIED LAWS § 22-6-1 (2010). Felonies -- Classification -- Penalties.

Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

(1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed;

(2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed;

(3) Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;

(4) Class 1 felony: fifty years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;

(5) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;

(6) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine of thirty thousand dollars may be imposed;

(7) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of twenty thousand dollars may be imposed;

(8) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine of ten thousand dollars may be imposed; and

(9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four thousand dollars, or both.

The court, in imposing sentence on a defendant who has been found guilty of a felony, shall order in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7, 22-7-8, and 22-7-8.1.

S.D. CODIFIED LAWS § 22-6-1.1 (2010). Felony -- Class 5 or 6 -- Imprisonment in county jail.

If a person is convicted of a Class 5 or Class 6 felony, the court may sentence the person so convicted to imprisonment in the county jail of the county where such person was convicted, for a term of not more than one year.

S.D. CODIFIED LAWS § 22-6-1.2 (2010). Minimum sentence for subsequent felony convictions for a sex crime.

If an adult has a previous conviction for a felony sex crime as defined by § 22-24B-1, any subsequent felony conviction for a sex crime as defined by subdivisions 22-24B-1(1) to (15), inclusive, and (19) shall result in a minimum sentence of imprisonment equal to the maximum term allowable under § 22-6-1, up to twenty-five years. The court may suspend a portion of the prison sentence required under this section.

S.D. CODIFIED LAWS § 22-6-2 (2010). Misdemeanors -- Classification -- Penalties.

Misdemeanors are divided into two classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

(1) Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both;

(2) Class 2 misdemeanor: thirty days imprisonment in a county jail or five hundred dollars fine, or both.

The court, in imposing sentence on a defendant who has been found guilty of a misdemeanor, shall order, in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Except in Titles 1 to 20, inclusive, 22, 25 to 28, inclusive, 32 to 36, inclusive, 40 to 42, inclusive, 47 to 54, inclusive, and 58 to 62, inclusive, if the performance of an act is prohibited by a statute, and no penalty for the violation of such statute is imposed by a statute, the doing of such act is a Class 2 misdemeanor.

S.D. CODIFIED LAWS § 22-7-7 (2010). Conviction for one or two prior felonies -- Enhancement of sentence.

If a defendant has been convicted of one or two prior felonies under the laws of this state or any other state or the United States, in addition to the principal felony, the sentence for the principal felony shall be enhanced by changing the class of the principal felony to the next class which is more severe, but in no circumstance may the enhancement exceed the sentence for a Class C felony. The determination of whether a prior offense is a felony for purposes of this chapter shall be determined by whether the prior offense was a felony under the laws of this state or under the laws of the United States at the time of conviction of such prior offense. For the purpose of this

section, if the principal felony is not classified it shall be enhanced to the class which has an equal maximum imprisonment. For the purposes of this section, if the maximum imprisonment for the principal felony falls between two classifications, the principal felony shall be enhanced to the class which has the less severe maximum authorized imprisonment.

S.D. CODIFIED LAWS § 22-7-8 (2010). Conviction for three or more prior felonies -- Crime of violence -- Enhancement of sentence.

If a defendant has been convicted of three or more felonies in addition to the principal felony and one or more of the prior felony convictions was for a crime of violence as defined in subdivision 22-1-2 (9), the sentence for the principal felony shall be enhanced to the sentence for a Class C felony.

S.D. CODIFIED LAWS § 22-7-8.1 (2010). Conviction for three or more prior felonies -- No crime of violence -- Enhancement of sentence.

If a defendant has been convicted of three or more felonies in addition to the principal felony and none of the prior felony convictions was for a crime of violence as defined in subdivision § 22-1-2(9), the sentence for the principal felony shall be enhanced by two levels but in no circumstance may the enhancement exceed the sentence for a Class C felony. A defendant sentenced pursuant to this section is eligible for consideration for parole pursuant to § 24-15A-32 if the defendant receives a sentence of less than life in prison.

S.D. CODIFIED LAWS § 22-19-1 (2010). Kidnapping -- Penalty.

Any person who, either unlawfully removes another person from the other's place of residence or employment, or who unlawfully removes another person a substantial distance from the vicinity where the other was at the commencement of the removal, or who unlawfully confines another person for a substantial period of time, with any of the following purposes:

(1) To hold for ransom or reward, or as a shield or hostage; or

(2) To facilitate the commission of any felony or flight thereafter; or

(3) To inflict bodily injury on or to terrorize the victim or another; or

(4) To interfere with the performance of any governmental or political function; or

(5) To take or entice away a child under the age of fourteen years with intent to detain and conceal such child;

is guilty of kidnapping in the first degree. Kidnapping in the first degree is a Class C felony, unless the person has inflicted serious bodily injury on the victim, in which case it is aggravated kidnapping in the first degree and is a Class B felony.

S.D. CODIFIED LAWS § 22-19-1.1 (2010). Kidnapping in the second degree -- Felony.

Any person who unlawfully holds or retains another person with any of the following purposes:

(1) To hold for ransom or reward, or as a shield or hostage; or

(2) To facilitate the commission of any felony or flight thereafter; or

(3) To inflict bodily injury on or to terrorize the victim or another; or

(4) To interfere with the performance of any governmental or political function; or

(5) To take or entice away a child under the age of fourteen years with intent to detain and conceal such child;

is guilty of kidnapping in the second degree. Kidnapping in the second degree is a Class 3 felony, unless the person has inflicted serious bodily injury on the victim in which case it is aggravated kidnapping in the second degree and is a Class 1 felony.

S.D. CODIFIED LAWS § 22-22-1.2 (2010). Rape -- Minor victim -- Minimum sentences.

If any adult is convicted of any of the following violations, the court shall impose the following minimum sentences:

(1) For a violation of subdivision 22-22-1(1), fifteen years for a first offense; and

(2) For a violation of § 22-22-7 if the victim is less than thirteen years of age, ten years for a first offense.

S.D. CODIFIED LAWS § 22-22-7 (2010). Sexual contact with a person under sixteen -- Penalty -- Time for commencement of prosecution.

Any person, sixteen years of age or older, who knowingly engages in sexual contact with another person, other than that person's spouse if the other person is under the age of sixteen years is guilty of a Class 3 felony. If the actor is less than three years older than the other person, the actor is guilty of a Class 1 misdemeanor. If an adult has a previous conviction for a felony violation of this section, any subsequent felony conviction for a violation under this section, is a Class 2 felony. Notwithstanding § 23A-42-2, a charge brought pursuant to this section may be commenced at any time before the victim becomes age twenty-five or within seven years of the commission of the crime, whichever is longer.

S.D. CODIFIED LAWS § 22-24B-2 (2010). Registration of convicted sex offenders -- Violation as felony – Discharge.

Any person who has been convicted for commission of a sex crime, as defined in Section 22-24B-1, shall register as a sex offender. The term, convicted, includes a verdict or plea of guilty, a

plea of nolo contendere, and a suspended imposition of sentence which has not been discharged pursuant to Section 23A-27-14 prior to July 1, 1995. Any juvenile fourteen years or older shall register as a sex offender if that juvenile has been adjudicated of rape as defined in subdivision 22-24B-1(1), or of an out-of-state or federal offense that is comparable to the elements of these crimes of rape or any crime committed in another state if the state also requires a juvenile adjudicated of that crime to register as a sex offender in that state. The term, adjudicated, includes a court's finding of delinquency, an admission, and a suspended adjudication of delinquency which has not been discharged pursuant to Section 26-8C-4 prior to July 1, 2009. The sex offender shall register within five days of coming into any county to reside, temporarily domicile, attend school, attend postsecondary education classes, or work. Registration shall be with the chief of police of the municipality in which the sex offender resides, temporarily domiciles, attends school, attends postsecondary education classes, or works, or, if no chief of police exists, then with the sheriff of the county. If the sex offender is not otherwise registered in the state, the sex offender shall register within five days of coming into any county when the sex offender applies for or receives a South Dakota driver license, registers a motor vehicle, establishes a postal address, or registers to vote. A violation of this section is a Class 6 felony. Any person whose sentence is discharged under Section 23A-27-14 after July 1, 1995, shall forward a certified copy of such formal discharge by certified mail to the Division of Criminal Investigation and to local law enforcement where the person is then registered under this section. Upon receipt of such notice, the person shall be removed from the sex offender registry open to public inspection and shall be relieved of further registration requirements under this section. Any juvenile whose suspended adjudication is discharged under Section 26-8C-4 after July 1, 2009, shall forward a certified copy of the formal discharge by certified mail to the Division of Criminal Investigation and to local law enforcement where the juvenile is then registered under this section. Upon receipt of the notice, the juvenile shall be removed from the sex offender registry open to public inspection and shall be relieved of further registration requirements under this section.

TENNESSEE

TENN. CODE ANN. § 39-13-522 (2010). Rape of a child.

(a) Rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is more than three (3) years of age but less than thirteen (13) years of age.

(b) (1) Rape of a child is a Class A felony.

(2) (A) Notwithstanding title 40, chapter 35, a person convicted of a first or subsequent violation of this section shall be punished by a minimum period of imprisonment of twenty-five (25) years. The sentence imposed upon any such person may, if appropriate, exceed twenty-five (25) years, but in no case shall it be less than the minimum period of twenty-five (25) years.

(B) Section 39-13-525(a) shall not apply to a person sentenced under this subdivision (b)(2).

(C) Notwithstanding any law to the contrary, the board of probation and parole may require, as a mandatory condition of supervision for any person convicted under this section, that the person be enrolled in a satellite-based monitoring program for the full extent of the person's term of supervision consistent with the requirements of § 40-39-302.

TENN. CODE ANN. § 39-13-523 (2010). Punishment for certain child sexual predators.

(a) As used in this section, unless the context otherwise requires:

(1) "Child rapist" means a person convicted one (1) or more times of rape of a child as defined by § 39-13-522;

(2) "Child sexual predator" means a person who:

(A) Is convicted in this state of committing an offense on or after July 1, 2007, that is classified in subdivision (a)(4) as a predatory offense; and

(B) Has one (1) or more prior convictions for an offense classified in subdivision (a)(4) as a predatory offense;

(3) "Multiple rapist" means a person convicted two (2) or more times of violating § 39-13-502 or § 39-13-503, or a person convicted at least one (1) time of violating § 39-13-502 and at least one (1) time of violating § 39-13-503;

(4) "Predatory offenses" means:

(A) Aggravated sexual battery under § 39-13-504(a)(4);

(B) Statutory rape by an authority figure under § 39-13-532;

(C) Sexual battery by an authority figure under § 39-13-527;

(D) Solicitation of a minor to commit a sex offense under § 39-13-528;

(E) Solicitation of a minor to perform sex acts under § 39-13-529; and

(F) Aggravated statutory rape under § 39-13-506(c);

(5) (A) "Prior convictions" means that the person serves and is released or discharged from a separate period of incarceration or supervision for the commission of a predatory offense classified in subdivision (a)(4) prior to committing another predatory offense classified in subdivision (a)(4).

(B) "Prior convictions" includes convictions under the laws of any other state, government or country that, if committed in this state, would constitute a predatory offense as classified in subdivision (a)(4). If a felony from a jurisdiction other than Tennessee is not a named predatory offense as classified in subdivision (a)(4) in this state, it shall be considered a prior conviction if the elements of the felony are the same as the elements for an offense classified as a predatory offense; and

(6) "Separate period of incarceration or supervision" includes a sentence to any of the sentencing alternatives set out in § 40-35-104 (c)(3)-(9). Any offense designated as a predatory offense pursuant to subdivision (a)(4) shall be considered as having been committed after a

separate period of incarceration or supervision if the predatory offense was committed while the person was:

(A) On probation, parole or community correction supervision for a predatory offense;

(B) Incarcerated for a predatory offense;

(C) Assigned to a program whereby the person enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational release, restitution release or medical furlough for a predatory offense; or

(D) On escape status from any correctional institution when incarcerated for a predatory offense.

(b) Notwithstanding any other law to the contrary, a child sexual predator, multiple rapist or a child rapist shall be required to serve the entire sentence imposed by the court undiminished by any sentence reduction credits the person may be eligible for or earn. A child sexual predator, multiple rapist or a child rapist shall be permitted to earn any credits for which the person is eligible and the credits may be used for the purpose of increased privileges, reduced security classification, or for any purpose other than the reduction of the sentence imposed by the court.

(c) Title 40, chapter 35, part 5, regarding release eligibility status and parole, shall not apply to or authorize the release of a child sexual predator, multiple rapist or child rapist prior to service of the entire sentence imposed by the court.

(d) Nothing in title 41, chapter 1, part 5 shall give either the governor or the board of probation and parole the authority to release or cause the release of a child sexual predator, multiple rapist or child rapist prior to service of the entire sentence imposed by the court.

(e) (1) The provisions of this section requiring child sexual predators to serve the entire sentence imposed by the court shall only apply if at least one (1) of the required offenses occurs on or after July 1, 2007.

(2) The provisions of this section requiring multiple rapists to serve the entire sentence imposed by the court shall only apply if at least one (1) of the required offenses occurs on or after July 1, 1992.

TENN. CODE ANN. § 39-13-524 (2010). Sentence of community supervision for life.

(a) In addition to the punishment authorized by the specific statute prohibiting the conduct, a person shall receive a sentence of community supervision for life who, on or after:

(1) July 1, 1996, commits a violation of Section 39-13-502, Section 39-13-503, Section 39-13-504, Section 39-13-522;

(2) July 1, 2010, commits a violation of Section 39-13-531; or

(3) The applicable date as provided in subdivision (1) or (2) attempts to commit a violation of any of the sections enumerated in subdivision (1) or (2).

(b) The judgment of conviction for all persons to whom the provisions of subsection (a) apply shall include that the person is sentenced to community supervision for life.

(c) The sentence of community supervision for life shall commence immediately upon the expiration of the term of imprisonment imposed upon the person by the court or upon the person's release from regular parole supervision, whichever first occurs.

(d) (1) A person on community supervision shall be under the jurisdiction, supervision and control of the board of probation and parole in the same manner as a person under parole supervision. The board is authorized on an individual basis to establish such conditions of community supervision as are necessary to protect the public from the person's committing a new sex offense, as well as promoting the rehabilitation of the person.

(2) The board is authorized to impose and enforce a supervision and rehabilitation fee upon a person on community supervision similar to the fee imposed by § 40-28-201. To the extent possible, the board shall set the fee in an amount that will substantially defray the cost of the community supervision program. The board shall also establish a fee waiver procedure for hardship cases and indigency.

TENN. CODE ANN. § 39-13-529 (2010). Offense of soliciting sexual exploitation of a minor -- Exploitation of a minor by electronic means.

(a) It is an offense for a person eighteen (18) years of age or older, by means of oral, written or electronic communication, electronic mail or Internet service, including webcam communications, directly or through another, to intentionally command, hire, persuade, induce or cause a minor to engage in sexual activity or simulated sexual activity that is patently offensive, as defined in § 39-17-1002, where such sexual activity or simulated sexual activity is observed by that person or by another.

(b) It is unlawful for any person eighteen (18) years of age or older, directly or by means of electronic communication, electronic mail or Internet service, including webcam communications, to intentionally:

(1) Engage in sexual activity, or simulated sexual activity, that is patently offensive, as defined in § 39-17-1002, for the purpose of having the minor view the sexual activity or simulated sexual activity, including circumstances where the minor is in the presence of the person, or where the minor views such activity via electronic communication, including electronic mail, Internet service and webcam communications;

(2) Display to a minor, or expose a minor to, any material containing sexual activity or simulated sexual activity that is patently offensive, as defined in § 39-17-1002, where the purpose of the display can reasonably be construed as being for the sexual arousal or gratification of the minor or the person displaying the material; and

(3) Display to a law enforcement officer posing as a minor, and whom the person making the display reasonably believes to be less than eighteen (18) years of age, any material containing sexual activity or simulated sexual activity that is patently offensive, as defined in § 39-17-1002, where the purpose of the display can reasonably be construed as being for the sexual arousal or gratification of the intended minor or the person displaying the material.

(c) The statute of limitations for the offenses in this section shall be the applicable statute for the class of the offense, or until the child reaches the age of eighteen (18), whichever is greater.

(d) A person is subject to prosecution in this state under this statute for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the conduct involved a minor located in this state.

(e) (1) A violation of subsection (a) is a Class B felony.

(2) A violation of subsection (b) is a Class E felony; provided, that, if the minor is less than thirteen (13) years of age, the violation is a Class C felony.

TENN. CODE ANN. § 39-15-401 (2010). Child abuse and child neglect or endangerment.

(a) Any person who knowingly, other than by accidental means, treats a child under eighteen (18) years of age in such a manner as to inflict injury commits a Class A misdemeanor; provided, however, that, if the abused child is eight (8) years of age or less, the penalty is a Class D felony.

(b) Any person who knowingly abuses or neglects a child under eighteen (18) years of age, so as to adversely affect the child's health and welfare, commits a Class A misdemeanor; provided, that, if the abused or neglected child is eight (8) years of age or less, the penalty is a Class E felony.

(c) (1) A parent or custodian of a child eight (8) years of age or less commits child endangerment who knowingly exposes such child to or knowingly fails to protect such child from abuse or neglect resulting in physical injury to the child.

(2) For purposes of subsection (c):

(A) "Knowingly" means the person knew, or should have known upon a reasonable inquiry, that abuse to or neglect of the child would occur which would result in physical injury to the child. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary parent or legal custodian of a child eight (8) years of age or less would exercise under all the circumstances as viewed from the defendant's standpoint; and

(B) "Parent or custodian" means the biological or adoptive parent or any person who has legal custody of the child.

(3) A violation of this subsection (c) is a Class A misdemeanor.

(d) (1) Any court having reasonable cause to believe that a person is guilty of violating this section shall have the person brought before the court, either by summons or warrant. No arrest warrant or summons shall be issued by any person authorized to issue the warrant or summons, nor shall criminal charges be instituted against a child's parent, guardian or custodian for a violation of subsection (a), based upon the allegation that unreasonable corporal punishment was administered to the child, unless the affidavit of complaint also contains a copy of the report

prepared by the law enforcement official who investigated the allegation, or independent medical verification of injury to the child.

(2) (A) As provided in this subdivision (d)(2), juvenile courts, courts of general session, and circuit and criminal courts, shall have concurrent jurisdiction to hear violations of this section.

(B) If the person pleads not guilty, the juvenile judge or general sessions judge shall have the power to bind the person over to the grand jury, as in cases of misdemeanors under the criminal laws of this state. Upon being bound over to the grand jury, the person may be prosecuted on an indictment filed by the district attorney general and, notwithstanding § 40-13-103, a prosecutor need not be named on the indictment.

(C) On a plea of not guilty, the juvenile court judge or general sessions judge shall have the power to proceed to hear the case on its merits, without the intervention of a jury, if the person requests a hearing in juvenile court or general sessions court and expressly waives, in writing, indictment, presentment, grand jury investigation and a jury trial.

(D) If the person enters a plea of guilty, the juvenile court or general sessions court judge shall sentence the person under this section.

(E) Regardless of whether the person pleads guilty or not guilty, the circuit court or criminal court shall have the power to proceed to hear the case on its merits, and, if found guilty, to sentence the person under this section.

(e) Except as expressly provided, the provisions of this section shall not be construed as repealing any provision of any other statute, but shall be supplementary to any other provision and cumulative of any other provision.

(f) A violation of this section may be a lesser included offense of any kind of homicide, statutory assault, or sexual offense, if the victim is a child and the evidence supports a charge under this section. In any case in which conduct violating this section also constitutes assault, the conduct may be prosecuted under this section or under § 39-13-101 or § 39-13-102, or both.

(g) For purposes of this section, "adversely affect the child's health and welfare" may include, but not be limited to, the natural effects of starvation or dehydration.

TENN. CODE ANN. § 39-17-1003 (2010). Offense of sexual exploitation of a minor.

(a) It is unlawful for any person to knowingly possess material that includes a minor engaged in:

(1) Sexual activity; or

(2) Simulated sexual activity that is patently offensive.

(b) A person possessing material that violates subsection (a) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials possessed is greater than fifty (50), the person may be charged in a single count to enhance the class of offense under subsection (d).

(c) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly possessed the material, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(d) A violation of this section is a Class D felony; however, if the number of individual images, materials, or combination of images and materials, that are possessed is more than fifty (50), then the offense shall be a Class C felony. If the number of individual images, materials, or combination of images and materials, exceeds one hundred (100), the offense shall be a Class B felony.

(e) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.

TENN. CODE ANN. § 39-17-1004 (2010). Offense of aggravated sexual exploitation of a minor.

(a) (1) It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material, or possess with the intent to promote, sell, distribute, transport, purchase or exchange material, that includes a minor engaged in:

(A) Sexual activity; or

(B) Simulated sexual activity that is patently offensive.

(2) A person who violates subdivision (a)(1) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials involved in a violation under subdivision (a)(1) is greater than twenty-five (25), the person may be charged in a single count to enhance the class of offense under subdivision (a)(4).

(3) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, sold, distributed, transported, purchased, exchanged or possessed the material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(4) A violation of this section is a Class C felony; however, if the number of individual images, materials, or combination of images and materials that are promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange, is more than twenty-five (25), then the offense shall be a Class B felony.

(b) (1) It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material that is obscene, as defined in § 39-17-901(10), or possess material that is obscene, with the intent to promote, sell, distribute, transport, purchase or exchange the material, which includes a minor engaged in:

(A) Sexual activity; or

(B) Simulated sexual activity that is patently offensive.

(2) A person who violates subdivision (b)(1) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials involved in a violation under subdivision (b)(1) is greater than twenty-five (25), the person may be charged in a single count to enhance the class of offense under subdivision (b)(4).

(3) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, sold, distributed, transported, purchased, exchanged or possessed the material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(4) A violation of this section is a Class C felony; however, if the number of individual images, materials, or combination of images and materials, that are promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange, is more than twenty-five (25), then the offense shall be a Class B felony.

(c) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.

(d) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange material within this state.

TENN. CODE ANN. § 39-17-1005 (2010). Offense of especially aggravated sexual exploitation of a minor.

(a) It is unlawful for a person to knowingly promote, employ, use, assist, transport or permit a minor to participate in the performance of, or in the production of, acts or material that includes the minor engaging in:

(1) Sexual activity; or

(2) Simulated sexual activity that is patently offensive.

(b) A person violating subsection (a) may be charged in a separate count for each individual performance, image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation.

(c) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, employed, used, assisted, transported or permitted a minor to participate in the performance of or in the production of acts or material for these

purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(d) A violation of this section is a Class B felony. Nothing in this section shall be construed as limiting prosecution for any other sexual offense under this chapter, nor shall a joint conviction under this section and any other related sexual offense, even if arising out of the same conduct, be construed as limiting any applicable punishment, including consecutive sentencing under § 40-35-115, or the enhancement of sentence under § 40-35-114.

(e) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.

(f) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person promoted, employed, assisted, transported or permitted a minor to engage in the performance of, or production of, acts or material within this state.

TENN. CODE ANN. § 40-35-111 (2010). Authorized terms of imprisonment and fines for felonies and misdemeanors.

(a) A sentence for a felony is a determinate sentence.

(b) The authorized terms of imprisonment and fines for felonies are:

(1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars ($50,000), unless otherwise provided by statute;

(2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars ($25,000), unless otherwise provided by statute;

(3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars ($10,000), unless otherwise provided by statute;

(4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars ($5,000), unless otherwise provided by statute; and

(5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars ($3,000), unless otherwise provided by statute.

(c) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:

(1) Three hundred fifty thousand dollars ($350,000) for a Class A felony;

(2) Three hundred thousand dollars ($300,000) for a Class B felony;

(3) Two hundred fifty thousand dollars ($250,000) for a Class C felony;

(4) One hundred twenty-five thousand dollars ($125,000) for a Class D felony; and

(5) Fifty thousand dollars ($50,000) for a Class E felony.

If a special fine for a corporation is expressly specified in the statute which defines an offense, the fine fixed shall be within the limits specified in the statute.

(d) A sentence for a misdemeanor is a determinate sentence.

(e) The authorized terms of imprisonment and fines for misdemeanors are:

(1) Class A misdemeanor, not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars ($2,500), or both, unless otherwise provided by statute;

(2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars ($500), or both, unless otherwise provided by statute; and

(3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars ($50.00), or both, unless otherwise provided by statute.

(f) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

TENN. CODE ANN. § 40-35-112 (2010). Sentence ranges.

(a) A "Range I" sentence is as follows:

(1) For a Class A felony, not less than fifteen (15) nor more than twenty-five (25) years;

(2) For a Class B felony, not less than eight (8) nor more than twelve (12) years;

(3) For a Class C felony, not less than three (3) nor more than six (6) years;

(4) For a Class D felony, not less than two (2) nor more than four (4) years; and

(5) For a Class E felony, not less than one (1) nor more than two (2) years.

(b) A "Range II" sentence is as follows:

(1) For a Class A felony, not less than twenty-five (25) nor more than forty (40) years;

(2) For a Class B felony, not less than twelve (12) nor more than twenty (20) years;

(3) For a Class C felony, not less than six (6) nor more than ten (10) years;

(4) For a Class D felony, not less than four (4) nor more than eight (8) years; and

(5) For a Class E felony, not less than two (2) nor more than four (4) years.

(c) A "Range III" sentence is as follows:

(1) For a Class A felony, not less than forty (40) nor more than sixty (60) years;

(2) For a Class B felony, not less than twenty (20) nor more than thirty (30) years;

(3) For a Class C felony, not less than ten (10) nor more than fifteen (15) years;

(4) For a Class D felony, not less than eight (8) nor more than twelve (12) years; and

(5) For a Class E felony, not less than four (4) nor more than six (6) years.

TENN. CODE ANN. § 40-35-114 (2010). Enhancement factors.

If appropriate for the offense and if not already an essential element of the offense, the court shall consider, but is not bound by, the following advisory factors in determining whether to enhance a defendant's sentence:

(1) The defendant has a previous history of criminal convictions or criminal behavior, in addition to those necessary to establish the appropriate range;

(2) The defendant was a leader in the commission of an offense involving two (2) or more criminal actors;

(3) The offense involved more than one (1) victim;

(4) A victim of the offense was particularly vulnerable because of age or physical or mental disability;

(5) The defendant treated, or allowed a victim to be treated, with exceptional cruelty during the commission of the offense;

(6) The personal injuries inflicted upon, or the amount of damage to property sustained by or taken from, the victim was particularly great;

(7) The offense involved a victim and was committed to gratify the defendant's desire for pleasure or excitement;

(8) The defendant, before trial or sentencing, failed to comply with the conditions of a sentence involving release into the community;

(9) The defendant possessed or employed a firearm, explosive device, or other deadly weapon during the commission of the offense;

(10) The defendant had no hesitation about committing a crime when the risk to human life was high;

(11) The felony resulted in death or serious bodily injury, or involved the threat of death or serious bodily injury, to another person, and the defendant has previously been convicted of a felony that resulted in death or serious bodily injury;

(12) During the commission of the felony, the defendant intentionally inflicted serious bodily injury upon another person, or the actions of the defendant resulted in the death of, or serious bodily injury to, a victim or a person other than the intended victim;

(13) At the time the felony was committed, one (1) of the following classifications was applicable to the defendant:

(A) Released on bail or pretrial release, if the defendant is ultimately convicted of the prior misdemeanor or felony;

(B) Released on parole;

(C) Released on probation;

(D) On work release;

(E) On community corrections;

(F) On some form of judicially ordered release;

(G) On any other type of release into the community under the direct or indirect supervision of any state or local governmental authority or a private entity contracting with the state or a local government;

(H) On escape status; or

(I) Incarcerated in any penal institution on a misdemeanor or felony charge or a misdemeanor or felony conviction;

(14) The defendant abused a position of public or private trust, or used a professional license in a manner that significantly facilitated the commission or the fulfillment of the offense;

(15) The defendant committed the offense on the grounds or facilities of a pre-kindergarten (pre-K) through grade twelve (12) public or private institution of learning when minors were present;

(16) The defendant was adjudicated to have committed a delinquent act or acts as a juvenile that would constitute a felony if committed by an adult;

(17) The defendant intentionally selected the person against whom the crime was committed or selected the property that was damaged or otherwise affected by the crime, in whole or in part, because of the defendant's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin, ancestry, or gender of that person or the owner or occupant of that property; however, this subdivision (17) should not be construed to permit the enhancement of a sexual offense on the basis of gender selection alone;

(18) The offense was an act of terrorism, or was related to an act of terrorism;

(19) If the defendant is convicted of the offense of aggravated assault pursuant to § 39-13-102, the victim of the aggravated assault was a law enforcement officer, firefighter, correctional officer, youth services officer, probation and parole officer, a state registered security officer/guard, an employee of the department of correction or the department of children's services, an emergency medical or rescue worker, emergency medical technician, or paramedic, whether compensated or acting as a volunteer; provided, that the victim was performing an official duty and the defendant knew or should have known that the victim was such an officer or employee;

(20) If the defendant is convicted of the offenses of rape pursuant to § 39-13-503, sexual battery pursuant to § 39-13-505, or rape of a child pursuant to § 39-13-522, the defendant caused the victim to be mentally incapacitated or physically helpless by use of a controlled substance;

(21) If the defendant is convicted of the offenses of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, rape of a child pursuant to § 39-13-522, or statutory rape pursuant to § 39-13-506, the defendant knew or should have known that, at the time of the offense, the defendant was HIV positive;

(22) (A) If the defendant is convicted of the offenses of aggravated arson pursuant to § 39-14-302, or vandalism pursuant to § 39-14-408, the damage or destruction was caused to a structure, whether temporary or permanent in nature, used as a place of worship and the defendant knew or should have known that it was a place of worship;

(B) As used in this subdivision (22), "place of worship" means any structure that is:

(i) Approved, or qualified to be approved, by the state board of equalization for property tax exemption pursuant to § 67-5-212, based on ownership and use of the structure by a religious institution; and

(ii) Utilized on a regular basis by a religious institution as the site of congregational services, rites or activities communally undertaken for the purpose of worship;

(23) The defendant is an adult and sells to, or gives or exchanges a controlled substance or other illegal drug with a minor; or

(24) The offense involved the theft of property and, as a result of the manner in which the offense was committed, the victim suffered significant damage to other property belonging to the victim or for which the victim was responsible.

TENN. CODE ANN. § 40-35-115 (2010). Multiple convictions.

(a) If a defendant is convicted of more than one (1) criminal offense, the court shall order sentences to run consecutively or concurrently as provided by the criteria in this section.

(b) The court may order sentences to run consecutively if the court finds by a preponderance of the evidence that:

(1) The defendant is a professional criminal who has knowingly devoted the defendant's life to criminal acts as a major source of livelihood;

(2) The defendant is an offender whose record of criminal activity is extensive;

(3) The defendant is a dangerous mentally abnormal person so declared by a competent psychiatrist who concludes as a result of an investigation prior to sentencing that the defendant's criminal conduct has been characterized by a pattern of repetitive or compulsive behavior with heedless indifference to consequences;

(4) The defendant is a dangerous offender whose behavior indicates little or no regard for human life, and no hesitation about committing a crime in which the risk to human life is high;

(5) The defendant is convicted of two (2) or more statutory offenses involving sexual abuse of a minor with consideration of the aggravating circumstances arising from the relationship between the defendant and victim or victims, the time span of defendant's undetected sexual activity, the nature and scope of the sexual acts and the extent of the residual, physical and mental damage to the victim or victims;

(6) The defendant is sentenced for an offense committed while on probation; or

(7) The defendant is sentenced for criminal contempt.

(c) The finding concerning the imposition of consecutive or concurrent sentences is appealable by either party.

(d) Sentences shall be ordered to run concurrently, if the criteria noted in subsection (b) are not met, unless consecutive sentences are specifically required by statute or the Tennessee Rules of Criminal Procedure.

TENN. CODE ANN. § 40-35-118 (2010). Classification of prior felony offenses.

Code Section Offense Class
39-3703 First degree criminal sexual conduct A
39-1-604, 606 Conspiracy to take a human life A
39-2-103 Assault with intent to commit first degree murder A
39-2-202 First degree murder A
39-2-212 Second degree murder A
39-2-301(c) Aggravated kidnapping A
39-2-305 Prisoners holding hostages A

39-2-304 Unlawful representation to obtain ransom A
39-2-603 Aggravated rape A
39-2-640 Abduction of female from parents or guardian for purposes of prostitution A
39-3-201 Aggravated arson A
39-3-701 Willful injury by explosives A
39-5-803 Treason A
39-6-109 Adulteration of foods, liquors or pharmaceuticals (death occurs) A
39-6-204 Obstruction or damage to railroad tracks resulting in death A
39-6-619(a) Killing an officer while arresting a person on a charge of unlawful gaming A
39-6-915(a) Furnishing intoxicating liquor which results in death (second degree murder) A
39-3704 Second degree criminal sexual conduct B
39-1-607 Conspiracy to sabotage a nuclear production facility B
39-1-609 Conspiracy to commit illegal act capable of destroying human life by possession, use or transportation of explosives B
39-1-610 Conspiracy by convicts to kill B
39-2-301(e) Assault with intent to commit or attempt to commit aggravated kidnapping B
39-2-303 Kidnapping child under 16 B
39-2-501 Robbery by use of a deadly weapon B
39-2-502 Bank robbery B
39-2-604 Rape B
39-2-606 Aggravated sexual battery B
39-3-210 Causing injury to person by use of fire bomb B
39-4-422 Aggravated child abuse B
39-5-712 Rebellion by convict with intent to kill or escape B
39-6-109 Adulteration of food product or drug (injury) B
39-6-203 Obstruction or damage to railroad tracks resulting in injury B
39-6-417(a)(1)(A) Manufacture, delivery, sale or possession with intent to do same of Schedule I controlled substance B
39-6-417(c) Manufacture, delivery or sale of certain amount of controlled substances B
39-6-417(d) Habitual drug offender B
39-6-418 Person over 18 distributing Schedule I controlled substance to person under 18 who is at least 3 years such person’s junior B
39-6-418 Person over 18 distributing Schedule II controlled substance to person under 18 who is at least 3 years such person’s junior B
39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule I B
39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule II B
39-6-619(b) Wounding officer while arresting person on charge of unlawful gaming B
39-6-1137 Using minors for obscene purposes B
39-1-503 Attempt to commit sabotage C
39-1-606 Conspiracy to inflict punishment, take human life or burn or destroy property C
39-1-610 Conspiracy by convicts to escape C
39-2-101 Aggravated assault C

39-2-107 Assault from ambush with a deadly weapon C
39-2-109 Assault with deadly weapon while in disguise C
39-2-110 Assault by a juvenile 16 or older confined in an institution C
39-2-111 Mayhem C
39-2-112 Malicious shooting or stabbing C
Code Section Offense Class
39-2-115 Shooting or throwing missile calculated to cause death or bodily injury at or into a dwelling or vehicle C
39-2-116 Throwing object at common carrier vehicle with intent to do bodily harm where bodily harm occurs C
39-2-117 Injury to person during state of emergency C
39-2-118 Negligence by steamboat operator causing death C
39-2-222 Voluntary manslaughter C
39-2-231(a) Vehicular homicide as a result of conduct creating substantial risk of death or serious bodily injury C
39-2-231(b) Vehicular homicide as a result of driver's intoxication C
39-2-234 Negligence by train operator resulting in death C
39-2-302 Kidnapping C
39-2-501 Robbery C
39-2-608(a) Assault with intent to commit rape C
39-2-612 Crimes against nature C
39-2-613 Forcible marriage or abduction of female C
39-3-202 Setting fire or procuring same on building or structure C
39-3-205 Burning of insured property C
39-3-401 Burglary of dwelling by night C
39-3-403 Burglary of dwelling by day C
39-3-702 Manufacture/possession of explosives for burglarious purposes or burglary with explosives C
39-3-703 Malicious injury to structures with explosives C
39-4-306 Incest C
39-5-101 Bribery or offering to bribe officer C
39-5-102 Officer accepting bribe C
39-5-103 Bribing or offering to bribe peace officer or state, county or municipal employee C
39-5-105 Bribery of court official or juror C
39-5-106 Court official or juror accepting bribe C
39-5-108 Offering bribe to officer selecting or summoning jury C
39-5-109 Officer accepting bribe or permitting deputy to violate § 39-5-108 or § 39-5-420 C
39-5-112(a) Bargaining sales in regard to public office C
39-5-112(b) Sale of public office C
39-5-112(c) Offer to buy public office C
39-5-112(d) Refusal to qualify and discharge duties of public office by reason of pecuniary consideration C
39-5-112(e) Procuring resignation of officer C
39-5-115 Bribery of witness in felony prosecution C
39-5-201 Introduction of prohibited items upon or onto grounds of penal institution C
39-5-202 Introduction of weapons or drugs in the local jail or workhouse C
39-5-408 Use of public money by state treasurer or other public officer C
39-5-409 Embezzlement of public money or property C

39-5-508 Corruptly stealing, withdrawing or avoiding records and judicial proceedings C
39-5-522 Juror agreeing to give verdict or receiving improper evidence C
39-5-804 Misprision of treason C
39-5-805 Sedition C
39-5-813 Destruction, injury or interference with property so as to hinder preparation for defense or war C
39-5-814 Causing defects in war preparation C
39-6-417(a)(1)(B) Manufacture, delivery, sale or possession of Schedule II controlled substances C
39-6-418 Person over 18 distributing Schedule III controlled substances to person under 18 who is 3 years such person's junior C
39-6-418 Person over 18 distributing Schedule IV controlled substances to person under 18 who is 3 years such person's junior C
39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule III C
39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule IV C
Code Section Offense Class
39-6-915(a) Furnishing intoxicating liquor which causes death (voluntary manslaughter) C
39-6-915(b) Furnishing intoxicating liquor which causes paralysis or impairment of sight C
39-6-1138(b) Promoting performances which include sexual conduct by child C
39-6-1138(c) Parents consenting to child's participation in performance which includes sexual conduct C
39-3705 Third degree criminal sexual conduct D
39-1-504 Attempt to destroy property by fire bomb D
39-1-604(a) Conspiracy to commit felony on person of another D
39-1-604 Conspiracy to indict or prosecute innocent person for felony D
39-1-605 Conspiracy to commit offense against state or violate election laws D
39-1-606 Conspiracy to destroy property D
39-1-608 Conspiracy to commit arson D
39-1-609 Conspiracy to commit illegal act capable of destroying property by possession, use or transportation of explosives D
39-1-613 Conspiracy to use fire bomb D
39-2-104 Assault with intent to commit robbery D
39-2-701 Threats for purpose of extortion or obtaining action D
39-2-702 Use of intimidation or coercion to influence state official D
39-2-707 Night riders using intimidation to prevent disposal of farm products D
39-2-708 Night riders using intimidation to compel dismissal of laborers D
39-2-709 Inciting or conspiring to commit offense under § 39-2-707 or § 39-2-708 D
39-2-710 Burning of cross or religious symbol D
39-3-125 Stealing livestock D
39-3-129 Receiving stolen livestock D
39-3-204 Setting fire to any material or thing with intent to burn building or other thing D
39-3-402 Breaking after entry into dwelling D

39-3-404 Burglary of business D
39-3-505 Misuse of credit card over $200 D
39-3-506 Misrepresentation of amount of money, goods, and services furnished on credit card where difference exceeds $100 D
39-3-512 Obtaining goods, property or services by false or fraudulent use of credit card over $200 D
39-3-607 Interference with E.F.T.S. system D
39-3-703(a) Malicious injury to structures with explosives D
39-3-901 Obtaining property by false pretense over $200 D
39-3-902 Receiving property obtained under false pretense over $200 D
39-3-906 Fraudulent breach of trust by disposition of collateral or proceeds under security agreement over $200 D
39-3-907 Fraudulent breach of trust over $200 D
39-3-927(a) Disposal of consumer goods subject to UCC security interest over $200 D
39-3-927(b) Disposal of property covered by mortgage or trust deed over $200 D
39-3-932 Destruction or concealment of public records over $200 D
39-3-946 False personation to obtain property over $200 D
39-3-1104 Grand larceny D
39-3-1106 Larceny from the person D
39-3-1107 Feloniously stealing or taking by robbery any public records or valuable papers D
39-3-1109 Corruptly stealing, withdrawing or avoiding public papers D
39-3-1111 Severing and carrying away fixtures, products or minerals from land over $200 D
39-3-1112 Receiving stolen goods valued over $200 D
39-3-1114 Receiving personal property stolen out of state over $200 D
39-3-1115 Bringing stolen property into state over $200 D
39-3-1116 Receiving stolen public records or valuable papers D
39-3-1117 Wrongful appropriation of property found over $200 D
39-3-1118 Appropriation of property by person having custody over $200 D
Code Section Offense Class
39-3-1119 Contract of bailment or agency to make wrongful appropriation over $200 D
39-3-1120 Conversion of trust fund by executor, administrator, guardian or trustee over $200 D
39-3-1121 Embezzlement by private officer, clerk or employee over $200 D
39-3-1123 Receiving embezzled property over $200 D
39-3-1132 Transfer of recorded devices or manufacture or distribution without consent of owner (second offense) D
39-3-1404(b) Intentionally damaging or destroying computer system D
39-3-1404(c) Concealing proceeds of computer crime D
39-4-206 Failure to preserve life of infant prematurely born alive during abortion D
39-5-104 Peace officer or state, county or municipal employee accepting bribe D
39-6-211 Destruction of steamboat of value over $500 D
39-6-417(a)(1)(C) Manufacture, delivery or sale of Schedule III controlled substance D
39-6-417(a)(1)(D) Manufacture, delivery or sale of Schedule IV controlled substance D
39-6-418 Person over 18 distributing Schedule V controlled substances to person under 18 who is 3 years such person’s junior D

39-6-418 Person over 18 distributing Schedule VI controlled substance to person under 18 who is 3 years such person's junior D
39-6-418 Person over 18 distributing Schedule VII controlled substance to person under 18 who is 3 years such person's junior D
39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule V D
39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule VI D
39-6-419 Second or subsequent conviction for violation of § 39-6-417, Schedule VII D
39-1-307 Accessories after the fact E
39-1-504 Attempt to destroy property by fire bomb E
39-1-506 Attempt to destroy property by placing explosives E
39-1-611 Conspiracy by juvenile 16 or older confined in an institution to commit offenses outlined in § 39-1-110 (assault by juvenile 16 or older confined in institution), § 39-2-344 (participation in riot by juvenile 16 or older confined in an institution) E
39-1-614 Conspiracy to commit sabotage E
39-1-615 Conspiracy to riot E
39-2-102 Assault with intent to commit felony E
39-2-118 Negligence by steamboat operator causing injury E
39-2-223 Involuntary manslaughter E
39-2-605 Statutory rape E
39-2-607 Sexual battery E
39-2-608(b) Assault with intent to commit sexual battery E
39-2-635 Procuring female for prostitution E
39-2-639 Enticing female, previously reputed virtuous, to house of ill fame E
39-3-102 Unlawful killing of horses, cattle, or sheep E
39-3-105 Animal fighting other than cocks E
39-3-203 Setting fire to property other than building or structure E
39-3-206 Maliciously setting a fire on land of another E
39-3-209 Causing fire of personal property by use of fire bomb E
39-3-211 Possession of fire bomb or materials E
39-3-212 Manufacture or disposal of fire bomb E
39-3-301 Knowingly drawing check or order in excess of $100 without sufficient funds E
39-3-306 Employer giving employee check in excess of $100 with fraudulent intent E
39-3-406 Breaking into vehicles E
39-3-408 Carrying burglary tools E
39-3-503 False statement to procure credit card E
39-3-504 Credit card theft or forgery E
39-3-505 Misuse of credit card under $200 E
39-3-506 Misrepresentation of amount of money, goods or services furnished on credit card where difference does not exceed $100 E
Code Section Offense Class
39-3-507 Completion of incomplete credit card or duplication without consent of owner E
39-3-508 Receipt of money, goods or services obtained in violation of credit card laws E
39-3-512 Obtaining goods, property or services by false or fraudulent use

of credit card under $200 E
39-3-603 Making false statements to obtain issuance of debit card E
39-3-604 Debit card offenses under $200 E
39-3-605 Misuse of debit cards under $200 E
39-3-606 Completion of incomplete or duplication of debit card without consent of owner E
39-3-608 Use of stolen cards or illegally possessed debit card E
39-3-609 Misrepresentation of amount of money, goods or services furnished on debit card E
39-3-610 Card holder using card after reporting it stolen or lost E
39-3-703(b) Malicious injury to personal property over $25.00 with explosives E
39-3-706 Unauthorized possession or transportation of explosives E
39-3-710 False or malicious reports of explosives in building or structure E
39-3-711 Convicted felon carrying explosives E
39-3-803 Forging or counterfeiting of instrument or currency E
39-3-804 Transfer of forged paper E
39-3-805 Making counterfeit instrument of fictitious corporation or person E
39-3-806 Affixing fictitious signature to instrument of fictitious corporation or company E
39-3-807 Passing counterfeit bank bill which circulates as currency E
39-3-808 Possession of counterfeit bank bill E
39-3-809 Completing counterfeit bills or instruments E
39-3-810 Altering counterfeit bills or instruments E
39-3-811 Preparation of counterfeit stamp or plate E
39-3-812 Possession of counterfeit stamp or plate E
39-3-813 Making bank paper E
39-3-814 Making or mending paper, molds, or machines used in preparing bank paper E
39-3-815 Counterfeiting coin E
39-3-816 Adulteration of coin E
39-3-817 Possession or passing of counterfeit coin E
39-3-818 Making or concealing counterfeit machine E
39-3-819 Making or possessing adulterated metal for conversion into counterfeit coin E
39-3-901 Obtaining property by false pretense under $200 E
39-3-902 Receiving property obtained under false pretense under $200 E
39-3-906 Fraudulent breach of trust by disposition of collateral proceeds under security agreement under $200 E
39-3-907 Fraudulent breach of trust under $200 E
39-3-913 Selling animal under false representation of pedigree E
39-3-914 Giving false impression of death E
39-3-919(a) Packing foreign objects in cotton or tobacco E
39-3-919(b) Person from adjoining state selling cotton containing foreign objects in this state E
39-3-926(b) Removal from state of personal property subject to UCC security interest E
39-3-926(c) Removal from state of property embraced by mortgage or trust deed E
39-3-926(d) Removal from state of property the title to which is retained under conditional sales contract E
39-3-927(a) Disposal of consumer goods subject to UCC security interest under

$200 E
39-3-927(b) Disposal of property covered by mortgage or trust deed under $200 E
39-3-930 Granting of security interest in personal property without title E
39-3-932 Destruction or concealment of public record under $200 E
39-3-933 Destruction or concealment of will E
Code Section Offense Class
39-3-936 Second or subsequent conviction for possession, sale or transfer of any apparatus for theft of telecommunication service E
39-3-944 Falsification of medical records or hospital bill E
39-3-946 False personation to obtain property under $200 E
39-3-948 False or fraudulent insurance claim E
39-3-949 False entries in books or records with intent to defraud E
39-3-951 Issuing false stock certificates E
39-3-1104 Petit larceny E
39-3-1111 Severing and carrying away fixtures, products or minerals from land under $100 E
39-3-1113 Receiving stolen goods valued under $200 E
39-3-1114 Receiving personal property stolen out of state under $200 E
39-3-1115 Bringing stolen property into state under $200 E
39-3-1117 Wrongful appropriation of property found under $200 E
39-3-1118 Appropriation of property by person having custody under $200 E
39-3-1119 Contract of bailment or agency to make wrongful appropriation under $200 E
39-3-1120 Conversion of trust fund by executor, administrator, guardian or trustee under $200 E
39-3-1121 Embezzlement by private officer, clerk or employee under $200 E
39-3-1123 Receiving embezzled property under $200 E
39-3-1124 Third or subsequent shoplifting conviction E
39-3-1125 Third or subsequent conviction for concealment of unpurchased goods (regardless of value of merchandise concealed) E
39-3-1126 Theft, embezzlement or copying trade secret E
39-3-1132 Transfer of recorded devices or manufacture or distribution without consent of owner E
39-3-1134 Offenses against parking meter E
39-3-1135 Third offense for unauthorized taking, concealing or possession of library material E
39-3-1206 Malicious trespass on farmland E
39-3-1311 Destruction of land or line marks E
39-3-1313 Destruction of tobacco plant bed or other plant beds; aiding and abetting destruction of plant bed E
39-3-1318 Cutting or removing timber from land of another for purpose of marketing E
39-3-1320 Cutting or destroying building or fences on public land E
39-3-1324 Tapping or entering telegraph, telephone, electric light and poles or gas lines E
39-3-1327 Vandalism of houses of worship, graveyards, cemetery and excavation and archaeological sites E
39-3-1404(a) Willfully gaining access to computer system with intent to defraud E
39-4-111 Leaving state after abandoning wife E

39-4-112 Leaving state after abandoning child E
39-4-113 Leaving state after court order for support E
39-4-201 Performance of criminal abortion E
39-4-202 Failure to obtain consent before abortion E
39-4-208 Unlawful research and experimentation upon aborted fetus E
39-4-301 Bigamy E
39-4-304 Marrying husband or wife of another E
39-4-305 Teaching or inducing to practice polygamy E
39-4-307 Begetting child on wife's sister E
39-4-402 Exposing child to inclement weather E
39-5-114 Bribery of or acceptance of bribe in connection with athletic sporting event E
39-5-301 Personating another in judicial proceedings E
39-5-407 State treasurer or other officer receiving interest or reward for deposit of public funds E
39-5-415 Officer having custody of a convicted felon voluntarily permitting escape E
39-5-416 Penitentiary official voluntarily permitting escape E
39-5-420 Corruptly appointing jurors E
Code Section Offense Class
39-5-421 False certification that conveyance of property was proven or acknowledged E
39-5-422 False noting, recording, registering or certifying conveyance of property E
39-5-433 Lobbying members of general assembly E
39-5-434 Absence of legislator for purposes of obstruction of business of general assembly E
39-5-435 Refusal of officer of bank or other corporation to deliver books or other documents to general assembly E
39-5-501 Compounding offense punishable with death or life imprisonment E
39-5-507 Encouraging disruption of communication to police and firefighters E
39-5-509(a) Interference with working of prisoners E
39-5-509(b) Leading mob to interfere with working of prisoners E
39-5-521 Intimidation of juror's family E
39-5-601 Perjury E
39-5-604 Subornation of perjury E
39-5-605 Perjury or subornation of perjury on trial for felony E
39-5-606 Misstatement of facts in an affidavit for parole/pardon E
39-5-701 Rescue of person in lawful custody for felony arrest or conviction E
39-5-702 Escape or attempt to escape from penitentiary E
39-5-703 Aiding and abetting escape or attempt to escape from penitentiary E
39-5-706 Escape or attempt to escape from local jail or workhouse E
39-5-708 Aiding or assisting prisoner to escape from place of confinement E
39-5-711 Aiding inmate of state institution to escape E
39-5-720 Bail jumping in case of felony E
39-5-833 Membership in communist party E
39-5-843 Mutilating or casting contempt on United States or Tennessee flag E
39-5-847 Willful destruction or desecration of United States flag E

39-5-848 Destruction of selective service card E
39-6-108 Offering or giving poisonous treat, candy or gift to another E
39-6-202 Obstruction of or injury to railroad tracks or equipment E
39-6-208 Cutting or taking property of electric railway E
39-6-210 Racing steamboat resulting in accident E
39-6-212 Destruction of steamboat with value under $500 E
39-6-310 Entering campuses, buildings, to incite public disturbance or violence E
39-6-322 Participating in, organizing or inciting to riot E
39-6-323 Interference with officers during riot E
39-6-324 Looting E
39-6-341 Entering school property to participate in riot E
39-6-344 Participation in riot by juvenile 16 or older confined in an institution E
39-6-345 Prisoners rioting or participating in riot E
39-6-417 Third or subsequent conviction for possession of controlled substance without valid prescription E
39-6-417(a)(1)(E) Manufacture, delivery or sale of Schedule V controlled substance E
39-6-417(a)(1)(F) Manufacture, delivery or sale of Schedule VI controlled substance E
39-6-417(a)(1)(G) Manufacture, delivery or sale of Schedule VII controlled substance E
39-6-452 Sale of glue for intoxication E
39-6-454(a) Sale of imitation controlled substance E
39-6-454(b) Manufacture of imitation controlled substance E
39-6-608 Professional gambling E
39-6-613 Keeping room or table for certain gambling E
39-6-622 Keeping place for betting on horse race E
39-6-626 Promoting prostitution E
39-6-635 Illegally transporting pinball machine into state after 6/30/80 E
39-6-701 Destruction of cemetery monument or marker E
39-6-702 Improper disposition of dead human body E
Code Section Offense Class
39-6-705 Removal or disinterment of dead human body for purpose of sale E
39-6-904 Second or subsequent violation of § 39-6-902 (unlawful sale of alcoholic beverages) and § 39-6-903 (unlawful sale of intoxicating bitters) E
39-6-908 Transportation of intoxicating liquors by common carrier (individual) E
39-6-909 Personal transportation of intoxicating liquors E
39-6-921 Second or subsequent conviction of unlawful storage of liquor for sale E
39-6-1104 Third or subsequent conviction for importing, preparing, distributing, possessing or appearing in obscene material E
39-6-1139 Solicitation of person to massage or expose erogenous area for compensation or permitting such solicitation E
39-6-1504 Filing fraudulent solicitation statement with secretary of state E
39-6-1522 Unauthorized interstate solicitation for police, judicial or safety association E
39-6-1609 Cutting or causing break in levee E
39-6-1713 Manufacture, possession or sale of sawed-off shotgun, sawed-off rifle or machine gun E

39-6-1716 Convicted felon carrying a firearm E
39-6-1717 Carrying dangerous weapon into establishment licensed to sell alcoholic beverages E
39-6-1718 Possession of deadly weapon on school grounds E
39-6-1719 Sale or possession of exploding bullets E

TENN. CODE ANN. § 40-35-120 (2010). Repeat violent offenders -- "Three strikes".

(a) A "repeat violent offender" is a defendant who:

(1) Is convicted in this state on or after July 1, 1994, of any offense classified in subdivision (b)(1) as a violent offense; and

(2) Has at least two (2) prior convictions for offenses classified in subdivision (b)(1) or (b)(2) as a violent offense; or

(3) Is convicted in this state on or after July 1, 1994, of any offense classified in subdivision (c)(1) as a violent offense; and

(4) Has at least one (1) conviction for an offense classified in subdivision (c)(1) or (c)(2) as a violent offense; or

(5) Is convicted in this state on or after July 1, 1995, of any offense classified in subdivision (d)(1) as a violent offense; and

(6) Has at least one (1) prior conviction for an offense classified in subdivision (d)(1) or (d)(2) as a violent offense with the exception of the prior offense of robbery by use of a deadly weapon as listed in § 40-35-118.

(b) (1) For purposes of subdivisions (a)(1) and (a)(2), the following offenses are classified as violent offenses:

(A) First degree murder, including any attempt, solicitation, or facilitation to commit first degree murder;

(B) Second degree murder and any attempt or facilitation to commit second degree murder;

(C) Especially aggravated kidnapping and any attempt or facilitation to commit especially aggravated kidnapping;

(D) Especially aggravated robbery and any attempt or facilitation to commit especially aggravated robbery;

(E) Aggravated rape and any attempt or facilitation to commit aggravated rape;

(F) Rape of a child and any attempt or facilitation to commit rape of a child;

(G) Aggravated arson and any attempt or facilitation to commit aggravated arson;

(H) Aggravated kidnapping;

(I) Aggravated robbery;

(J) Rape;

(K) Aggravated sexual battery;

(L) Especially aggravated burglary;

(M) Aggravated child abuse;

(N) Aggravated sexual exploitation of minor; or

(O) Especially aggravated sexual exploitation of a minor.

(2) For purposes of subdivision (a)(2), the offenses which were repealed on November 1, 1989, and are listed in § 40-35-118 as Class A or B felonies against a person are classified as violent offenses.

(c) (1) For purposes of subdivisions (a)(3) and (a)(4), the following offenses are classified as violent offenses:

(A) First degree murder including any attempt, solicitation, or facilitation to commit first degree murder;

(B) Second degree murder;

(C) Especially aggravated kidnapping;

(D) Especially aggravated robbery;

(E) Aggravated rape;

(F) Rape of a child; or

(G) Aggravated arson.

(2) For purposes of subdivision (a)(4), the offenses which were repealed on November 1, 1989, and are listed in § 40-35-118 as Class A felonies against a person are classified as violent offenses.

(d) (1) For purposes of subdivisions (a)(5) and (a)(6), the following offenses are classified as violent offenses:

(A) First degree murder;

(B) Second degree murder;

(C) Especially aggravated kidnapping;

(D) Especially aggravated robbery;

(E) Aggravated rape;

(F) Rape of a child;

(G) Aggravated arson;

(H) Aggravated kidnapping;

(I) Rape;

(J) Aggravated sexual battery;

(K) Especially aggravated burglary;

(L) Aggravated child abuse;

(M) Aggravated sexual exploitation of a minor; or

(N) Especially aggravated sexual exploitation of a minor.

(2) For purposes of subdivision (a)(6), the offenses which were repealed on November 1, 1989, and are listed in § 40-35-118 as Class A or B felonies against a person, with the exception of the offense of robbery by use of a deadly weapon, are classified as violent offenses.

(e) In determining the number of prior convictions a defendant has received:

(1) "Prior conviction" means a defendant serves and is released from a period of incarceration for the commission of an offense or offenses so that a defendant must:

(A) To qualify under subdivision (a)(1) and (a)(2), have served two (2) separate periods of incarceration for the commission of at least two (2) of the predicate offenses designated in subdivision (b)(1) or (b)(2) before committing an offense designated in subdivision (b)(1);

(B) To qualify under subdivision (a)(3) and (a)(4), at least one (1) separate period of incarceration for the commission of a predicate offense designated in subdivision (c)(1) or (c)(2) before committing an offense designated in subdivision (c)(1); or

(C) To qualify under subdivision (a)(5) and (a)(6), at least one (1) separate period of incarceration for the commission of a predicate offense designated in subdivision (d)(1) or (d)(2), with the exception of the prior offense of robbery by use of a deadly weapon as listed in § 40-35-118, before committing an offense designated in subdivision (d)(1);

(2) "Separate period of incarceration" includes a sentence to a community correction program pursuant to chapter 36 of this title, a sentence to split confinement pursuant to § 40-35-306, or a sentence to a periodic confinement pursuant to § 40-35-307. Any offense designated as a violent offense pursuant to subsection (b), (c) or (d) that is committed while incarcerated or committed while the prisoner is assigned to a program whereby the prisoner enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational

release, restitution release, medical furlough or that is committed while on escape status from any correctional institution shall be considered as a separate period of incarceration; and

(3) A finding or adjudication that a defendant committed an act as a juvenile that is designated a predicate offense under subsection (b), (c) or (d) if committed by an adult, and which resulted in a transfer of the juvenile to criminal court pursuant to § 37-1-134, or similar statutes of other states or jurisdictions, shall not be considered a prior conviction for the purposes of this section unless the juvenile was convicted of the predicate offense in a criminal court and sentenced to confinement in the department of correction; and

(4) "Prior convictions" include convictions under the laws of any other state, government or country which, if committed in this state, would have constituted a predicate offense in subsection (b), (c) or (d) if there are separate periods of incarceration in the other state as required by subdivision (e)(1). If a felony from a jurisdiction other than Tennessee is not a named predicate offense specified in subsection (b), (c) or (d) in this state, and if the elements of the felony are the same as a designated predicate offense, it shall be considered a prior conviction; provided, that there are separate periods of incarceration in the other state as required in subdivision (e)(1).

(f) The court shall refuse to accept a plea agreement that fails to recommend that a defendant with a sufficient number of designated prior convictions be sentenced as a repeat violent offender. If the judge refuses to accept the plea agreement, this does not prevent the district attorney general in accordance with Rule 7 of the Tennessee Rules of Criminal Procedure from amending the indicted offense to an offense that is not designated as a violent offense in subsection (b) or (c).

(g) The court shall sentence a defendant who has been convicted of any offense listed in subdivision (b)(1), (c)(1) or (d)(1) to imprisonment for life without possibility of parole if the court finds beyond a reasonable doubt that the defendant is a repeat violent offender as defined in subsection (a).

(h) The finding that a defendant is or is not a repeat violent offender is appealable by either party.

(i) (1) A charge as a repeat violent offender shall be tried within one hundred eighty (180) days of the arraignment on the indictment pursuant to Rule 10 of the Rules of Criminal Procedure unless delay is caused by:

(A) The defendant;

(B) An examination for competency;

(C) A competency hearing;

(D) An adjudication of incompetency for trial;

(E) A continuance allowed after a court's determination of the defendant's physical incapacity for a trial; or

(F) An interlocutory appeal.

A continuance may be granted to any party, including the court, for good cause shown.

(2) The district attorney general shall file a statement with the court and the defense counsel within forty-five (45) days of the arraignment pursuant to Rule 10 of the Rules of Criminal Procedure that the defendant is a repeat violent offender. The statement, which shall not be made known to the jury determining the guilt or innocence of the defendant, shall set forth the dates of the prior periods of incarceration, as well as the nature of the prior conviction offenses. If the notice is not filed within forty-five (45) days of the arraignment, the defendant shall be granted a continuance so that the defendant will have forty-five (45) days between receipt of notice and trial.

(3) Failure to comply with this subsection (i) does not require release of a person from custody or a dismissal of charges.

TENN. CODE ANN. § 40-39-201 (2010). Short title -- Legislative findings.

(a) This part shall be known as and may be cited as the "Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification, and Tracking Act of 2004."

(b) The general assembly finds and declares that:

(1) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are violent sexual offenders who present an extreme threat to the public safety. Sexual offenders pose a high risk of engaging in further offenses after release from incarceration or commitment, and protection of the public from these offenders is of paramount public interest;

(2) It is a compelling and necessary public interest that the public have information concerning persons convicted of sexual offenses collected pursuant to this part, to allow members of the public to adequately protect themselves and their children from these persons;

(3) Persons convicted of these sexual offenses have a reduced expectation of privacy because of the public's interest in public safety;

(4) In balancing the sexual offender's and violent sexual offender's due process and other rights against the interests of public security, the general assembly finds that releasing information about offenders under the circumstances specified in this part will further the primary governmental interest of protecting vulnerable populations from potential harm;

(5) The registration of offenders, utilizing complete and accurate information, along with the public release of specified information concerning offenders, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems that deal with these offenders;

(6) To protect the safety and general welfare of the people of this state, it is necessary to provide for continued registration of offenders and for the public release of specified information regarding offenders. This policy of authorizing the release of necessary and relevant information about offenders to members of the general public is a means of assuring public protection and shall not be construed as punitive;

(7) The offender is subject to specified terms and conditions that are implemented at sentencing, or, at the time of release from incarceration, that require that those who are financially able must pay specified administrative costs to the appropriate registering agency, which shall retain one hundred dollars ($100) of these costs for the administration of this part and shall be reserved for the purposes authorized by this part at the end of each fiscal year, with the remaining fifty dollars ($50.00) of fees to be remitted to the Tennessee bureau of investigation's sex offender registry; and

(8) The general assembly also declares, however, that in making information about certain offenders available to the public, the general assembly does not intend that the information be used to inflict retribution or additional punishment on those offenders.

TENN. CODE ANN. § 40-39-202 (2010). Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Board" means the board of probation and parole;

(2) "Conviction" means a judgment entered by a Tennessee court upon a plea of guilty, a plea of nolo contendere, a finding of guilt by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. "Conviction" includes, but is not limited to, a conviction by a federal court or military tribunal, including a court-martial conducted by the armed forces of the United States, and a conviction, whether upon a plea of guilty, a plea of nolo contendere, or a finding of guilt by a jury or the court, in any other state of the United States, other jurisdiction or other country. A conviction, whether upon a plea of guilty, a plea of nolo contendere or a finding of guilt by a jury or the court, for an offense committed in another jurisdiction that would be classified as a sexual offense or a violent sexual offense, if committed in this state, shall be considered a conviction for the purposes of this part. "Convictions," for the purposes of this part, also include a plea taken in conjunction with § 40-35-313 or its equivalent in any other jurisdiction;

(3) "Designated law enforcement agency" means any law enforcement agency that has jurisdiction over the primary or secondary residence, place of physical presence, place of employment, school or institution of higher education where the student is enrolled or, for offenders on supervised probation or parole, the board or court ordered probation officer;

(4) "Employed or practices a vocation" means any full-time or part-time employment in the state, with or without compensation, or employment that involves counseling, coaching, teaching, supervising, volunteering or working with minors in any way, regardless of the period of employment, whether the employment is financially compensated, volunteered or performed for the purpose of any government or education benefit;

(5) "Institution of higher education" means a public or private:

(A) Community college;

(B) College;

(C) University; or

(D) Independent postsecondary institution;

(6) "Law enforcement agency of any institution of higher education" means any campus law enforcement arrangement authorized by § 49-7-118;

(7) "Local law enforcement agency" means:

(A) Within the territory of a municipality, the municipal police department;

(B) Within the territory of a county having a metropolitan form of government, the metropolitan police department; or

(C) Within the unincorporated territory of a county, the sheriff's office;

(8) "Minor" means any person under eighteen (18) years of age;

(9) "Month" means a calendar month;

(10) "Offender" means both sexual offender and violent sexual offender, unless otherwise designated. An offender who qualifies both as a sexual offender and a violent sexual offender shall be considered a violent sexual offender;

(11) "Parent" means any biological parent, adoptive parent, or step-parent, and includes any legal or court-appointed guardian or custodian; however, "parent" shall not include step-parent if the offender's victim was a minor less than thirteen (13) years of age;

(12) "Primary residence" means a place where the person abides, lodges, resides or establishes any other living accommodations in this state for five (5) consecutive days;

(13) "Register" means the initial registration of a sexual or violent sexual offender, or the re-registration of a sexual offender or violent sexual offender after deletion or termination from the SOR;

(14) "Registering agency" means a sheriff's office, municipal police department, metropolitan police department, campus law enforcement agency, the Tennessee department of correction, a private contractor with the Tennessee department of correction or the board;

(15) "Relevant information deemed necessary to protect the public" means that information set forth in § 40-39-206(e)(1)-(13);

(16) "Report" means appearance before the proper designated law enforcement agency for any of the purposes set out in this part;

(17) "Resident" means any person who abides, lodges, resides or establishes any other living accommodations in this state, including establishing a physical presence in this state;

(18) "Secondary residence" means a place where the person abides, lodges, resides or establishes any other living accommodations in this state for a period of fourteen (14) or more days in the aggregate during any calendar year and that is not the person's primary residence; for a person whose primary residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for a period of fourteen (14) or more days in the

aggregate during any calendar year; or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and that is not the person's primary residence, including any out-of-state address;

(19) "Sexual offender" means a person who has been convicted in this state of committing a sexual offense or has another qualifying conviction;

(20) "Sexual offense" means:

(A) The commission of any act that, on or after November 1, 1989, constitutes the criminal offense of:

(i) Sexual battery, under § 39-13-505;

(ii) Statutory rape, under § 39-13-506, if the defendant has one (1) or more prior convictions for mitigated statutory rape under § 39-13-506(a), statutory rape under § 39-13-506(b) or aggravated statutory rape under § 39-13-506(c);

(iii) Aggravated prostitution, under § 39-13-516;

(iv) Sexual exploitation of a minor, under § 39-17-1003;

(v) False imprisonment where the victim is a minor, under § 39-13-302, except when committed by a parent of the minor;

(vi) Kidnapping, under § 39-13-303, except when committed by a parent of the minor;

(vii) Indecent exposure, under § 39-13-511, upon a third or subsequent conviction;

(viii) Solicitation of a minor, under § 39-13-528 when the offense is classified as a Class D felony, Class E felony, or a misdemeanor;

(ix) Spousal sexual battery, for those committing the offense prior to June 18, 2005, under former § 39-13-507 [repealed];

(x) Attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (20)(A);

(xi) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (20)(A);

(xii) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (20)(A);

(xiii) Criminal responsibility, under § 39-11-402(2), to commit any of the offenses enumerated in this subdivision (20)(A);

(xiv) Facilitating the commission, under § 39-11-403, to commit any of the offenses enumerated in this subdivision (20)(A);

(xv) Being an accessory after the fact, under § 39-11-411, to commit any of the offenses enumerated in this subdivision (20)(A);

(xvi) Aggravated statutory rape, under § 39-13-506(c); or

(xvii) Exploitation of a minor by electronic means, under § 39-13-529; or

(B) The commission of any act, that prior to November 1, 1989, constituted the criminal offense of:

(i) Sexual battery, under § 39-2-607 [repealed];

(ii) Statutory rape, under § 39-2-605 [repealed], only if the facts of the conviction satisfy the definition of aggravated statutory rape;

(iii) Assault with intent to commit rape or attempt to commit sexual battery, under § 39-2-608 [repealed];

(iv) Incest, under § 39-4-306 [repealed];

(v) Use of a minor for obscene purposes, under § 39-6-1137 [repealed];

(vi) Promotion of performance including sexual conduct by a minor, under § 39-6-1138 [repealed];

(vii) Criminal sexual conduct in the first degree, under § 39-3703 [repealed];

(viii) Criminal sexual conduct in the second degree, under § 39-3704 [repealed];

(ix) Criminal sexual conduct in the third degree, under § 39-3705 [repealed];

(x) Kidnapping where the victim is a minor, under § 39-2-303 [repealed], except when committed by a parent of the minor;

(xi) Solicitation, under § 39-1-401 [repealed] or § 39-118(b) [repealed], to commit any of the offenses enumerated in this subdivision (20)(B);

(xii) Attempt, under § 39-1-501 [repealed], § 39-605 [repealed], or § 39-606 [repealed], to commit any of the offenses enumerated in this subdivision (20)(B);

(xiii) Conspiracy, under § 39-1-601 [repealed] or § 39-1104 [repealed], to commit any of the offenses enumerated in this subdivision (20)(B); or

(xiv) Accessory before or after the fact, or aider and abettor, under title 39, chapter 1, part 3 [repealed], to any of the offenses enumerated in this subdivision (20)(B);

(21) "SOR" means the TBI's centralized record system of offender registration, verification and tracking information;

(22) "Student" means a person who is enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher learning;

(23) "TBI" means the Tennessee bureau of investigation;

(24) "TBI registration form" means the Tennessee sexual offender registration, verification and tracking form;

(25) "TDOC" means the Tennessee department of correction;

(26) "TIES" means the Tennessee information enforcement system;

(27) "Violent sexual offender" means a person who has been convicted in this state of committing a violent sexual offense or has another qualifying conviction;

(28) "Violent sexual offense" means the commission of any act that constitutes the criminal offense of:

(A) Aggravated rape, under § 39-2-603 [repealed] or § 39-13-502;

(B) Rape, under § 39-2-604 [repealed] or § 39-13-503;

(C) Aggravated sexual battery, under § 39-2-606 [repealed] or § 39-13-504;

(D) Rape of a child, under § 39-13-522;

(E) Attempt to commit rape, under § 39-2-608 [repealed];

(F) Aggravated sexual exploitation of a minor, under § 39-17-1004;

(G) Especially aggravated sexual exploitation of a minor under § 39-17-1005;

(H) Aggravated kidnapping where the victim is a minor, under § 39-13-304, except when committed by a parent of the minor;

(I) Especially aggravated kidnapping where the victim is a minor, under § 39-13-305, except when committed by a parent of the minor;

(J) Sexual battery by an authority figure, under § 39-13-527;

(K) Solicitation of a minor, under § 39-13-528 when the offense is classified as a Class B or Class C felony;

(L) Spousal rape, under § 39-13-507(b)(1) [repealed];

(M) Aggravated spousal rape, under § 39-13-507(c)(1) [repealed];

(N) Criminal exposure to HIV, under § 39-13-109(a)(1);

(O) Statutory rape by an authority figure, under § 39-13-532;

(P) Criminal attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (28);

(Q) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (28);

(R) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (28);

(S) Criminal responsibility, under § 39-11-402(2), to commit any of the offenses enumerated in this subdivision (28);

(T) Facilitating the commission, under § 39-11-403, to commit any of the offenses enumerated in this subdivision (28);

(U) Being an accessory after the fact, under § 39-11-411, to commit any of the offenses enumerated in this subdivision (28);

(V) Incest, under § 39-15-302; or

(W) Aggravated rape of a child under § 39-13-531; and

(29) "Within forty-eight (48) hours" means a continuous forty-eight hour period, not including Saturdays, Sundays, or federal or state holidays.

TEXAS

TEX. CODE CRIM. PROC. ANN. § 42.037 (2010). Restitution.

(a) In addition to any fine authorized by law, the court that sentences a defendant convicted of an offense may order the defendant to make restitution to any victim of the offense or to the compensation to victims of crime fund established under Subchapter B, Chapter 56, to the extent that fund has paid compensation to or on behalf of the victim. If the court does not order restitution or orders partial restitution under this subsection, the court shall state on the record the reasons for not making the order or for the limited order.

(b) (1) If the offense results in damage to or loss or destruction of property of a victim of the offense, the court may order the defendant:

(A) to return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property is impossible or impractical or is an inadequate remedy, to pay an amount equal to the greater of:

(i) the value of the property on the date of the damage, loss, or destruction; or

(ii) the value of the property on the date of sentencing, less the value of any part of the property that is returned on the date the property is returned.

(2) If the offense results in personal injury to a victim, the court may order the defendant to make restitution to:

(A) the victim for any expenses incurred by the victim as a result of the offense; or

(B) the compensation to victims of crime fund to the extent that fund has paid compensation to or on behalf of the victim.

(3) If the victim or the victim's estate consents, the court may, in addition to an order under Subdivision (2), order the defendant to make restitution by performing services instead of by paying money or make restitution to a person or organization, other than the compensation to victims of crime fund, designated by the victim or the estate.

(c) The court, in determining whether to order restitution and the amount of restitution, shall consider:

(1) the amount of the loss sustained by any victim and the amount paid to or on behalf of the victim by the compensation to victims of crime fund as a result of the offense; and

(2) other factors the court deems appropriate.

(d) If the court orders restitution under this article and the victim is deceased the court shall order the defendant to make restitution to the victim's estate.

(e) The court shall impose an order of restitution that is as fair as possible to the victim or to the compensation to victims of crime fund, as applicable. The imposition of the order may not unduly complicate or prolong the sentencing process.

(f) (1) The court may not order restitution for a loss for which the victim has received or will receive compensation only from a source other than the compensation to victims of crime fund. The court may, in the interest of justice, order restitution to any person who has compensated the victim for the loss to the extent the person paid compensation. An order of restitution shall require that all restitution to a victim or to the compensation to victims of crime fund be made before any restitution to any other person is made under the order.

(2) Any amount recovered by a victim from a person ordered to pay restitution in a federal or state civil proceeding is reduced by any amount previously paid to the victim by the person under an order of restitution.

(g) (1) The court may require a defendant to make restitution under this article within a specified period or in specified installments. If the court requires the defendant to make restitution in specified installments, in addition to the installment payments, the court may require the defendant to pay a one-time restitution fee of $ 12, $ 6 of which the court shall retain for costs incurred in collecting the specified installments and $ 6 of which the court shall order to be paid to the compensation to victims of crime fund.

(2) The end of the period or the last installment may not be later than:

(A) the end of the period of probation, if probation is ordered;

(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; or

(C) five years after the date of sentencing in any other case.

(3) If the court does not provide otherwise, the defendant shall make restitution immediately.

(4) Except as provided by Subsection (n), the order of restitution must require the defendant to: (i) make restitution directly to the person or agency that will accept and forward restitution payments to the victim or other person eligible for restitution under this article, including the compensation to victims of crime fund; (ii) make restitution directly to the victim or other person eligible for restitution under this article, including the compensation to victims of crime fund; or (iii) deliver the amount or property due as restitution to a community supervision and corrections department for transfer to the victim or person.

(h) If a defendant is placed on community supervision or is paroled or released on mandatory supervision, the court or the parole panel shall order the payment of restitution ordered under this article as a condition of community supervision, parole, or mandatory supervision. The court may revoke community supervision and the parole panel may revoke parole or mandatory supervision if the defendant fails to comply with the order. In determining whether to revoke community supervision, parole, or mandatory supervision, the court or parole panel shall consider:

(1) the defendant's employment status;

(2) the defendant's current and future earning ability;

(3) the defendant's current and future financial resources;

(4) the willfulness of the defendant's failure to pay;

(5) any other special circumstances that may affect the defendant's ability to pay; and

(6) the victim's financial resources or ability to pay expenses incurred by the victim as a result of the offense.

(i) In addition to any other terms and conditions of probation imposed under Article 42.12, the court may require a probationer to reimburse the compensation to victims of crime fund created under Subchapter B, Chapter 56, for any amounts paid from that fund to or on behalf of a victim of the probationer's offense. In this subsection, "victim" has the meaning assigned by Article 56.32.

(j) The court may order a community supervision and corrections department to obtain information pertaining to the factors listed in Subsection (c) of this article. The probation officer shall include the information in the report required under Section 9(a), Article 42.12, of this code or a separate report, as the court directs. The court shall permit the defendant and the prosecuting attorney to read the report.

(k) The court shall resolve any dispute relating to the proper amount or type of restitution. The standard of proof is a preponderance of the evidence. The burden of demonstrating the amount of

the loss sustained by a victim as a result of the offense is on the prosecuting attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and the defendant's dependents is on the defendant. The burden of demonstrating other matters as the court deems appropriate is on the party designated by the court as justice requires.

(l) Conviction of a defendant for an offense involving the act giving rise to restitution under this article estops the defendant from denying the essential allegations of that offense in any subsequent federal civil proceeding or state civil proceeding brought by the victim, to the extent consistent with state law.

(m) An order of restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

(n) If a defendant is convicted of or receives deferred adjudication for an offense under Section 25.05, Penal Code, if the child support order on which prosecution of the offense was based required the defendant to pay the support to a local registry or the Title IV-D agency, and if the court orders restitution under this article, the order of restitution must require the defendant to pay the child support in the following manner:

(1) during any period in which the defendant is under the supervision of a community supervision and corrections department, to the department for transfer to the local registry or Title IV-D agency designated as the place of payment in the child support order; and

(2) during any period in which the defendant is not under the supervision of a department, directly to the registry or agency described by Subdivision (1).

(o) The department may waive a supervision fee or an administrative fee imposed on an inmate under Section 508.182, Government Code, during any period in which the inmate is required to pay restitution under this article.

(p) (1) A court shall order a defendant convicted of an offense under Section 28.03(f), Penal Code, involving damage or destruction inflicted on a place of human burial or under Section 42.08, Penal Code, to make restitution in the amount described by Subsection (b)(1)(B) to a cemetery organization operating a cemetery affected by the commission of the offense.

(2) If a court orders an unemancipated minor to make restitution under Subsection (a) and the minor is financially unable to make the restitution, the court may order:

(A) the minor to perform a specific number of hours of community service to satisfy the restitution; or

(B) the parents or other person responsible for the minor's support to make the restitution in the amount described by Subsection (b)(1)(B).

(3) In this subsection, "cemetery" and "cemetery organization" have the meanings assigned by Section 711.001, Health and Safety Code.

(q) The court shall order a defendant convicted of an offense under Section 22.11, Penal Code, to make restitution to the victim of the offense or the victim's employer in an amount equal to the sum of any expenses incurred by the victim or employer to:

(1) test the victim for HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code; or

(2) treat the victim for HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code, the victim contracts as a result of the offense.

(r) [Reserved.]

(s) (1) A court shall order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution by:

(A) reimbursing the owner of the property for the cost of restoring the property; or

(B) with the consent of the owner of the property, personally restoring the property by removing or painting over any markings the defendant made.

(2) A court shall order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution to a political subdivision that owns public property or erects a street sign or official traffic-control device on which the defendant makes markings in violation of Section 28.08, Penal Code, by:

(A) paying an amount equal to the lesser of the cost to the political subdivision of replacing or restoring the public property, street sign, or official traffic-control device; or

(B) with the consent of the political subdivision, restoring the public property, street sign, or official traffic-control device by removing or painting over any markings made by the defendant on the property, sign, or device.

(3) If the court orders a defendant to make restitution under this subsection and the defendant is financially unable to make the restitution, the court may order the defendant to perform a specific number of hours of community service to satisfy the restitution.

(4) Notwithstanding Subsection (g)(4), a court shall direct a defendant ordered to make restitution under this subsection as a condition of community supervision to deliver the amount or property due as restitution to the defendant's supervising officer for transfer to the owner. A parole panel shall direct a defendant ordered to make restitution under this subsection as a condition of parole or mandatory supervision to deliver the amount or property due as restitution to the defendant's supervising officer. The defendant's supervising officer shall notify the court when the defendant has delivered the full amount of restitution ordered.

(5) For purposes of this subsection, "official traffic-control device" has the meaning assigned by Section 541.304, Transportation Code.

TEX. CODE CRIM. PROC. ANN. § 42.0371 (2010). Mandatory Restitution for Kidnapped or Abducted Children.

(a) The court shall order a defendant convicted of an offense under Chapter 20, Penal Code, or Section 25.03, 25.031, or 25.04, Penal Code, to pay restitution in an amount equal to the cost of

necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for the victim of the offense if the victim is younger than 17 years of age.

(b) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (a) the manner in which the defendant must pay the restitution.

(c) A restitution order issued under Subsection (a) may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

(d) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (a) if the defendant fails to pay the victim named in the order in the manner specified by the court.

TEX. CODE CRIM. PROC. ANN. § 42.151 (2010). Fees for Abused Children's Counseling.

If a court orders a defendant to pay a fee under Article 37.072 of this code, the court shall assess the fee against the defendant in the same manner as other costs of prosecution are assessed against a defendant. The court may direct a defendant:

(1) to pay the entire fee when sentence is pronounced;

(2) to pay the entire fee at some later date; or

(3) to pay a specified portion of the fee at designated intervals.

TEX. CODE CRIM. PROC. ANN. § 62.001 (2010). Definitions.

In this chapter:

(1) "Department" means the Department of Public Safety.

(2) "Local law enforcement authority" means, as applicable, the chief of police of a municipality, the sheriff of a county in this state, or a centralized registration authority.

(3) "Penal institution" means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Youth Commission, or a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county jail.

(4) "Released" means discharged, paroled, placed in a nonsecure community program for juvenile offenders, or placed on juvenile probation, community supervision, or mandatory supervision.

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A) a violation of Section 21.02 (Continuous sexual abuse of young child or children), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), or (E);

(H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), (G), or (J), but not if the violation results in a deferred adjudication;

(I) the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication; or

(J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code.

(6) "Sexually violent offense" means any of the following offenses committed by a person 17 years of age or older:

(A) an offense under Section 21.02 (Continuous sexual abuse of young child or children), 21.11(a)(1) (Indecency with a child), 22.011 (Sexual assault), or 22.021 (Aggravated sexual assault), Penal Code;

(B) an offense under Section 43.25 (Sexual performance by a child), Penal Code;

(C) an offense under Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually;

(D) an offense under Section 30.02 (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit a felony listed in Paragraph (A) or (C) of Subdivision (5); or

(E) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice if the offense contains elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), or (D).

(7) "Residence" includes a residence established in this state by a person described by Article 62.152(e).

(8) "Public or private institution of higher education" includes a college, university, community college, or technical or trade institute.

(9) "Authority for campus security" means the authority with primary law enforcement jurisdiction over property under the control of a public or private institution of higher education, other than a local law enforcement authority.

(10) "Extrajurisdictional registrant" means a person who:

(A) is required to register as a sex offender under:

(i) the laws of another state with which the department has entered into a reciprocal registration agreement;

(ii) federal law or the Uniform Code of Military Justice; or

(iii) the laws of a foreign country; and

(B) is not otherwise required to register under this chapter because:

(i) the person does not have a reportable conviction for an offense under the laws of the other state, federal law, the laws of the foreign country, or the Uniform Code of Military Justice containing elements that are substantially similar to the elements of an offense requiring registration under this chapter; or

(ii) the person does not have a reportable adjudication of delinquent conduct based on a violation of an offense under the laws of the other state, federal law, or the laws of the foreign country containing elements that are substantially similar to the elements of an offense requiring registration under this chapter.

(11) [2 Versions: As added by Acts 2009, 81st Leg., ch. 566] "Centralized registration authority" means a mandatory countywide registration location designated under Article 62.0045.

(11) [2 Versions: As added by Acts 2009, 81st Leg., ch. 755] "Online identifier" means electronic mail address information or a name used by a person when sending or receiving an instant message, social networking communication, or similar Internet communication or when

participating in an Internet chat. The term includes an assumed name, nickname, pseudonym, moniker, or user name established by a person for use in connection with an electronic mail address, chat or instant chat room platform, commercial social networking site, or online picture-sharing service.

TEX. PENAL CODE ANN. § 12.21 (2010). Class A Misdemeanor.

An individual adjudged guilty of a Class A misdemeanor shall be punished by:

(1) a fine not to exceed $ 4,000;

(2) confinement in jail for a term not to exceed one year; or

(3) both such fine and confinement.

TEX. PENAL CODE ANN. § 12.22 (2010). Class B Misdemeanor.

An individual adjudged guilty of a Class B misdemeanor shall be punished by:

(1) a fine not to exceed $ 2,000;

(2) confinement in jail for a term not to exceed 180 days; or

(3) both such fine and confinement.

TEX. PENAL CODE ANN. § 12.23 (2010). Class C Misdemeanor.

An individual adjudged guilty of a Class C misdemeanor shall be punished by a fine not to exceed $ 500.

TEX. PENAL CODE ANN. § 12.32 (2010). First Degree Felony Punishment.

(a) An individual adjudged guilty of a felony of the first degree shall be punished by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the first degree may be punished by a fine not to exceed $ 10,000.

TEX. PENAL CODE ANN. § 12.33 (2010). Second Degree Felony Punishment.

(a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the second degree may be punished by a fine not to exceed $ 10,000.

TEX. PENAL CODE ANN. § 12.34 (2010). Third Degree Felony Punishment.

(a) An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed $ 10,000.

TEX. PENAL CODE ANN. § 12.35 (2010). State Jail Felony Punishment.

(a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed $ 10,000.

(c) An individual adjudged guilty of a state jail felony shall be punished for a third degree felony if it is shown on the trial of the offense that:

(1) a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or

(2) the individual has previously been finally convicted of any felony:

(A) under Section 21.02 or listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

(B) for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure.

TEX. PENAL CODE ANN. § 12.42 (2010). Penalties for Repeat and Habitual Felony Offenders.

(a) (1) If it is shown on the trial of a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two state jail felonies, on conviction the defendant shall be punished for a third-degree felony.

(2) If it is shown on the trial of a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felonies, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished for a second-degree felony.

(3) Except as provided by Subsection (c)(2), if it is shown on the trial of a state jail felony punishable under Section 12.35(c) or on the trial of a third-degree felony that the defendant has

been once before convicted of a felony, on conviction he shall be punished for a second-degree felony.

(b) Except as provided by Subsection (c)(2), if it is shown on the trial of a second-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a first-degree felony.

(c) (1) If it is shown on the trial of a first-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 15 years. In addition to imprisonment, an individual may be punished by a fine not to exceed $ 10,000.

(2) Notwithstanding Subdivision (1), a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life if:

(A) the defendant is convicted of an offense:

(i) under Section 21.11(a)(1), 22.021, or 22.011, Penal Code;

(ii) under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually; or

(iii) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony described by Subparagraph (i) or (ii) or a felony under Section 21.11, Penal Code; and

(B) the defendant has been previously convicted of an offense:

(i) under Section 43.25 or 43.26, Penal Code, or an offense under Section 43.23, Penal Code, punishable under Subsection (h) of that section;

(ii) under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(iii) under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually;

(iv) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony described by Subparagraph (ii) or (iii); or

(v) under the laws of another state containing elements that are substantially similar to the elements of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

(3) Notwithstanding Subdivision (1) or (2), a defendant shall be punished for a capital felony if it is shown on the trial of an offense under Section 22.021 otherwise punishable under Subsection (f) of that section that the defendant has previously been finally convicted of:

(A) an offense under Section 22.021 that was committed against a victim described by Section 22.021(f)(1) or was committed against a victim described by Section 22.021(f)(2) and in a manner described by Section 22.021(a)(2)(A); or

(B) an offense that was committed under the laws of another state that:

(i) contains elements that are substantially similar to the elements of an offense under Section 22.021; and

(ii) was committed against a victim described by Section 22.021(f)(1) or was committed against a victim described by Section 22.021(f)(2) and in a manner substantially similar to a manner described by Section 22.021(a)(2)(A).

(4) Notwithstanding Subdivision (1) or (2), a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of an offense under Section 21.02 that the defendant has previously been finally convicted of:

(A) an offense under Section 21.02; or

(B) an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 21.02.

(d) Except as provided by Subsection (c)(2), if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction he shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

(e) A previous conviction for a state jail felony punished under Section 12.35(a) may not be used for enhancement purposes under Subsection (b), (c), or (d).

(f) For the purposes of Subsections (a), (b), (c)(1), and (e), an adjudication by a juvenile court under Section 54.03, Family Code, that a child engaged in delinquent conduct on or after January 1, 1996, constituting a felony offense for which the child is committed to the Texas Youth Commission under Section 54.04(d)(2), (d)(3), or (m), Family Code, or Section 54.05(f), Family Code, is a final felony conviction.

(g) For the purposes of Subsection (c)(2):

(1) a defendant has been previously convicted of an offense listed under Subsection (c)(2)(B) if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; and

(2) a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed under Subsection (c)(2)(B) is a conviction of an offense listed under Subsection (c)(2)(B).

TEX. PENAL CODE ANN. § 12.43 (2010). Penalties for Repeat and Habitual Misdemeanor Offenders.

(a) If it is shown on the trial of a Class A misdemeanor that the defendant has been before convicted of a Class A misdemeanor or any degree of felony, on conviction he shall be punished by:

(1) a fine not to exceed $ 4,000;

(2) confinement in jail for any term of not more than one year or less than 90 days; or

(3) both such fine and confinement.

(b) If it is shown on the trial of a Class B misdemeanor that the defendant has been before convicted of a Class A or Class B misdemeanor or any degree of felony, on conviction he shall be punished by:

(1) a fine not to exceed $ 2,000;

(2) confinement in jail for any term of not more than 180 days or less than 30 days; or

(3) both such fine and confinement.

(c) If it is shown on the trial of an offense punishable as a Class C misdemeanor under Section 42.01 or 49.02 that the defendant has been before convicted under either of those sections three times or three times for any combination of those offenses and each prior offense was committed in the 24 months preceding the date of commission of the instant offense, the defendant shall be punished by:

(1) a fine not to exceed $ 2,000;

(2) confinement in jail for a term not to exceed 180 days; or

(3) both such fine and confinement.

(d) If the punishment scheme for an offense contains a specific enhancement provision increasing punishment for a defendant who has previously been convicted of the offense, the specific enhancement provision controls over this section.

TEX. PENAL CODE ANN. § 21.02 (2010). Continuous Sexual Abuse of Young Child or Children.

(a) In this section, "child" has the meaning assigned by Section 22.011(c).

(b) A person commits an offense if:

(1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

(2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age.

(c) For purposes of this section, "act of sexual abuse" means any act that is a violation of one or more of the following penal laws:

(1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or abuse the victim sexually;

(2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;

(3) sexual assault under Section 22.011;

(4) aggravated sexual assault under Section 22.021;

(5) burglary under Section 30.02, if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit an offense listed in Subdivisions (1)--(4); and

(6) sexual performance by a child under Section 43.25.

(d) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, committed two or more acts of sexual abuse.

(e) A defendant may not be convicted in the same criminal action of an offense listed under Subsection (c) the victim of which is the same victim as a victim of the offense alleged under Subsection (b) unless the offense listed in Subsection (c):

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (b) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (b).

(f) A defendant may not be charged with more than one count under Subsection (b) if all of the specific acts of sexual abuse that are alleged to have been committed are alleged to have been committed against a single victim.

(g) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than five years older than:

(A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or

(B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;

(2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and

(3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c).

(h) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

TEX. PENAL CODE ANN. § 21.021 (2010). Aggravated Sexual Assault.

(a) A person commits an offense:

(1) if the person:

(A) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(ii) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(iii) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(B) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of a child by any means;

(ii) causes the penetration of the mouth of a child by the sexual organ of the actor;

(iii) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(iv) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

(v) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor; and

(2) if:

(A) the person:

(i) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;

(ii) by acts or words places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;

(iii) by acts or words occurring in the presence of the victim threatens to cause the death, serious bodily injury, or kidnapping of any person;

(iv) uses or exhibits a deadly weapon in the course of the same criminal episode;

(v) acts in concert with another who engages in conduct described by Subdivision (1) directed toward the same victim and occurring during the course of the same criminal episode; or

(vi) administers or provides flunitrazepam, otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine to the victim of the offense with the intent of facilitating the commission of the offense;

(B) the victim is younger than 14 years of age; or

(C) the victim is an elderly individual or a disabled individual.

(b) In this section:

(1) "Child" has the meaning assigned by Section 22.011(c).

(2) "Elderly individual" and "disabled individual" have the meanings assigned by Section 22.04(c).

(c) An aggravated sexual assault under this section is without the consent of the other person if the aggravated sexual assault occurs under the same circumstances listed in Section 22.011(b).

(d) The defense provided by Section 22.011(d) applies to this section.

(e) An offense under this section is a felony of the first degree.

(f) The minimum term of imprisonment for an offense under this section is increased to 25 years if:

(1) the victim of the offense is younger than six years of age at the time the offense is committed; or

(2) the victim of the offense is younger than 14 years of age at the time the offense is committed and the actor commits the offense in a manner described by Subsection (a)(2)(A).

TEX. PENAL CODE ANN. § 21.04 (2010). Injury to a Child, Elderly Individual, or Disabled Individual.

(a) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, causes to a child, elderly individual, or disabled individual:

(1) serious bodily injury;

(2) serious mental deficiency, impairment, or injury; or

(3) bodily injury.

(a-1) A person commits an offense if the person is an owner, operator, or employee of a group home, nursing facility, assisted living facility, intermediate care facility for persons with mental retardation, or other institutional care facility and the person intentionally, knowingly, recklessly, or with criminal negligence by omission causes to a child, elderly individual, or disabled individual who is a resident of that group home or facility:

(1) serious bodily injury;

(2) serious mental deficiency, impairment, or injury;

(3) bodily injury; or

(4) exploitation.

(b) An omission that causes a condition described by Subsection (a)(1), (2), or (3) or (a-1) (1), (2), (3), or (4) is conduct constituting an offense under this section if:

(1) the actor has a legal or statutory duty to act; or

(2) the actor has assumed care, custody, or control of a child, elderly individual, or disabled individual.

(c) In this section:

(1) "Child" means a person 14 years of age or younger.

(2) "Elderly individual" means a person 65 years of age or older.

(3) "Disabled individual" means a person older than 14 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect himself from harm or to provide food, shelter, or medical care for himself.

(4) "Exploitation" means the illegal or improper use of an individual or of the resources of the individual for monetary or personal benefit, profit, or gain.

(d) For purposes of an omission that causes a condition described by Subsection (a)(1), (2), or (3), the actor has assumed care, custody, or control if he has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that he has accepted responsibility for protection, food, shelter, and medical care for a child, elderly individual, or disabled individual. For purposes of an omission that causes a condition described by Subsection (a-1)(1), (2), (3), or (4), the actor acting during the actor's capacity as owner, operator, or employee of a group home or facility

described by Subsection (a-1) is considered to have accepted responsibility for protection, food, shelter, and medical care for the child, elderly individual, or disabled individual who is a resident of the group home or facility.

(e) An offense under Subsection (a)(1) or (2) or (a-1)(1) or (2) is a felony of the first degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly, the offense is a felony of the second degree.

(f) An offense under Subsection (a)(3) or (a-1)(3) or (4) is a felony of the third degree when the conduct is committed intentionally or knowingly, except that an offense under Subsection (a)(3) is a felony of the second degree when the conduct is committed intentionally or knowingly and the victim is a disabled individual residing in a center, as defined by Section 555.001, Health and Safety Code, or in a facility licensed under Chapter 252, Health and Safety Code, and the actor is an employee of the center or facility whose employment involved providing direct care for the victim. When the conduct is engaged in recklessly, the offense is a state jail felony.

(g) An offense under Subsection (a) is a state jail felony when the person acts with criminal negligence. An offense under Subsection (a-1) is a state jail felony when the person, with criminal negligence and by omission, causes a condition described by Subsection (a-1)(1), (2), (3), or (4).

(h) A person who is subject to prosecution under both this section and another section of this code may be prosecuted under either or both sections. Section 3.04 does not apply to criminal episodes prosecuted under both this section and another section of this code. If a criminal episode is prosecuted under both this section and another section of this code and sentences are assessed for convictions under both sections, the sentences shall run concurrently.

(i) It is an affirmative defense to prosecution under Subsection (b)(2) that before the offense the actor:

(1) notified in person the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); and

(2) notified in writing the parents or person other than himself acting in loco parentis to the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); or

(3) notified in writing the Department of Protective and Regulatory Services that he would no longer provide any of the care set forth in Subsection (d).

(j) Written notification under Subsection (i)(2) or (i)(3) is not effective unless it contains the name and address of the actor, the name and address of the child, elderly individual, or disabled individual, the type of care provided by the actor, and the date the care was discontinued.

(k) It is a defense to prosecution under this section that the act or omission consisted of:

(1) reasonable medical care occurring under the direction of or by a licensed physician; or

(2) emergency medical care administered in good faith and with reasonable care by a person not licensed in the healing arts.

(l) It is an affirmative defense to prosecution under this section:

(1) that the act or omission was based on treatment in accordance with the tenets and practices of a recognized religious method of healing with a generally accepted record of efficacy;

(2) for a person charged with an act of omission causing to a child, elderly individual, or disabled individual a condition described by Subsection (a)(1), (2), or (3) that:

(A) there is no evidence that, on the date prior to the offense charged, the defendant was aware of an incident of injury to the child, elderly individual, or disabled individual and failed to report the incident; and

(B) the person:

(i) was a victim of family violence, as that term is defined by Section 71.004, Family Code, committed by a person who is also charged with an offense against the child, elderly individual, or disabled individual under this section or any other section of this title;

(ii) did not cause a condition described by Subsection (a)(1), (2), or (3); and

(iii) did not reasonably believe at the time of the omission that an effort to prevent the person also charged with an offense against the child, elderly individual, or disabled individual from committing the offense would have an effect; or

(3) that:

(A) the actor was not more than three years older than the victim at the time of the offense; and

(B) the victim was a child at the time of the offense.

TEX. PENAL CODE ANN. § 21.041 (2010). Abandoning or Endangering Child.

(a) In this section, "abandon" means to leave a child in any place without providing reasonable and necessary care for the child, under circumstances under which no reasonable, similarly situated adult would leave a child of that age and ability.

(b) A person commits an offense if, having custody, care, or control of a child younger than 15 years, he intentionally abandons the child in any place under circumstances that expose the child to an unreasonable risk of harm.

(c) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that places a child younger than 15 years in imminent danger of death, bodily injury, or physical or mental impairment.

(c-1) For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:

(1) the person manufactured, possessed, or in any way introduced into the body of any person the controlled substance methamphetamine in the presence of the child;

(2) the person's conduct related to the proximity or accessibility of the controlled substance methamphetamine to the child and an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of methamphetamine in the child's body; or

(3) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code.

(d) Except as provided by Subsection (e), an offense under Subsection (b) is:

(1) a state jail felony if the actor abandoned the child with intent to return for the child; or

(2) a felony of the third degree if the actor abandoned the child without intent to return for the child.

(e) An offense under Subsection (b) is a felony of the second degree if the actor abandons the child under circumstances that a reasonable person would believe would place the child in imminent danger of death, bodily injury, or physical or mental impairment.

(f) An offense under Subsection (c) is a state jail felony.

(g) It is a defense to prosecution under Subsection (c) that the act or omission enables the child to practice for or participate in an organized athletic event and that appropriate safety equipment and procedures are employed in the event.

(h) It is an exception to the application of this section that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302, Family Code.

TEX. PENAL CODE ANN. § 25.04 (2010). Enticing a Child.

(a) A person commits an offense if, with the intent to interfere with the lawful custody of a child younger than 18 years, he knowingly entices, persuades, or takes the child from the custody of the parent or guardian or person standing in the stead of the parent or guardian of such child.

(b) An offense under this section is a Class B misdemeanor, unless it is shown on the trial of the offense that the actor intended to commit a felony against the child, in which event an offense under this section is a felony of the third degree.

TEX. PENAL CODE ANN. § 25.08 (2010). Sale or Purchase of Child.

(a) A person commits an offense if he:

(1) possesses a child younger than 18 years of age or has the custody, conservatorship, or guardianship of a child younger than 18 years of age, whether or not he has actual possession of

the child, and he offers to accept, agrees to accept, or accepts a thing of value for the delivery of the child to another or for the possession of the child by another for purposes of adoption; or

(2) offers to give, agrees to give, or gives a thing of value to another for acquiring or maintaining the possession of a child for the purpose of adoption.

(b) It is an exception to the application of this section that the thing of value is:

(1) a fee or reimbursement paid to a child-placing agency as authorized by law;

(2) a fee paid to an attorney, social worker, mental health professional, or physician for services rendered in the usual course of legal or medical practice or in providing adoption counseling;

(3) a reimbursement of legal or medical expenses incurred by a person for the benefit of the child; or

(4) a necessary pregnancy-related expense paid by a child-placing agency for the benefit of the child's parent during the pregnancy or after the birth of the child as permitted by the minimum standards for child-placing agencies and Department of Protective and Regulatory Services rules.

(c) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor commits the offense with intent to commit an offense under Section 43.25.

TEX. PENAL CODE ANN. § 43.25 (2010). Sexual Performance by a Child.

(a) In this section:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than 18 years of age.

(2) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

(3) "Performance" means any play, motion picture, photograph, dance, or other visual representation that can be exhibited before an audience of one or more persons.

(4) "Produce" with respect to a sexual performance includes any conduct that directly contributes to the creation or manufacture of the sexual performance.

(5) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(6) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.

(7) "Deviate sexual intercourse" and "sexual contact" have the meanings assigned by Section 43.01.

(b) A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or a sexual performance. A parent or legal guardian or custodian of a child younger than 18 years of age commits an offense if he consents to the participation by the child in a sexual performance.

(c) An offense under Subsection (b) is a felony of the second degree, except that the offense is a felony of the first degree if the victim is younger than 14 years of age at the time the offense is committed.

(d) A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 18 years of age.

(e) An offense under Subsection (d) is a felony of the third degree, except that the offense is a felony of the second degree if the victim is younger than 14 years of age at the time the offense is committed.

(f) It is an affirmative defense to a prosecution under this section that:

(1) the defendant was the spouse of the child at the time of the offense;

(2) the conduct was for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, or legislative purpose; or

(3) the defendant is not more than two years older than the child.

(g) When it becomes necessary for the purposes of this section or Section 43.26 to determine whether a child who participated in sexual conduct was younger than 18 years of age, the court or jury may make this determination by any of the following methods:

(1) personal inspection of the child;

(2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

(3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;

(4) expert medical testimony based on the appearance of the child engaging in the sexual performance; or

(5) any other method authorized by law or by the rules of evidence at common law.

TEX. PENAL CODE ANN. § 43.26 (2010). Possession or Promotion of Child Pornography.

(a) A person commits an offense if:

(1) the person knowingly or intentionally possesses visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct; and

(2) the person knows that the material depicts the child as described by Subdivision (1).

(b) In this section:

(1) "Promote" has the meaning assigned by Section 43.25.

(2) "Sexual conduct" has the meaning assigned by Section 43.25.

(3) "Visual material" means:

(A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(c) The affirmative defenses provided by Section 43.25(f) also apply to a prosecution under this section.

(d) An offense under Subsection (a) is a felony of the third degree.

(e) A person commits an offense if:

(1) the person knowingly or intentionally promotes or possesses with intent to promote material described by Subsection (a)(1); and

(2) the person knows that the material depicts the child as described by Subsection (a)(1).

(f) A person who possesses visual material that contains six or more identical visual depictions of a child as described by Subsection (a)(1) is presumed to possess the material with the intent to promote the material.

(g) An offense under Subsection (e) is a felony of the second degree.

UTAH

UTAH CODE ANN. § 76-3-203 (2010). Felony conviction – Indeterminate term of imprisonment.

A person who has been convicted of a felony may be sentenced to imprisonment for an indeterminate term as follows:

(1) In the case of a felony of the first degree, unless the statute provides otherwise, for a term of not less than five years and which may be for life.

(2) In the case of a felony of the second degree, unless the statute provides otherwise, for a term of not less than one year nor more than 15 years.

(3) In the case of a felony of the third degree, unless the statute provides otherwise, for a term not to exceed five years.

UTAH CODE ANN. § 76-3-203.1 (2010). Offenses committed in concert with two or more persons -- Notice -- Enhanced penalties.

(1) (a) A person who commits any offense listed in Subsection (4) is subject to an enhanced penalty for the offense as provided in Subsection (3) if the trier of fact finds beyond a reasonable doubt that the person acted in concert with two or more persons.

(b) "In concert with two or more persons" as used in this section means the defendant was aided or encouraged by at least two other persons in committing the offense and was aware that he was so aided or encouraged, and each of the other persons:

(i) was physically present; or

(ii) participated as a party to any offense listed in Subsection (4).

(c) For purposes of Subsection (1)(b)(ii):

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause him to be a party if he were an adult.

(2) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(3) The enhanced penalty for a:

(a) class B misdemeanor is a class A misdemeanor;

(b) class A misdemeanor is a third degree felony;

(c) third degree felony is a second degree felony;

(d) second degree felony is a first degree felony; and

(e) first degree felony is an indeterminate prison term of not less than five years in addition to the statutory minimum prison term for the offense, and which may be for life.

(4) Offenses referred to in Subsection (1) are:

(a) any criminal violation of Title 58, Chapter 37, 37a, 37b, or 37c, regarding drug-related offenses;

(b) assault and related offenses under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(c) any criminal homicide offense under Title 76, Chapter 5, Part 2, Criminal Homicide;

(d) kidnapping and related offenses under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(e) any felony sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(f) sexual exploitation of a minor as defined in Section 76-5a-3;

(g) any property destruction offense under Title 76, Chapter 6, Part 1, Property Destruction;

(h) burglary, criminal trespass, and related offenses under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(i) robbery and aggravated robbery under Title 76, Chapter 6, Part 3, Robbery;

(j) theft and related offenses under Title 76, Chapter 6, Part 4, Theft, or Part 6, Retail Theft;

(k) any fraud offense under Title 76, Chapter 6, Part 5, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(l) any offense of obstructing government operations under Title 76, Chapter 8, Part 3, except Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;

(m) tampering with a witness or other violation of Section 76-8-508;

(n) extortion or bribery to dismiss criminal proceeding as defined in Section 76-8-509;

(o) any explosives offense under Title 76, Chapter 10, Part 3, Explosives;

(p) any weapons offense under Title 76, Chapter 10, Part 5, Weapons;

(q) pornographic and harmful materials and performances offenses under Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances;

(r) prostitution and related offenses under Title 76, Chapter 10, Part 13, Prostitution;

(s) any violation of Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

(t) any violation of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(u) communications fraud as defined in Section 76-10-1801;

(v) any violation of Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; and

(w) burglary of a research facility as defined in Section 76-10-2002.

(5) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Effective November 1, 2010:
76-3-203.1. Offenses committed in concert with two or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

[A> (1) AS USED IN THIS SECTION: <A]

[A> (A) "CRIMINAL STREET GANG" HAS THE SAME DEFINITION AS IN SECTION 76-9-802 . <A]

[A> (B) "IN CONCERT WITH TWO OR MORE PERSONS" MEANS: <A]

[A> (I) THE DEFENDANT WAS AIDED OR ENCOURAGED BY AT LEAST TWO OTHER PERSONS IN COMMITTING THE OFFENSE AND WAS AWARE OF THIS AID OR ENCOURAGEMENT; AND <A]

[A> (II) EACH OF THE OTHER PERSONS: <A]

[A> (A) WAS PHYSICALLY PRESENT; OR <A]

[A> (B) PARTICIPATED AS A PARTY TO ANY OFFENSE LISTED IN SUBSECTION (5). <A]

[A> (C) "IN CONCERT WITH TWO OR MORE PERSONS" MEANS, REGARDING INTENT: <A]

[A> (I) OTHER PERSONS PARTICIPATING AS PARTIES NEED NOT HAVE THE INTENT TO ENGAGE IN THE SAME OFFENSE OR DEGREE OF OFFENSE AS THE DEFENDANT; AND <A]

[A> (II) A MINOR IS A PARTY IF THE MINOR'S ACTIONS WOULD CAUSE THE MINOR TO BE A PARTY IF THE MINOR WERE AN ADULT. <A]

[D> (1) (a) <D] [A> (2) <A] A person who commits any offense listed in Subsection [D> (4) <D] [A> (5) <A] is subject to an enhanced penalty for the offense as provided in Subsection [D> (3) <D] [A> (4) <A] if the trier of fact finds beyond a reasonable doubt that the person acted [A> : <A]

[A> (A) <A] in concert with two or more persons [D> . <D] [A> ; <A]

[D> (b) "In concert with two or more persons" as used in this section means the defendant was aided or encouraged by at least two other persons in committing the offense and was aware that he was so aided or encouraged, and each of the other persons: <D]

[D> (i) was physically present; or <D]

[D> (ii) participated as a party to any offense listed in Subsection (4). <D]

[D> (c) For purposes of Subsection (1)(b)(ii): <D]

[D> (i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and <D]

[D> (ii) a minor is a party if the minor's actions would cause him to be a party if he were an adult. <D]

[A> (B) FOR THE BENEFIT OF, AT THE DIRECTION OF, OR IN ASSOCIATION WITH ANY CRIMINAL STREET GANG AS DEFINED IN SECTION 76-9-802; OR <A]

[A> (C) TO GAIN RECOGNITION, ACCEPTANCE, MEMBERSHIP, OR INCREASED STATUS WITH A CRIMINAL STREET GANG AS DEFINED IN SECTION 76-9-802 . <A]

[D> (2) <D] [A> (3) <A] The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

[D> (3) <D] [A> (4) <A] The enhanced penalty for a:

(a) class B misdemeanor is a class A misdemeanor;

(b) class A misdemeanor is a third degree felony;

(c) third degree felony is a second degree felony;

(d) second degree felony is a first degree felony; and

(e) first degree felony is an indeterminate prison term of not less than five years in addition to the statutory minimum prison term for the offense, and which may be for life.

[D> (4) <D] [A> (5) <A] Offenses referred to in Subsection [D> (1) <D] [A> (2) <A] are:

(a) any criminal violation of [D> Title 58, Chapter 37, 37a, 37b, or 37c, regarding drug-related offenses; <D] [A> THE FOLLOWING CHAPTERS OF TITLE 58: <A]

[A> (I) CHAPTER 37, UTAH CONTROLLED SUBSTANCES ACT; <A]

[A> (II) CHAPTER 37A, UTAH DRUG PARAPHERNALIA ACT; <A]

[A> (III) CHAPTER 37B, IMITATION CONTROLLED SUBSTANCES ACT; OR <A]

[A> (IV) CHAPTER 37C, UTAH CONTROLLED SUBSTANCE PRECURSOR ACT; <A]

(b) assault and related offenses under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(c) any criminal homicide offense under Title 76, Chapter 5, Part 2, Criminal Homicide;

(d) kidnapping and related offenses under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(e) any felony sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(f) sexual exploitation of a minor as defined in Section 76-5a-3;

(g) any property destruction offense under Title 76, Chapter 6, Part 1, Property Destruction;

(h) burglary, criminal trespass, and related offenses under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(i) robbery and aggravated robbery under Title 76, Chapter 6, Part 3, Robbery;

(j) theft and related offenses under Title 76, Chapter 6, Part 4, Theft, or Part 6, Retail Theft;

(k) any fraud offense under Title 76, Chapter 6, Part 5, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(l) any offense of obstructing government operations under Title 76, Chapter 8, Part 3, except Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;

(m) tampering with a witness or other violation of Section 76-8-508;

(n) extortion or bribery to dismiss criminal proceeding as defined in Section 76-8-509;

(o) any explosives offense under Title 76, Chapter 10, Part 3, Explosives;

(p) any weapons offense under Title 76, Chapter 10, Part 5, Weapons;

(q) pornographic and harmful materials and performances offenses under Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances;

(r) prostitution and related offenses under Title 76, Chapter 10, Part 13, Prostitution;

(s) any violation of Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

(t) any violation of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(u) communications fraud as defined in Section 76-10-1801;

(v) any violation of Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; and

(w) burglary of a research facility as defined in Section 76-10-2002.

[D> (5) <D] [A> (6) <A] It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified,

apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

UTAH CODE ANN. § 76-3-203.5 (2010). Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(I) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of THE FOLLOWING offenses punishable as a felony:

(A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief, Title 76, Chapter 6, Part 1, Property Destruction;

(B) assault by prisoner, Section 76-5-102.5;

(C) disarming a police officer, Section 76-5-102.8;

(D) aggravated assault, Section 76-5-103;

(E) aggravated assault by prisoner, Section 76-5-103.5;

(F) mayhem, Section 76-5-105;

(G) stalking, Subsection 76-5-106.5 (2) or (3);

(H) threat OF TERRORISM , Section 76-5-107.3;

(I) child abuse, Subsection 76-5-109 (2)(a) or (b);

(J) commission of domestic violence in the presence of a child, Section 76-5-109.1;

(K) abuse or neglect of disabled child, Section 76-5-110;

(L) abuse, neglect, or exploitation of a vulnerable adult, Section 76-5-111;

(M) endangerment of a child or vulnerable adult, Section 76-5-112.5;

(N) criminal homicide offenses under Title 76, Chapter 5, Part 2, Criminal Homicide;

(O) kidnapping, child kidnapping, and aggravated kidnapping under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(P) rape, Section 76-5-402;

(Q) rape of a child, Section 76-5-402.1;

(R) object rape, Section 76-5-402.2;

(S) object rape of a child, Section 76-5-402.3;

(T) forcible sodomy, Section 76-5-403;

(U) sodomy on a child, Section 76-5-403.1;

(V) forcible sexual abuse, Section 76-5-404;

(W) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;

(X) aggravated sexual assault, Section 76-5-405;

(Y) sexual exploitation of a minor, Section 76-5a-3;

(Z) aggravated burglary and burglary of a dwelling under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(AA) aggravated robbery and robbery under Title 76, Chapter 6, Part 3, Robbery;

(BB) theft by extortion under Subsection 76-6-406 (2)(a) or (b);

(CC) tampering with a witness under Subsection 76-8-508 (1);

(DD) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(EE) tampering with a juror under Subsection 76-8-508.5 (2)(c);

(FF) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any threat or by use of force theft by extortion has been committed pursuant to Subsections 76-6-406 (2)(a), (b), and (i);

(GG) possession, use, or removal of explosive, chemical, or incendiary devices under Subsections 76-10-306 (3) through (6);

(HH) unlawful delivery of explosive, chemical, or incendiary devices under Section 76-10-307;

(II) purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503;

(JJ) unlawful discharge of a firearm under Section 76-10-508;

(KK) aggravated exploitation of prostitution under Subsection 76-10-1306 (1)(a);

(LL) bus hijacking under Section 76-10-1504; and

(MM) discharging firearms and hurling missiles under Section 76-10-1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Prior to or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Prior to sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Title 76, Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

UTAH CODE ANN. § 76-3-203.8 (2010). Increase of sentence if dangerous weapon used.

(1) As used in this section, "dangerous weapon" has the same definition as in Section 76-1-601.

(2) If the trier of fact finds beyond a reasonable doubt that a dangerous weapon was used in the commission or furtherance of a felony, the court:

(a) (i) shall increase by one year the minimum term of the sentence applicable by law; and

(ii) if the minimum term applicable by law is zero, shall set the minimum term as one year; and

(b) may increase by five years the maximum sentence applicable by law in the case of a felony of the second or third degree.

(3) A defendant who is a party to a felony offense shall be sentenced to the increases in punishment provided in Subsection (2) if the trier of fact finds beyond a reasonable doubt that:

(a) a dangerous weapon was used in the commission or furtherance of the felony; and

(b) the defendant knew that the dangerous weapon was present.

(4) If the trier of fact finds beyond a reasonable doubt that a person has been sentenced to a term of imprisonment for a felony in which a dangerous weapon was used in the commission of or furtherance of the felony and that person is subsequently convicted of another felony in which a dangerous weapon was used in the commission of or furtherance of the felony, the court shall, in addition to any other sentence imposed including those in Subsection (2), impose an indeterminate prison term to be not less than five nor more than ten years to run consecutively and not concurrently.

UTAH CODE ANN. § 76-3-203.9 (2010). Violent offense committed in presence of a child -- Aggravating factor.

(1) As used in this section:

(a) "In the presence of a child" means:

(i) in the physical presence of a child younger than 14 years of age; or

(ii) having knowledge that a child younger than 14 years of age is present and may see or hear a violent criminal offense.

(b) "Violent criminal offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt to commit a criminal offense involving violence or physical harm.

(2) The sentencing judge or the Board of Pardons and Parole shall consider as an aggravating factor in their deliberations that the defendant committed the violent criminal offense in the presence of a child.

(3) The sentencing judge or the Board of Pardons and Parole shall also consider whether the penalty for the offense is already increased by other existing provisions of law.

(4) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of Utah or by the Constitution or laws of the United States.

(5) This section does not affect or restrict the exercise of judicial discretion under any other provision of Utah law.

UTAH CODE ANN. § 76-3-204 (2010). Misdemeanor conviction -- Term of imprisonment.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

(1) In the case of a class A misdemeanor, for a term not exceeding one year;

(2) In the case of a class B misdemeanor, for a term not exceeding six months;

(3) In the case of a class C misdemeanor, for a term not exceeding ninety days.

UTAH CODE ANN. § 76-3-205 (2010). Infraction conviction -- Fine, forfeiture, and disqualification.

(1) A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture, and disqualification, or any combination.

(2) Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

UTAH CODE ANN. § 76-3-207.7 (2010). First degree felony aggravated murder -- Noncapital felony -- Penalties -- Sentenced by court.

(1) A person who has pled guilty to or been convicted of first degree felony aggravated murder under Section 76-5-202 shall be sentenced by the court.

(2) The sentence under this section shall be life in prison without parole or an indeterminate prison term of not less than 25 years and which may be for life.

UTAH CODE ANN. § 76-3-301 (2010). Fines of persons.

(1) A person convicted of an offense may be sentenced to pay a fine, not exceeding:

(a) $ 10,000 for a felony conviction of the first degree or second degree;

(b) $ 5,000 for a felony conviction of the third degree;

(c) $ 2,500 for a class A misdemeanor conviction;

(d) $ 1,000 for a class B misdemeanor conviction;

(e) $ 750 for a class C misdemeanor conviction or infraction conviction; and

(f) any greater amounts specifically authorized by statute.

(2) This section does not apply to a corporation, association, partnership, government, or governmental instrumentality.

UTAH CODE ANN. § 76-3-401 (2010). Concurrent or consecutive sentences -- Limitations -- Definition.

(1) A court shall determine, if a defendant has been adjudged guilty of more than one felony offense, whether to impose concurrent or consecutive sentences for the offenses. The court shall state on the record and shall indicate in the order of judgment and commitment:

(a) if the sentences imposed are to run concurrently or consecutively to each other; and

(b) if the sentences before the court are to run concurrently or consecutively with any other sentences the defendant is already serving.

(2) In determining whether state offenses are to run concurrently or consecutively, the court shall consider the gravity and circumstances of the offenses, the number of victims, and the history, character, and rehabilitative needs of the defendant.

(3) The court shall order that sentences for state offenses run consecutively if the later offense is committed while the defendant is imprisoned or on parole, unless the court finds and states on the record that consecutive sentencing would be inappropriate.

(4) If a written order of commitment does not clearly state whether the sentences are to run consecutively or concurrently, the Board of Pardons and Parole shall request clarification from the court. Upon receipt of the request, the court shall enter a clarified order of commitment stating whether the sentences are to run consecutively or concurrently.

(5) A court may impose consecutive sentences for offenses arising out of a single criminal episode as defined in Section 76-1-401.

(6) (a) If a court imposes consecutive sentences, the aggregate maximum of all sentences imposed may not exceed 30 years imprisonment, except as provided under Subsection (6)(b).

(b) The limitation under Subsection (6)(a) does not apply if:

(i) an offense for which the defendant is sentenced authorizes the death penalty or a maximum sentence of life imprisonment; or

(ii) the defendant is convicted of an additional offense based on conduct which occurs after his initial sentence or sentences are imposed.

(7) The limitation in Subsection (6)(a) applies if a defendant:

(a) is sentenced at the same time for more than one offense;

(b) is sentenced at different times for one or more offenses, all of which were committed prior to imposition of the defendant's initial sentence; or

(c) has already been sentenced by a court of this state other than the present sentencing court or by a court of another state or federal jurisdiction, and the conduct giving rise to the present offense did not occur after his initial sentencing by any other court.

(8) When the limitation of Subsection (6)(a) applies, determining the effect of consecutive sentences and the manner in which they shall be served, the Board of Pardons and Parole shall treat the defendant as though he has been committed for a single term that consists of the aggregate of the validly imposed prison terms as follows:

(a) if the aggregate maximum term exceeds the 30-year limitation, the maximum sentence is considered to be 30 years; and

(b) when indeterminate sentences run consecutively, the minimum term, if any, constitutes the aggregate of the validly imposed minimum terms.

(9) When a sentence is imposed or sentences are imposed to run concurrently with the other or with a sentence presently being served, the term that provides the longer remaining imprisonment constitutes the time to be served.

(10) This section may not be construed to restrict the number or length of individual consecutive sentences that may be imposed or to affect the validity of any sentence so imposed, but only to limit the length of sentences actually served under the commitments.

(11) This section may not be construed to limit the authority of a court to impose consecutive sentences in misdemeanor cases.

(12) As used in this section, "imprisoned" means sentenced and committed to a secure correctional facility as defined in Section 64-13-1, the sentence has not been terminated or voided, and the person is not on parole, regardless of where the person is located.

UTAH CODE ANN. § 76-3-406 (2010). Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

Notwithstanding Sections 76-3-201 and 77-18-1 and Title 77, Chapter 16a, Commitment and Treatment of Mentally Ill Persons, except as provided in Section 76-5-406.5, probation shall not be granted, the execution or imposition of sentence shall not be suspended, the court shall not enter a judgment for a lower category of offense, and hospitalization shall not be ordered, the effect of which would in any way shorten the prison sentence for any person who commits a capital felony or a first degree felony involving:

(1) Section 76-5-202, aggravated murder;

(2) Section 76-5-203, murder;

(3) Section 76-5-301.1, child kidnaping;

(4) Section 76-5-302, aggravated kidnaping;

(5) Section 76-5-402, rape, if the person is sentenced under Subsection 76-5-402 (3)(b), (3)(c), or (4);

(6) Section 76-5-402.1, rape of a child;

(7) Section 76-5-402.2, object rape, if the person is sentenced under Subsection 76- 5-402.2 (1)(b), (1)(c), or (2);

(8) Section 76-5-402.3, object rape of a child;

(9) Section 76-5-403, forcible sodomy, if the person is sentenced under Subsection 76-5-403 (4)(b), (4)(c), or (5);

(10) Section 76-5-403.1, sodomy on a child;

(11) Section 76-5-404, forcible sexual abuse, if the person is sentenced under Subsection 76-5-404 (2)(b) or (3);

(12) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;

(13) Section 76-5-405, aggravated sexual assault; or

(14) any attempt to commit a felony listed in Subsection (6), (8), or (10).

UTAH CODE ANN. § 76-3-407 (2010). Repeat and habitual sex offenders -- Additional prison term for prior felony convictions.

(1) As used in this section:

(a) "Prior sexual offense" means:

(i) a felony offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(ii) sexual exploitation of a minor, Section 76-5a-3;

(iii) a felony offense of enticing a minor over the Internet, Section 76-4-401;

(iv) a felony attempt to commit an offense described in Subsections (1)(a)(i) through (iii); or

(v) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(a)(i) through (iv).

(b) "Sexual offense" means:

(i) an offense that is a felony of the second or third degree, or an attempted offense, which attempt is a felony of the second or third degree, described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(ii) sexual exploitation of a minor, Section 76-5a-3;

(iii) a felony offense of enticing a minor over the Internet, Section 76-4-401;

(iv) a felony attempt to commit an offense described in Subsection (1)(b)(ii) or (iii); or

(v) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(b)(i) through (iv).

(2) Notwithstanding any other provision of law, the maximum penalty for a sexual offense is increased by five years for each conviction of the defendant for a prior sexual offense that arose from a separate criminal episode, if the trier of fact finds that:

(a) the defendant was convicted of a prior sexual offense; and

(b) the defendant was convicted of the prior sexual offense described in Subsection (2)(a) before the defendant was convicted of the sexual offense for which the defendant is being sentenced.

(3) The increased maximum term described in Subsection (2) shall be in addition to, and consecutive to, any other prison term served by the defendant.

UTAH CODE ANN. § 76-5-109 (2010). Child abuse -- Child abandonment.

(1) As used in this section:

(a) "Child" means a human being who is under 18 years of age.

(b) (i) "Child abandonment" means that a parent or legal guardian of a child:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C) (I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days:

(Aa) intentionally fails to resume physical custody of the child; and

(Bb) fails to manifest a genuine intent to resume physical custody of the child.

(ii) "Child abandonment" does not include:

(A) safe relinquishment of a child pursuant to the provisions of Section 62A-4a-802; or

(B) giving legal consent to a court order for termination of parental rights:

(I) in a legal adoption proceeding; or

(II) in a case where a petition for the termination of parental rights, or the termination of a guardianship, has been filed.

(c) "Child abuse" means any offense described in Subsection (2), (3), or (4) or in Section 76-5-109.1.

(d) "Enterprise" is as defined in Section 76-10-1602.

(e) "Physical injury" means an injury to or condition of a child which impairs the physical condition of the child, including:

(i) a bruise or other contusion of the skin;

(ii) a minor laceration or abrasion;

(iii) failure to thrive or malnutrition; or

(iv) any other condition which imperils the child's health or welfare and which is not a serious physical injury as defined in Subsection (1)(f).

(f) (i) "Serious physical injury" means any physical injury or set of injuries that:

(A) seriously impairs the child's health;

(B) involves physical torture;

(C) causes serious emotional harm to the child; or

(D) involves a substantial risk of death to the child.

(ii) "Serious physical injury" includes:

(A) fracture of any bone or bones;

(B) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface;

(C) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;

(D) any injury caused by use of a dangerous weapon as defined in Section 76-1-601;

(E) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;

(F) any damage to internal organs of the body;

(G) any conduct toward a child that results in severe emotional harm, severe developmental delay or retardation, or severe impairment of the child's ability to function;

(H) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;

(I) any conduct that causes a child to cease breathing, even if resuscitation is successful following the conduct; or

(J) any conduct that results in starvation or failure to thrive or malnutrition that jeopardizes the child's life.

(2) Any person who inflicts upon a child serious physical injury or, having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child is guilty of an offense as follows:

(a) if done intentionally or knowingly, the offense is a felony of the second degree;

(b) if done recklessly, the offense is a felony of the third degree; or

(c) if done with criminal negligence, the offense is a class A misdemeanor.

(3) Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child is guilty of an offense as follows:

(a) if done intentionally or knowingly, the offense is a class A misdemeanor;

(b) if done recklessly, the offense is a class B misdemeanor; or

(c) if done with criminal negligence, the offense is a class C misdemeanor.

(4) A person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment, is:

(a) except as provided in Subsection (4)(b), guilty of a felony of the third degree; or

(b) guilty of a felony of the second degree, if, as a result of the child abandonment:

(i) the child suffers a serious physical injury; or

(ii) the person or enterprise receives, directly or indirectly, any benefit.

(5) (a) In addition to the penalty described in Subsection (4)(b), the court may order the person or enterprise described in Subsection (4)(b)(ii) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (5)(b).

(b) Any tangible or pecuniary benefit received under Subsection (4)(b)(ii) is subject to criminal or civil forfeiture pursuant to Title 24, Chapter 1, Utah Uniform Forfeitures Procedures Act.

(6) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to have committed an offense under this section.

(7) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

(8) A person is not guilty of an offense under this section for conduct that constitutes:

(a) reasonable discipline or management of a child, including withholding privileges;

(b) conduct described in Section 76-2-401; or

(c) the use of reasonable and necessary physical restraint or force on a child:

(i) in self-defense;

(ii) in defense of others;

(iii) to protect the child; or

(iv) to remove a weapon in the possession of a child for any of the reasons described in Subsections (8)(c)(i) through (iii).

UTAH CODE ANN. § 76-5-112.5 (2010). Endangerment of a child or vulnerable adult.

(1) As used in this section:

(a) (i) "Chemical substance" means:

(A) a substance intended to be used as a precursor in the manufacture of a controlled substance;

(B) a substance intended to be used in the manufacture of a controlled substance; or

(C) any fumes or by-product resulting from the manufacture of a controlled substance.

(ii) Intent under this Subsection (1)(a) may be demonstrated by:

(A) the use, quantity, or manner of storage of the substance; or

(B) the proximity of the substance to other precursors or to manufacturing equipment.

(b) "Child" means a human being who is under 18 years of age.

(c) "Controlled substance" is as defined in Section 58-37-2.

(d) "Drug paraphernalia" is as defined in Section 58-37a-3.

(e) "Exposed to" means that the child or vulnerable adult:

(i) is able to access or view an unlawfully possessed:

(A) controlled substance; or

(B) chemical substance;

(ii) has the reasonable capacity to access drug paraphernalia; or

(iii) is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.

(f) "Prescription" is as defined in Section 58-37-2.

(g) "Vulnerable adult" is as defined in Subsection 76-5-111(1)(t).

(2) Unless a greater penalty is otherwise provided by law:

(a) except as provided in Subsection (2)(b) or (c), a person is guilty of a felony of the third degree if the person knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia;

(b) except as provided in Subsection (2)(c), a person is guilty of a felony of the second degree, if:

(i) the person engages in the conduct described in Subsection (2)(a); and

(ii) as a result of the conduct described in Subsection (2)(a), a child or a vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury; or

(c) a person is guilty of a felony of the first degree, if:

(i) the person engages in the conduct described in Subsection (2)(a); and

(ii) as a result of the conduct described in Subsection (2)(a), a child or a vulnerable adult dies.

(3) It is an affirmative defense to a violation of this section that the controlled substance:

(a) was obtained by lawful prescription; and

(b) is used or possessed by the person to whom it was lawfully prescribed.

(4) The penalties described in this section are separate from, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.

UTAH CODE ANN. § 76-5-301.1 (2010). Child kidnapping.

(1) An actor commits child kidnapping if the actor intentionally or knowingly, without authority of law, and by any means and in any manner, seizes, confines, detains, or transports a child under the age of 14 without the consent of the victim's parent or guardian, or the consent of a person acting in loco parentis.

(2) Violation of Section 76-5-303 is not a violation of this section.

(3) Child kidnapping is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact finds that during the course of the commission of the child kidnapping the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the child kidnapping the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (3)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (3)(a) or (b):

(i) ten years and which may be for life; or

(ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply when a person is sentenced under Subsection (3)(c).

(6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-5-302 (2010). Aggravated kidnapping.

(1) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:

(a) possesses, uses, or threatens to use a dangerous weapon as defined in Section 76-1-601; or

(b) acts with intent:

(i) to hold the victim for ransom or reward, or as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;

(ii) to facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;

(iii) to hinder or delay the discovery of or reporting of a felony;

(iv) to inflict bodily injury on or to terrorize the victim or another;

(v) to interfere with the performance of any governmental or political function; or

(vi) to commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:

(a) Section 76-5-301, SUBSECTION (1)(C) OR (D), kidnapping; or

(b) Section 76-5-304, unlawful detention.

(3) Aggravated kidnapping is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (3)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (3)(a) or (b):

(i) ten years and which may be for life; or

(ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply when a person is sentenced under Subsection (3)(c).

(6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-5-402.1 (2010). Rape of a child.

(1) A person commits rape of a child when the person has sexual intercourse with a child who is under the age of 14.

(2) Rape of a child is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (2)(b), not less than 25 years and which may be for life; or

(b) life without parole, if the trier of fact finds that:

(i) during the course of the commission of the rape of a child, the defendant caused serious bodily injury to another; or

(ii) at the time of the commission of the rape of a child the defendant was previously convicted of a grievous sexual offense.

(3) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-5-402.3 (2010). Object rape of a child -- Penalty.

(1) A person commits object rape of a child when the person causes the penetration or touching, however slight, of the genital or anal opening of a child who is under the age of 14 by any foreign object, substance, instrument, or device, not including a part of the human body, with intent to cause substantial emotional or bodily pain to the child or with the intent to arouse or gratify the sexual desire of any person.

(2) Object rape of a child is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (2)(b) not less than 25 years and which may be for life; or

(b) life without parole, if the trier of fact finds that:

(i) during the course of the commission of the object rape of a child the defendant caused serious bodily injury to another; or

(ii) at the time of the commission of the object rape of a child the defendant was previously convicted of a grievous sexual offense.

(3) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-5-403.1 (2010). Sodomy on a child.

(1) A person commits sodomy upon a child if the actor engages in any sexual act upon or with a child who is under the age of 14, involving the genitals or anus of the actor or the child and the mouth or anus of either person, regardless of the sex of either participant.

(2) Sodomy upon a child is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (2)(b), not less than 25 years and which may be for life; or

(b) life without parole, if the trier of fact finds that:

(i) during the course of the commission of the sodomy upon a child the defendant caused serious bodily injury to another; or

(ii) at the time of the commission of the sodomy upon a child, the defendant was previously convicted of a grievous sexual offense.

(3) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-5-404.1 (2010). Sexual abuse of a child -- Aggravated sexual abuse of a child.

(1) As used in this section, "child" means a person under the age of 14.

(2) A person commits sexual abuse of a child if, under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, or an attempt to commit any of these offenses, the actor touches the anus, buttocks, or genitalia of any child, the breast of a female child, or otherwise takes indecent liberties with a child, or causes a child to take indecent liberties with the actor or another with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.

(3) Sexual abuse of a child is punishable as a second degree felony.

(4) A person commits aggravated sexual abuse of a child when in conjunction with the offense described in Subsection (2) any of the following circumstances have been charged and admitted or found true in the action for the offense:

(a) the offense was committed by the use of a dangerous weapon as defined in Section 76-1-601, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or was committed during the course of a kidnaping;

(b) the accused caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(c) the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense;

(d) the accused used, showed, or displayed pornography or caused the victim to be photographed in a lewd condition during the course of the offense;

(e) the accused, prior to sentencing for this offense, was previously convicted of any felony, or of a misdemeanor involving a sexual offense;

(f) the accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct;

(g) the accused committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

(h) the offense was committed by a person who occupied a position of special trust in relation to the victim; "position of special trust" means that position occupied by a person in a position of authority, who, by reason of that position is able to exercise undue influence over the victim, and includes, but is not limited to, a youth leader or recreational leader who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, employer, foster parent, baby-sitter, adult scout leader, natural parent, stepparent, adoptive parent, legal guardian, grandparent, aunt, uncle, or adult cohabitant of a parent;

(i) the accused encouraged, aided, allowed, or benefited from acts of prostitution or sexual acts by the victim with any other person, or sexual performance by the victim before any other person; or

(j) the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

(5) Aggravated sexual abuse of a child is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (5)(b), (5)(c), or (6), not less than 15 years and which may be for life;

(b) except as provided in Subsection (5)(c) or (6), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.

(6) If, when imposing a sentence under Subsection (5)(a) or (b), a court finds that a lesser term than the term described in Subsection (5)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (5)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (5)(a) or (b):

(i) ten years and which may be for life; or

(ii) six years and which may be for life.

(7) The provisions of Subsection (6) do not apply when a person is sentenced under Subsection (5)(c).

(8) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

UTAH CODE ANN. § 76-7-201 (2010). Criminal nonsupport.

(1) A person commits criminal nonsupport if, having a spouse, a child, or children under the age of 18 years, he knowingly fails to provide for the support of the spouse, child, or children when any one of them:

(a) is in needy circumstances; or

(b) would be in needy circumstances but for support received from a source other than the defendant or paid on the defendant's behalf.

(2) Except as provided in Subsection (3), criminal nonsupport is a class A misdemeanor.

(3) Criminal nonsupport is a felony of the third degree if the actor:

(a) has been convicted one or more times of nonsupport, whether in this state, any other state, or any court of the United States;

(b) committed the offense while residing outside of Utah; or

(c) commits the crime of nonsupport in each of 18 individual months within any 24-month period, or the total arrearage is in excess of $ 10,000.

(4) For purposes of this section "child" includes a child born out of wedlock whose paternity has been admitted by the actor or has been established in a civil suit.

(5) (a) In a prosecution for criminal nonsupport under this section, it is an affirmative defense that the accused is unable to provide support. Voluntary unemployment or underemployment by the defendant does not give rise to that defense.

(b) Not less than 20 days before trial the defendant shall file and serve on the prosecuting attorney a notice, in writing, of his intention to claim the affirmative defense of inability to provide support. The notice shall specifically identify the factual basis for the defense and the names and addresses of the witnesses who the defendant proposes to examine in order to establish the defense.

(c) Not more than ten days after receipt of the notice described in Subsection (5)(b), or at such other time as the court may direct, the prosecuting attorney shall file and serve the defendant with a notice containing the names and addresses of the witnesses who the state proposes to examine in order to contradict or rebut the defendant's claim.

(d) Failure to comply with the requirements of Subsection (5)(b) or (5)(c) entitles the opposing party to a continuance to allow for preparation. If the court finds that a party's failure to comply is the result of bad faith, it may impose appropriate sanctions.

UTAH CODE ANN. § 76-7-203 (2010). Sale of child -- Felony -- Payment of adoption related expenses.

(1) For purposes of this section:

(a) "Adoption related expenses" means expenses that:

(i) are reasonably related to the adoption of a child;

(ii) are incurred for a reasonable amount; and

(iii) may include expenses:

(A) of the mother or father of the child being adopted, including:

(I) legal expenses;

(II) maternity expenses;

(III) medical expenses;

(IV) hospital expenses;

(V) counseling expenses;

(VI) temporary living expenses during the pregnancy or confinement of the mother; or

(VII) expenses for travel between the mother's or father's home and the location where the child will be born or placed for adoption;

(B) of a directly affected person for:

(I) travel between the directly affected person's home and the location where the child will be born or placed for adoption; or

(II) temporary living expenses during the pregnancy or confinement of the mother; or

(C) other than those included in Subsection (1)(a)(iii)(A) or (B), that are not made for the purpose of inducing the mother, parent, or legal guardian of a child to:

(I) place the child for adoption;

(II) consent to an adoption; or

(III) cooperate in the completion of an adoption.

(b) "Directly affected person" means a person who is:

(i) a parent or guardian of a minor when the minor is the mother or father of the child being adopted;

(ii) a dependant of:

(A) the mother or father of the child being adopted; or

(B) the parent or guardian described in Subsection (1)(b)(i); or

(iii) the spouse of the mother or father of the child being adopted.

(2) Except as provided in Subsection (3), a person is guilty of a third degree felony if the person:

(a) while having custody, care, control, or possession of a child, sells, or disposes of the child, or attempts or offers to sell or dispose of the child, for and in consideration of the payment of money or another thing of value; or

(b) offers, gives, or attempts to give money or another thing of value to a person, with the intent to induce or encourage a person to violate Subsection (2)(a).

(3) A person does not violate this section by paying or receiving payment for adoption related expenses, if:

(a) the expenses are paid as an act of charity; and

(b) the payment is not made for the purpose of inducing the mother, parent, or legal guardian of a child to:

(i) place the child for adoption;

(ii) consent to an adoption; or

(iii) cooperate in the completion of an adoption.

UTAH CODE ANN. § 76-10-1206 (2010). Dealing in material harmful to a minor -- Penalties -- Exemptions for Internet service providers and hosting companies.

(1) A person is guilty of dealing in material harmful to minors when, knowing or believing that a person is a minor, or having negligently failed to determine the proper age of a minor, the person intentionally:

(a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or a person the actor believes to be a minor, any material harmful to minors;

(b) produces, performs, or directs any performance, before a minor or a person the actor believes to be a minor, that is harmful to minors; or

(c) participates in any performance, before a minor or a person the actor believes to be a minor, that is harmful to minors.

(2) (a) Each separate offense under this section committed by a person 18 years of age or older is a third degree felony punishable by:

(i) a minimum mandatory fine of not less than $ 1,000, plus $ 10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

(b) Each separate offense under this section committed by a person 16 or 17 years of age is a class A misdemeanor.

(c) Each separate offense under this section committed by a person younger than 16 years of age is a class B misdemeanor.

(d) Subsection (2)(a) supersedes Section 77-18-1.

(3) (a) If a defendant 18 years of age or older has been previously convicted or adjudicated to be under the jurisdiction of the juvenile court under this section, each separate subsequent offense is a second degree felony punishable by:

(i) a minimum mandatory fine of not less than $ 5,000, plus $ 10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than one year.

(b) If a defendant younger than 18 years of age has been previously convicted or adjudicated to be under the jurisdiction of the juvenile court under this section, each separate subsequent offense is a third degree felony.

(c) Subsection (3)(a) supersedes Section 77-18-1.

(d) (i) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(A) the distribution of pornographic material by the Internet service provider occurs only incidentally through the provider's function of:

(I) transmitting or routing data from one person to another person; or

(II) providing a connection between one person and another person;

(B) the provider does not intentionally aid or abet in the distribution of the pornographic material; and

(C) the provider does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the pornographic material.

(ii) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(A) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(B) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(C) the hosting company does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the pornographic material.

(4) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(5) A person 18 years of age or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years of age to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to the penalties under Subsection (2)(a).

UTAH CODE ANN. § 77-27-21.5 (2010). Sex and kidnap offenders -- Registration -- Information system -- Law enforcement and courts to report -- Penalty -- Effect of expungement.

(1) As used in this section:

(a) "Business day" means a day on which state offices are open for regular business.

(b) "Department" means the Department of Corrections.

(c) "Division" means the Division of Juvenile Justice Services.

(d) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(e) "Indian Country" means:

(i) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(ii) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(iii) all Indian allotments, including the Indian allotments to which the Indian titles to have not been extinguished, including rights-of-way running through the allotments.

(f) "Jurisdiction" means any state, Indian Country, United States Territory, OR ANY PROPERTY UNDER THE JURISDICTION OF THE UNITED STATES MILITARY.

(g) "Kidnap offender" means any person other than a natural parent of the victim who:

(i) has been convicted in this state of a violation of:

(A) Section 76-5-301, kidnapping;

(B) Section 76-5-301.1, child kidnapping;

(C) Section 76-5-302, aggravated kidnapping; or

(D) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (1)(g)(i)(A) through (C);

(ii) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, INCLUDING ANY STATE, FEDERAL, OR MILITARY COURT that is substantially equivalent to the offenses listed in Subsection (1)(g)(i) and who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12 month period, is in this state for a total of ten or more days, regardless of whether or not the offender intends to permanently reside in this state;

(iii) (A) is required to register as an offender in any other jurisdiction, OR WHO IS REQUIRED TO REGISTER AS AN OFFENDER BY ANY STATE, FEDERAL, OR MILITARY COURT; and

(B) in any 12 month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(iv) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (1)(g), or any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is required to register in the person's state of residence;

(v) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (1)(g); or

(vi) is adjudicated delinquent based on one or more offenses listed in Subsection (1)(g)(i) and who has been committed to the division for secure confinement and remains in the division's custody 30 days prior to the person's 21st birthday.

(h) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(i) "Offender" means a kidnap offender as defined in Subsection (1)(g) or a sex offender as defined in Subsection (1)(n).

(j) "Online identifier" or "Internet identifier":

(i) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(ii) does not include date of birth, Social Security number, PIN number, or Internet passwords.

(k) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(l) "Register" means to comply with the requirements of this section and administrative rules of the department made under this section.

(m) "Secondary residence" means any real property that the offender owns or has a financial interest in, OR any location where, in any 12 month period, the offender stays overnight a total of ten or more nights when not staying at the offender's primary residence.

(n) "Sex offender" means any person:

(i) convicted in this state of:

(A) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(B) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(C) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

(D) Section 76-5-401.1, sexual abuse of a minor;

(E) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(F) Section 76-5-402, rape;

(G) Section 76-5-402.1, rape of a child;

(H) Section 76-5-402.2, object rape;

(I) Section 76-5-402.3, object rape of a child;

(J) a felony violation of Section 76-5-403, forcible sodomy;

(K) Section 76-5-403.1, sodomy on a child;

(L) Section 76-5-404, forcible sexual abuse;

(M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

(N) Section 76-5-405, aggravated sexual assault;

(O) Section 76-5a-3, sexual exploitation of a minor;

(P) Section 76-7-102, incest;

(Q) Subsection 76-9-702(1), lewdness, if the person has been convicted of the offense four or more times;

(R) Subsection 76-9-702(3), sexual battery, if the person has been convicted of the offense four or more times;

(S) any combination of convictions of Subsection 76-9-702(1), lewdness, and of Subsection 76-9-702(3), sexual battery, that total four or more convictions;

(T) Section 76-9-702.5, lewdness involving a child;

(U) Section 76-10-1306, aggravated exploitation of prostitution; or

(V) attempting, soliciting, or conspiring to commit any felony offense listed in Subsection (1)(n)(i);

(ii) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, INCLUDING ANY STATE, FEDERAL, OR MILITARY COURT that is substantially equivalent to the offenses listed in Subsection (1)(n)(i) and who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(iii) (A) who is required to register as an offender in any other jurisdiction, OR WHO IS REQUIRED TO REGISTER AS AN OFFENDER BY ANY STATE, FEDERAL, OR MILITARY COURT; and

(B) WHO, in any 12 month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(iv) who is a nonresident regularly employed or working in this state or who is a student in this state and was convicted of one or more offenses listed in Subsection (1)(n)(i), or any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required to register in the person's jurisdiction of residence;

(v) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (1)(n)(i); or

(vi) who is adjudicated delinquent based on one or more offenses listed in Subsection (1)(n)(i) and who has been committed to the division for secure confinement and remains in the division's custody 30 days prior to the person's 21st birthday.

(o) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

(2) The department, to assist in investigating KIDNAPPING AND sex-related crimes, and in apprehending offenders, shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders and sex and kidnap offenses;

(b) make information listed in Subsection (27) available to the public; and

(c) share information provided by an offender under this section that may not be made available to the public under Subsection (27), but only:

(i) for the purposes under this Subsection (2); or

(ii) in accordance with Section 63G-2-206.

(3) Any law enforcement agency shall, in the manner prescribed by the department, inform the department of:

(a) the receipt of a report or complaint of an offense listed in Subsection (1)(g) or (n), within three business days; and

(b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(g) or (n), within five business days.

(4) Upon convicting a person of any of the offenses listed in Subsection (1)(g) or (n), the convicting court shall within three business days forward a copy of the judgment and sentence to the department.

(5) An offender in the custody of the department shall be registered by agents of the department upon:

(a) placement on probation;

(b) commitment to a secure correctional facility operated by or under contract to the department;

(c) release from confinement to parole status, termination or expiration of sentence, or escape;

(d) entrance to and release from any community-based residential program operated by or under contract to the department; or

(e) termination of probation or parole.

(6) An offender who is not in the custody of the department and who is confined in a correctional facility not operated by or under contract to the department shall be registered with the department by the sheriff of the county in which the offender is confined, upon:

(a) commitment to the correctional facility; and

(b) release from confinement.

(7) An offender in the custody of the division shall be registered with the department by the division prior to release from custody.

(8) An offender committed to a state mental hospital shall be registered with the department by the hospital upon admission and upon discharge.

(9) (a) (i) A municipal or county law enforcement agency shall register an offender who resides within the agency's jurisdiction and is not under the supervision of the Division of Adult Probation and Parole within the department.

(ii) In order to conduct offender registration under this section, the agency shall ensure the agency staff responsible for registration:

(A) has received initial training by the department and has been certified by the department as qualified and authorized to conduct registrations and enter offender registration information into the registry database; and

(B) certify annually with the department.

(b) (i) When the department receives offender registration information regarding a change of an offender's primary residence location, the department shall within five days electronically notify the law enforcement agencies that have jurisdiction over the area where:

(A) the residence that the offender is leaving is located; and

(B) the residence to which the offender is moving is located.

(ii) The department shall provide notification under this Subsection (9)(b) if the offender's change of address is between law enforcement agency jurisdictions, or is within one jurisdiction.

(c) The department shall make available to offenders required to register under this section the name of the agency, whether it is a local law enforcement agency or the department, that the offender should contact to register, the location for registering, and the requirements of registration.

(10) An offender convicted by any other jurisdiction is required to register under Subsection (1)(g) or (n) and Subsection (12) and shall register with the department within ten days of entering the state, regardless of the offender's length of stay.

(11) (a) An offender required to register under Subsection (1)(g) or (n) who is under supervision by the department shall register with Division of Adult Probation and Parole.

(b) An offender required to register under Subsection (1)(g) or (n) who is no longer under supervision by the department shall register with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(12) (a) Except as provided in Subsections (12)(b), (c), and (d), an offender shall, for the duration of the sentence and for ten years after termination of sentence or custody of the division, register every year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (14).

(b) Except as provided Subsections (12)(c) and (d), an offender who is convicted in another jurisdiction of an offense listed in Subsection (1)(g)(i) or (n)(i), a substantially similar offense, or any other offense that requires registration in the jurisdiction of conviction, shall:

(i) register for the time period, and in the frequency, required by the jurisdiction where the offender was convicted if that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the ten years from completion of the sentence registration period that is required under Subsection (12)(a), or is more frequent than every six months; or

(ii) register in accordance with the requirements of Subsection (12)(a), if the jurisdiction's registration period or frequency requirement for the offense that the offender was convicted of is less than the registration period required under Subsection (12)(a), or is less frequent than every six months.

(c) (i) (A) An offender convicted as an adult of any of the offenses listed in Subsection (12)(c)(ii) shall, for the offender's lifetime, register every year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (14).

(B) This registration requirement is not subject to exemptions and may not be terminated or altered during the offender's lifetime.

(ii) Offenses referred to in Subsection (12)(c)(i) are:

(A) any offense listed in Subsection (1)(g) or (n) if, at the time of the conviction, the offender has previously been convicted of an offense listed in Subsection (1)(g) or (n) or has previously been required to register as a sex offender for an offense committed as a juvenile;

(B) a conviction for any of the following offenses, including attempting, soliciting, or conspiring to commit any felony of:

(I) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of the victim;

(II) Section 76-5-402, rape;

(III) Section 76-5-402.1, rape of a child;

(IV) Section 76-5-402.2, object rape;

(V) Section 76-5-402.3, object rape of a child;

(VI) Section 76-5-403.1, sodomy on a child;

(VII) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or

(VIII) Section 76-5-405, aggravated sexual assault;

(C) Section 76-4-401, a felony violation of enticing a minor over the Internet;

(D) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;

(E) Section 76-5-403, forcible sodomy;

(F) Section 76-5-404.1, sexual abuse of a child; or

(G) Section 76-5a-3, sexual exploitation of a minor.

(d) Notwithstanding Subsections (12)(a), (b), and (c), an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(e) An offender who is required to register under this Subsection (12) shall surrender the offender's license, certificate, or identification card as required under Subsection 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification card as provided under Section 53-3-205 or 53-3-804.

(f) A sex offender who violates Section 77-27-21.8 while required to register under this section shall register for an additional five years subsequent to the registration period otherwise required under this section.

(13) An agency in the state that registers an offender on probation, an offender who has been released from confinement to parole status or termination, or an offender whose sentence has expired shall inform the offender of the duty to comply with:

(a) the continuing registration requirements of this section during the period of registration required in Subsection (12), including:

(i) notification to the state agencies in the states where the registrant presently resides and plans to reside when moving across state lines;

(ii) verification of address at least every 60 days pursuant to a parole agreement for lifetime parolees; and

(iii) notification to the out-of-state agency where the offender is living, whether or not the offender is a resident of that state; and

(b) the driver license certificate or identification card surrender requirement under Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or 53-3-804.

(14) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of any vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and any change of enrollment or employment status of the offender at any educational institution;

(o) the name and the address of any place where the offender is employed or will be employed;

(p) the name and the address of any place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's Social Security number.

(15) The department shall:

(a) provide the following additional information when available:

(i) the crimes the offender has been convicted of or adjudicated delinquent for;

(ii) a description of the offender's primary and secondary targets; and

(iii) any other relevant identifying information as determined by the department;

(b) maintain the Sex Offender AND KIDNAP OFFENDER Notification and Registration website; and

(c) ensure that the registration information collected regarding an offender's enrollment or employment at an educational institution is:

(i) (A) promptly made available to any law enforcement agency that has jurisdiction where the institution is located if the educational institution is an institution of higher education; or

(B) promptly made available to the district superintendent of the school district where the offender is enrolled if the educational institution is an institution of primary education; and

(ii) entered into the appropriate state records or data system.

(16) (a) An offender who knowingly fails to register under this section or provides false or incomplete information is guilty of:

(i) a third degree felony and shall be sentenced to serve a term of incarceration for not less than 90 days and also at least one year of probation if:

(A) the offender is required to register for a felony conviction or adjudicated delinquent for what would be a felony if the juvenile were an adult of an offense listed in Subsection (1)(g)(i) or (n)(i); or

(B) the offender is required to register for the offender's lifetime under Subsection (12)(c); or

(ii) a class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than 90 days and also at least one year of probation if the offender is required to register for a misdemeanor conviction or is adjudicated delinquent for what would be a misdemeanor if the juvenile were an adult of an offense listed in Subsection (1)(g)(i) or (n)(i).

(b) Neither the court nor the Board of Pardons and Parole may release a person who violates this section from serving the term required under Subsection (16)(a). This Subsection (16)(b) supersedes any other provision of the law contrary to this section.

(c) The offender shall register for an additional year for every year in which the offender does not comply with the registration requirements of this section.

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, information under Subsection (15) that is collected and released under Subsection (27) is public information, unless otherwise restricted under Subsection (2)(c).

(18) (a) If an offender is to be temporarily sent outside a secure facility in which the offender is confined on any assignment, including, without limitation, firefighting or disaster control, the official who has custody of the offender shall, within a reasonable time prior to removal from the secure facility, notify the local law enforcement agencies where the assignment is to be filled.

(b) This Subsection (18) does not apply to any person temporarily released under guard from the institution in which the person is confined.

(19) Notwithstanding TITLE 77, CHAPTER 40, UTAH EXPUNGEMENT ACT, a person convicted of any offense listed in Subsection (1)(g) or (n) is not relieved from the responsibility to register as required under this section.

(20) Notwithstanding Section 42-1-1, an offender:

(a) may not change the offender's name:

(i) while under the jurisdiction of the department; and

(ii) until the registration requirements of this statute have expired; and

(b) may not change the offender's name at any time, if registration is for life under Subsection (12)(c).

(21) The department may make administrative rules necessary to implement this section, including:

(a) the method for dissemination of the information; and

(b) instructions to the public regarding the use of the information.

(22) Any information regarding the identity or location of a victim shall be redacted by the department from information provided under Subsections (14) and (15).

(23) This section does not create or impose any duty on any person to request or obtain information regarding any sex offender from the department.

(24) The department shall maintain a Sex Offender AND KIDNAP OFFENDER Notification and Registration website on the Internet, which shall contain a disclaimer informing the public:

(a) the information contained on the site is obtained from offenders and the department does not guarantee its accuracy or completeness;

(b) members of the public are not allowed to use the information to harass or threaten offenders or members of their families; and

(c) harassment, stalking, or threats against offenders or their families are prohibited and doing so may violate Utah criminal laws.

(25) The Sex Offender AND KIDNAP OFFENDER Notification and Registration website shall be indexed by both the surname of the offender and by postal codes.

(26) The department shall construct the Sex Offender Notification and Registration website so that users, before accessing registry information, must indicate that they have read the disclaimer, understand it, and agree to comply with its terms.

(27) The Sex Offender AND KIDNAP OFFENDER Notification and Registration website shall include the following registry information:

(a) all names and aliases by which the offender is or has been known, but not including any online or Internet identifiers;

(b) the addresses of the offender's primary, secondary, and temporary residences;

(c) a physical description, including the offender's date of birth, height, weight, and eye and hair color;

(d) the make, model, color, year, and plate number of any vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a list of all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business;

(g) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student;

(h) a list of places where the offender works as a volunteer; and

(i) the crimes listed in Subsections (1)(g) and (n) that the offender has been convicted of or for which the offender has been adjudicated delinquent in juvenile court.

(28) The department, its personnel, and any individual or entity acting at the request or upon the direction of the department are immune from civil liability for damages for good faith compliance with this section and will be presumed to have acted in good faith by reporting information.

(29) The department shall redact information that, if disclosed, could reasonably identify a victim.

(30) (a) Each offender required to register under Subsection (12) shall, in the month of the offender's birth :

(I) pay to the department an annual fee of $ 100 each year the offender is subject to the registration requirements of this section ; AND

(II) PAY TO THE REGISTERING AGENCY, IF IT IS AN AGENCY OTHER THAN THE DEPARTMENT OF CORRECTIONS, AN ANNUAL FEE OF NOT MORE THAN $ 25, WHICH MAY BE ASSESSED BY THAT AGENCY FOR PROVIDING REGISTRATION.

(b) Notwithstanding Subsection (30)(a), an offender who is confined in a secure facility or in a state mental hospital is not required to pay the annual fee.

(c) The department shall deposit fees under this Subsection (30) in the General Fund as a dedicated credit, to be used by the department for maintaining the offender registry under this section and monitoring offender registration compliance, including the costs of:

(i) data entry;

(ii) processing registration packets;

(iii) updating registry information;

(iv) ensuring offender compliance with registration requirements under this section; and

(v) apprehending offenders who are in violation of the offender registration requirements under this section.

(31) Notwithstanding Subsections (2)(c) and (14)(i) and (j), a sex offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including any bank, retirement, or investment accounts.

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VT. STAT. ANN. TIT. 13, § 11 (2010). Habitual criminals.

A person who, after having been three times convicted within this state of felonies or attempts to commit felonies, or under the law of any other state, government or country, of crimes which, if committed within this state, would be felonious, commits a felony other than murder within this state, may be sentenced upon conviction of such fourth or subsequent offense to imprisonment up to and including life.

VT. STAT. ANN. TIT. 13, § 11A (2010). Violent career criminals.

(a) The state may elect to seek the substitute penalty provided for in this section against a person who, after having been two times convicted within this state of a felony crime of violence, or under the law of any other state, government or country, of a crime which, if committed in this state would be a felony crime of violence, is convicted of a third felony crime of violence within this state.

(b) If the state seeks a substitute penalty for one of the offenses enumerated in subsection (d) of this section, it shall give notice to the person by filing an information seeking the penalty contained in this section.

(c) A person charged under this section shall be sentenced upon conviction of such third or subsequent offense to imprisonment up to and including life.

(d) As used in this section, "felony crime of violence" shall mean the following crimes:

(1) arson causing death as defined in section 501 of this title;

(2) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;

(3) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;

(4) aggravated assault as defined in section 1024 of this title;

(5) murder as defined in section 2301 of this title;

(6) manslaughter as defined in section 2304 of this title;

(7) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;

(8) maiming as defined in section 2701 of this title;

(9) sexual assault as defined in subdivision 3252(a)(1) or (2) of this title or its predecessor as it was defined in section 3201 of this title;

(10) aggravated sexual assault as defined in section 3253 of this title;

(11) first degree unlawful restraint as defined in section 2407 of this title;

(12) first degree aggravated domestic assault as defined in section 1043 of this title where the defendant causes serious bodily injury to another person;

(13) lewd or lascivious conduct with a child as defined in section 2602 of this title where the child is under the age of 13 years and the defendant is 18 years of age or older.

(e) Notwithstanding any other provision of law to the contrary, the court shall not place on probation or suspend the sentence of any person sentenced under this section. No person who receives a minimum sentence under this section shall be eligible for early release or furlough until the expiration of the minimum sentence.

(f) For the purposes of this section, multiple convictions that arise out of the same criminal transaction are to be treated as one conviction.

VT. STAT. ANN. TIT. 13, § 1303 (2010). Abandonment or exposure of baby.

(a) A person who abandons or exposes a child under the age of two years whereby the life or health of such child is endangered shall be imprisoned not more than 10 years or fined not more than $ 10,000.00, or both.

(b) (1) It is not a violation of this section if a person voluntarily delivers a child not more than 30 days of age to:

(A) An employee, staff member, or volunteer at a health care facility.

(B) An employee, staff member, or volunteer at a fire station, police station, place of worship, or an entity that is licensed or authorized in this state to place minors for adoption.

(C) A 911 emergency responder at a location where the responder and the person have agreed to transfer the child.

(2) A person voluntarily delivering a child under this subsection shall not be required to reveal any personally identifiable information, but may be offered the opportunity to provide information concerning the child's or family's medical history.

(3) A person or facility to whom a child is delivered pursuant to this subsection shall not be required to reveal the name of the person who delivered the child unless there is a reasonable suspicion that the child has been abused and shall be immune from civil or criminal liability for any action taken pursuant to this subsection.

(4) A person or facility to whom a child is delivered pursuant to this subsection shall:

(A) Take temporary custody of the child and ensure that he or she receives any necessary medical care.

(B) Provide notice that he, she, or it has taken temporary custody of the child to a local law enforcement agency or the Vermont state police.

(C) Provide notice that he, she, or it has taken temporary custody of the child to the department for children and families, which shall take custody of the child as soon as practicable.

(5) The department for children and families shall develop and implement a public information program to increase public awareness about the provisions of the Baby Safe Haven Law, and shall report on the elements and status of the program by January 15, 2006, to the chairs of the senate committee on health and welfare and the house committee on human services.

(6) Except as provided in subdivision (3) of this subsection, this subsection shall not be construed to limit or otherwise affect procedures under chapter 53 of Title 33 regarding termination of parental rights and regarding children in need of care or supervision.

VT. STAT. ANN. TIT. 13, § 1304 (2010). Cruelty to children under 10 by one over 16.

A person over the age of 16 years, having the custody, charge or care of a child under 10 years of age, who wilfully assaults, ill treats, neglects or abandons or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner to cause such child unnecessary suffering, or to endanger his or her health, shall be imprisoned not more than two years or fined not more than $ 500.00, or both.

VT. STAT. ANN. TIT. 13, § 1305 (2010). Cruelty by person having custody of another.

A person having the custody, charge, care or control of another person, who inflicts unnecessary cruelty upon such person, or unnecessarily and cruelly fails to provide such person with proper food, drink, shelter or protection from the weather, or unnecessarily and cruelly neglects to properly care for such person, shall be imprisoned not more than one year or fined not more than $ 200.00, or both.

VT. STAT. ANN. TIT. 13, § 2451 (2010). Custodial interference.

(a) A person commits custodial interference by taking, enticing or keeping a child from the child's lawful custodian, knowingly, without a legal right to do so, when the person is a relative of the child and the child is less than 18 years old.

(b) A person who commits custodial interference shall be imprisoned not more than five years or fined not more than $ 5,000.00, or both.

(c) It shall be a defense to a charge of keeping a child from the child's lawful custodian that the person charged with the offense was acting in good faith to protect the child from real and imminent physical danger. Evidence of good faith shall include, but is not limited to, the filing of a non-frivolous petition documenting that danger and seeking to modify the custodial decree in a Vermont court of competent jurisdiction. This petition must be filed within 72 hours of the termination of visitation rights. This defense shall not be available if the person charged with the offense has left the state with the child.

VT. STAT. ANN. TIT. 13, § 2825 (2010). Penalties.

[Under "Sexual Exploitation of Children"]

(a) A person who violates sections 2822, 2823, or 2824 of this title shall be imprisoned not more than 10 years or fined not more than $ 20,000.00, or both.

(b) Upon conviction for a violation of sections 2822, 2823, or 2824 of this title of a person who has earlier been convicted under any of those sections, the person shall be imprisoned not less than one year nor more than 15 years or fined not more than $ 50,000.00, or both.

(c) A person who violates section 2827 of this title by possessing a photograph, film or visual depiction, including a depiction stored electronically, which constitutes:

(1) a clearly lewd exhibition of a child's genitals or anus, other than a depiction of sexual conduct by a child, shall be imprisoned not more than two years or fined not more than $ 5,000.00, or both;

(2) sexual conduct by a child, shall be imprisoned not more than five years or fined not more than $ 10,000.00, or both.

(d) A person who violates section 2827 of this title after being convicted of a previous violation of the same section shall be imprisoned not more than 10 years or fined not more than $ 50,000.00, or both.

(e) A person who violates section 2828 of this title shall be imprisoned not more than five years or fined not more than $ 10,000.00, or both.

VT. STAT. ANN. TIT. 13, § 3252(2010). Sexual assault.

(a) No person shall engage in a sexual act with another person and compel the other person to participate in a sexual act:

(1) without the consent of the other person; or

(2) by threatening or coercing the other person; or

(3) by placing the other person in fear that any person will suffer imminent bodily injury.

(b) No person shall engage in a sexual act with another person and impair substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the other person.

(c) No person shall engage in a sexual act with a child who is under the age of 16, except:

(1) where the persons are married to each other and the sexual act is consensual; or

(2) where the person is less than 19 years old, the child is at least 15 years old, and the sexual act is consensual.

(d) No person shall engage in a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild.

(e) No person shall engage in a sexual act with a child under the age of 16 if:

(1) the victim is entrusted to the actor's care by authority of law or is the actor's child, grandchild, foster child, adopted child, or stepchild; or

(2) the actor is at least 18 years of age, resides in the victim's household, and serves in a parental role with respect to the victim.

(f) (1) A person who violates subsection (a), (b), (d), or (e) of this section shall be imprisoned not less than three years and for a maximum term of life, and, in addition, may be fined not more than $ 25,000.00.

(2) A person who violates subsection (c) of this section shall be imprisoned for not more than 20 years, and, in addition, may be fined not more than $ 10,000.00.

(g) A person convicted of violating subsection (a), (b), (d), or (e) of this section shall be sentenced under section 3271 of this title.

VT. STAT. ANN. TIT. 13, § 3253(2010). Aggravated sexual assault.

(a) A person commits the crime of aggravated sexual assault if the person commits sexual assault under any one of the following circumstances:

(1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another.

(2) The actor is joined or assisted by one or more persons in physically restraining, assaulting or sexually assaulting the victim.

(3) The actor commits the sexual act under circumstances which constitute the crime of kidnapping.

(4) The actor has previously been convicted in this state of sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault or has been convicted in any jurisdiction in

the United States or territories of an offense which would constitute sexual assault under subsection 3252(a) or (b) of this title or aggravated sexual assault if committed in this state.

(5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses or threatens to use the deadly weapon on the victim or on another.

(6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another and the victim reasonably believes that the actor has the present ability to carry out the threat.

(7) At the time of the sexual assault, the actor applies deadly force to the victim.

(8) The victim is under the age of 13 and the actor is at least 18 years of age.

(9) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence or the victim is subjected to repeated nonconsensual sexual acts as part of the actor's common scheme and plan.

(b) A person who commits the crime of aggravated sexual assault shall be imprisoned not less than ten years and a maximum term of life, and, in addition, may be fined not more than $ 50,000.00.

(c) (1) Except as provided in subdivision (2) of this subsection, a sentence ordered pursuant to subsection (b) of this section shall include at least a ten-year term of imprisonment. The ten-year term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year or ten-year term of imprisonment.

(2) The court may depart downwardly from the ten-year term of imprisonment required by subsection (b) of this section and impose a lesser term of incarceration if the court makes written findings on the record that the downward departure will serve the interests of justice and public safety, provided that in no event may the court impose a term of incarceration of less than five years.

(d) A person convicted of violating this section shall be sentenced under section 3271 of this title.

VT. STAT. ANN. TIT. 13, § 3253A (2010). Aggravated sexual assault of a child.

(a) A person commits the crime of aggravated sexual assault of a child if the actor is at least 18 years of age and commits sexual assault against a child under the age of 16 in violation of section 3252 of this title and at least one of the following circumstances exists:

(1) At the time of the sexual assault, the actor causes serious bodily injury to the victim or to another.

(2) The actor is joined or assisted by one or more persons in physically restraining, assaulting, or sexually assaulting the victim.

(3) The actor commits the sexual act under circumstances which constitute the crime of kidnapping.

(4) The actor has previously been convicted in this state of sexual assault under subsection 3252(a) or (b) of this title, aggravated sexual assault under section 3253 of this title, or aggravated sexual assault of a child under this section, or has been convicted in any jurisdiction in the United States or territories of an offense which would constitute sexual assault under subsection 3252(a) or (b) of this title, aggravated sexual assault under section 3253 of this title, or aggravated sexual assault of a child under this section if committed in this state.

(5) At the time of the sexual assault, the actor is armed with a deadly weapon and uses or threatens to use the deadly weapon on the victim or on another.

(6) At the time of the sexual assault, the actor threatens to cause imminent serious bodily injury to the victim or to another, and the victim reasonably believes that the actor has the present ability to carry out the threat.

(7) At the time of the sexual assault, the actor applies deadly force to the victim.

(8) The victim is subjected by the actor to repeated nonconsensual sexual acts as part of the same occurrence or the victim is subjected to repeated nonconsensual sexual acts as part of the actor's common scheme and plan.

(b) A person who commits the crime of aggravated sexual assault of a child shall be imprisoned for not less than 25 years with a maximum term of life, and, in addition, may be fined not more than $ 50,000.00. The 25-year term of imprisonment required by this subsection shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the 25-year term of imprisonment.

VT. STAT. ANN. TIT. 13, § 3258 (2010). Sexual exploitation of a minor.

(a) No person shall engage in a sexual act with a minor if:

(1) the actor is at least 48 months older than the minor; and

(2) the actor is in a position of power, authority, or supervision over the minor by virtue of the actor's undertaking the responsibility, professionally or voluntarily, to provide for the health or welfare of minors, or guidance, leadership, instruction, or organized recreational activities for minors.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than one year or fined not more than $ 2,000.00, or both.

(c) A person who violates subsection (a) of this section and who abuses his or her position of power, authority, or supervision over the minor in order to engage in a sexual act shall be imprisoned for not more than five years or fined not more than $ 10,000.00, or both.

VT. STAT. ANN. TIT. 13, § 3271 (2010). Indeterminate life sentence.

(a) A person who commits one of the following offenses shall be sentenced under this section:

(1) Lewd and lascivious conduct with a child, second or subsequent offense, in violation of subdivision 2602(b)(2) of this title.

(2) Sexual assault in violation of subsection 3252(a), (b), (d), or (e) of this title.

(3) Aggravated sexual assault in violation of section 3253 of this title.

(4) Violation of sex offender registry requirements by noncompliant high-risk sex offenders, in violation of subsection 5411d(g) of this title.

(b) If a person is sentenced under this section, the person's maximum sentence shall be imprisonment for life.

(c) If a person sentenced under this section receives a sentence that is wholly or partially suspended, sex offender conditions and treatment shall be a condition of the person's probation agreement.

(d) If a person sentenced under this section receives a sentence for an unsuspended term of incarceration, the person shall not be released until the person successfully completes all sex offender treatment and programming required by the department of corrections, unless the department determines that the person poses a sufficiently low risk of reoffense to protect the community or that a program can be implemented which adequately supervises the person and addresses any risk the person may pose to the community.

VT. STAT. ANN. TIT. 13, § 5402 (2010). Sex offender registry.

(a) The department of public safety shall establish and maintain a sex offender registry, which shall consist of the information required to be filed under this subchapter.

(b) All information contained in the registry may be disclosed for any purpose permitted under the law of this state, including use by:

(1) local, state, and federal law enforcement agencies exclusively for lawful law enforcement activities;

(2) state and federal governmental agencies for the exclusive purpose of conducting confidential background checks;

(3) any employer, including a school district, who is authorized by law to request records and information from the Vermont criminal information center, where such disclosure is necessary to protect the public concerning persons required to register under this subchapter. The identity of a victim of an offense that requires registration shall not be released;

(4) a person identified as a sex offender in the registry for the purpose of reviewing the accuracy of any record relating to him or her. The identity of a victim of an offense that requires registration shall not be released; and

(5) probate courts for purposes of conducting checks on persons applying for changes of name under section 811 of Title 15.

(c) The departments of corrections and of public safety shall adopt rules, forms and procedures under chapter 25 of Title 3 to implement the provisions of this subchapter.

VT. STAT. ANN. TIT. 13, § 7031 (2010). Form of sentences; maximum and minimum terms.

(a) When a respondent is sentenced to any term of imprisonment, other than for life, the court imposing the sentence shall not fix the term of imprisonment, unless such term is definitely fixed by statute, but shall establish a maximum and may establish a minimum term for which such respondent may be held in imprisonment. The maximum term shall not be more than the longest term fixed by law for the offense of which the respondent is convicted and the minimum term shall be not less than the shortest term fixed by law for such offense. If the court suspends a portion of said sentence, the unsuspended portion of such sentence shall be the minimum term of sentence solely for the purpose of any reductions of term for good behavior as provided for in section 811 of Title 28.

(b) The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The court shall give the person credit toward service of his or her sentence for any days spent in custody in connection with the offense for which sentence was imposed.

(c) If any such person is committed to a jail or other place of detention to await transportation to the place at which his or her sentence is to be served, his or her sentence shall commence to run from the date on which he or she is received at such jail or such place of detention.

VT. STAT. ANN. TIT. 15, § 202 (2010). Penalty for desertion or nonsupport.

A married person who, without just cause, shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her spouse and children, leaving them in destitute or necessitous circumstances or a parent who, without lawful excuse, shall desert or wilfully neglect or refuse to provide for the support and maintenance of his child or an adult child possessed of sufficient pecuniary or physical ability to support his parents, who unreasonably neglects or refuses to provide such support when the parent is destitute, unable to support himself and resident in this state, shall be imprisoned not more than two years or fined not more than $ 300.00, or both. Should a fine be imposed, the court may order the same to be paid in whole or in part to the needy spouse, parent or to the guardian, custodian or trustee of the child.

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VA. CODE ANN. § 18.2-10 (2010). Punishment for conviction of felony; penalty.

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, death, if the person so convicted was 18 years of age or older at the time of the offense and is not determined to be mentally retarded pursuant to § 19.2-264.3:1.1, or imprisonment for life and, subject to subdivision (g), a fine of not more than $ 100,000. If the person was under 18 years of age at the time of the offense or is determined to be mentally retarded pursuant to § 19.2-264.3:1.1, the punishment shall be imprisonment for life and, subject to subdivision (g), a fine of not more than $ 100,000.

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than $ 100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than $ 100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than $ 100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than $ 2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than $ 2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a sentence of death is imposed, the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

VA. CODE ANN. § 18.2-11 (2010). Punishment for conviction of misdemeanor.

The authorized punishments for conviction of a misdemeanor are:

(a) For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than $ 2,500, either or both.

(b) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than $ 1,000, either or both.

(c) For Class 3 misdemeanors, a fine of not more than $ 500.

(d) For Class 4 misdemeanors, a fine of not more than $ 250.

For a misdemeanor offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in subsection B of that section in addition to any other penalty provided by law.

VA. CODE ANN. § 18.2-12 (2010). Same; where no punishment or maximum punishment prescribed.

A misdemeanor for which no punishment or no maximum punishment is prescribed by statute shall be punishable as a Class 1 misdemeanor.

VA. CODE ANN. § 18.2-14 (2010). How unclassified offenses punished.

Offenses defined in Title 18.2 and in other titles in the Code, for which punishment is prescribed without specification as to the class of the offense, shall be punished according to the punishment prescribed in the section or sections thus defining the offense.

VA. CODE ANN. § 18.2-47 (2010). Abduction and kidnapping defined; punishment.

A. Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to deprive such other person of his personal liberty or to withhold or conceal him from any person, authority or institution lawfully entitled to his charge, shall be deemed guilty of "abduction."

B. Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to subject him to forced labor or services shall be deemed guilty of "abduction." For purposes of this subsection, the term "intimidation" shall include destroying, concealing, confiscating, withholding, or threatening to withhold a passport, immigration document, or other governmental identification or threatening to report another as being illegally present in the United States.

C. The provisions of this section shall not apply to any law-enforcement officer in the performance of his duty. The terms "abduction" and "kidnapping" shall be synonymous in this Code. Abduction for which no punishment is otherwise prescribed shall be punished as a Class 5 felony.

D. If an offense under subsection A is committed by the parent of the person abducted and punishable as contempt of court in any proceeding then pending, the offense shall be a Class 1 misdemeanor in addition to being punishable as contempt of court. However, such offense, if committed by the parent of the person abducted and punishable as contempt of court in any

proceeding then pending and the person abducted is removed from the Commonwealth by the abducting parent, shall be a Class 6 felony in addition to being punishable as contempt of court.

VA. CODE ANN. § 18.2-48 (2010). Abduction with intent to extort money or for immoral purpose.

Abduction (i) with the intent to extort money or pecuniary benefit, (ii) of any person with intent to defile such person, or (iii) of any child under sixteen years of age for the purpose of concubinage or prostitution, shall be a Class 2 felony. If the sentence imposed for a violation of (ii) or (iii) includes a term of confinement less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life subject to revocation by the court.

VA. CODE ANN. § 18.2-57.2 (2010). Assault and battery against a family or household member; penalty.

A. Any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor.

B. Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of two offenses against a family or household member of (i) assault and battery against a family or household member in violation of this section, (ii) malicious wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, or (v) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses, in any combination, all of which occurred within a period of 20 years, and each of which occurred on a different date, such person is guilty of a Class 6 felony.

C. Whenever a warrant for a violation of this section is issued, the magistrate shall issue an emergency protective order as authorized by § 16.1-253.4, except if the defendant is a minor, an emergency protective order shall not be required.

D. The definition of "family or household member" in § 16.1-228 applies to this section.

VA. CODE ANN. § 18.2-57.3 (2010). Persons charged with first offense of assault and battery against a family or household member may be placed on local community-based probation; conditions; education and treatment programs; costs and fees; violations; discharge.

A. When a person is charged with a violation of § 18.2-57.2, the court may defer the proceedings against such person, without a finding of guilt, and place him on probation under the terms of this section.

B. For a person to be eligible for such deferral, the court shall find that (i) the person was an adult at the time of the commission of the offense, (ii) the person has not previously been convicted of any offense under this article or under any statute of the United States or of any state or any

ordinance of any local government relating to assault and battery against a family or household member, (iii) the person has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, (iv) the person pleads guilty to, or enters a plea of not guilty or nolo contendere and the court finds the evidence is sufficient to find the person guilty of, a violation of § 18.2-57.2, and (v) the person consents to such deferral.

C. The court may (i) where a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1 is available, order that the eligible person be placed with such agency and require, as a condition of local community-based probation, the person to successfully complete all treatment, education programs or services, or any combination thereof indicated by an assessment or evaluation obtained by the local community-based probation services agency if such assessment, treatment or education services are available; or (ii) require successful completion of treatment, education programs or services, or any combination thereof, such as, in the opinion of the court, may be best suited to the needs of the person.

D. The court shall require the person entering such education or treatment program or services under the provisions of this section to pay all or part of the costs of the program or services, including the costs of any assessment, evaluation, testing, education and treatment, based upon the person's ability to pay. Such programs or services shall offer a sliding-scale fee structure or other mechanism to assist participants who are unable to pay the full costs of the required programs or services.

The court shall order the person to be of good behavior for a total period of not less than two years following the deferral of proceedings, including the period of supervised probation, if available.

The court shall, unless done at arrest, order the person to report to the original arresting law-enforcement agency to submit to fingerprinting.

E. Upon fulfillment of the terms and conditions specified in the court order, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. No charges dismissed pursuant to this section shall be eligible for expungement under § 19.2-392.2.

F. Upon violation of a term or condition of supervised probation or of the period of good behavior, the court may enter an adjudication of guilt and proceed as otherwise provided by law.

G. Notwithstanding any other provision of this section, whenever a court places a person on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of § 18.2-308.

VA. CODE ANN. § 18.2-61 (2010). Rape.

A. If any person has sexual intercourse with a complaining witness, whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness's will, by force, threat or intimidation of or against the complaining witness or another

person; or (ii) through the use of the complaining witness's mental incapacity or physical helplessness; or (iii) with a child under age 13 as the victim, he or she shall be guilty of rape.

B. A violation of this section shall be punishable, in the discretion of the court or jury, by confinement in a state correctional facility for life or for any term not less than five years; the penalty for a violation of subdivision A (iii), where the offender is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or § 18.2-48, (ii) § 18.2-89, 18.2-90 or 18.2-91, or (iii) § 18.2-51.2, shall include a mandatory minimum term of confinement of 25 years. If the term of confinement imposed for any violation of subdivision A (iii), where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.

There shall be a rebuttable presumption that a juvenile over the age of 10 but less than 12, does not possess the physical capacity to commit a violation of this section. In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

VA. CODE ANN. § 18.2-63 (2010). Carnal knowledge of child between thirteen and fifteen years of age.

A. If any person carnally knows, without the use of force, a child thirteen years of age or older but under fifteen years of age, such person shall be guilty of a Class 4 felony.

B. If any person carnally knows, without the use of force, a child thirteen years of age or older but under fifteen years of age who consents to sexual intercourse and the accused is a minor and such consenting child is three years or more the accused's junior, the accused shall be guilty of a Class 6 felony. If such consenting child is less than three years the accused's junior, the accused shall be guilty of a Class 4 misdemeanor.

In calculating whether such child is three years or more a junior of the accused minor, the actual dates of birth of the child and the accused, respectively, shall be used.

C. For the purposes of this section, (i) a child under the age of thirteen years shall not be considered a consenting child and (ii) "carnal knowledge" includes the acts of sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, and animate and inanimate object sexual penetration.

VA. CODE ANN. § 18.2-67.1 (2010). Forcible sodomy.

A. An accused shall be guilty of forcible sodomy if he or she engages in cunnilingus, fellatio, anilingus, or anal intercourse with a complaining witness whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person, and

1. The complaining witness is less than 13 years of age, or

2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

B. Forcible sodomy is a felony punishable by confinement in a state correctional facility for life or for any term not less than five years. The penalty for a violation of subdivision A 1, where the offender is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or 18.2-48, (ii) § 18.2-89, 18.2-90 or 18.2-91, or (iii) § 18.2-51.2, shall include a mandatory minimum term of confinement of 25 years. If the term of confinement imposed for any violation of subdivision A 1, where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.

In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining

witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

VA. CODE ANN. § 18.2-67.2 (2010). Object sexual penetration; penalty.

A. An accused shall be guilty of inanimate or animate object sexual penetration if he or she penetrates the labia majora or anus of a complaining witness, whether or not his or her spouse, other than for a bona fide medical purpose, or causes such complaining witness to so penetrate his or her own body with an object or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person or to penetrate, or to be penetrated by, an animal, and

1. The complaining witness is less than 13 years of age, or

2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

B. Inanimate or animate object sexual penetration is a felony punishable by confinement in the state correctional facility for life or for any term not less than five years. The penalty for a violation of subdivision A 1 where the offender is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or 18.2-48, (ii) § 18.2-89, 18.2-90 or 18.2-91, or (iii) § 18.2-51.2, shall include a mandatory minimum term of confinement of 25 years. If the term of confinement imposed for any violation of subdivision A 1, where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.

In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

VA. CODE ANN. § 18.2-67.3 (2010). Aggravated sexual battery; penalty.

A. An accused shall be guilty of aggravated sexual battery if he or she sexually abuses the complaining witness, and

1. The complaining witness is less than 13 years of age, or

2. The act is accomplished through the use of the complaining witness's mental incapacity or physical helplessness, or

3. The offense is committed by a parent, step-parent, grandparent, or step-grandparent and the complaining witness is at least 13 but less than 18 years of age, or

4. The act is accomplished against the will of the complaining witness by force, threat or intimidation, and

a. The complaining witness is at least 13 but less than 15 years of age, or

b. The accused causes serious bodily or mental injury to the complaining witness, or

c. The accused uses or threatens to use a dangerous weapon.

B. Aggravated sexual battery is a felony punishable by confinement in a state correctional facility for a term of not less than one nor more than 20 years and by a fine of not more than $ 100,000.

VA. CODE ANN. § 18.2-67.5:2 (2010). Punishment upon conviction of certain subsequent felony sexual assault.

A. Any person convicted of (i) more than one offense specified in subsection B or (ii) one of the offenses specified in subsection B of this section and one of the offenses specified in subsection B of § 18.2-67.5:3 when such offenses were not part of a common act, transaction or scheme, and who has been at liberty as defined in § 53.1-151 between each conviction shall, upon conviction of the second or subsequent such offense, be sentenced to the maximum term authorized by statute for such offense, and shall not have all or any part of such sentence suspended, provided it is admitted, or found by the jury or judge before whom the person is tried, that he has been previously convicted of at least one of the specified offenses.

B. The provisions of subsection A shall apply to felony convictions for:

1. Carnal knowledge of a child between thirteen and fifteen years of age in violation of § 18.2-63 when the offense is committed by a person over the age of eighteen;

2. Carnal knowledge of certain minors in violation of § 18.2-64.1;

3. Aggravated sexual battery in violation of § 18.2-67.3;

4. Crimes against nature in violation of subsection B of § 18.2-361;

5. Adultery or fornication with one's own child or grandchild in violation of § 18.2-366;

6. Taking indecent liberties with a child in violation of § 18.2-370 or § 18.2-370.1; or

7. Conspiracy to commit any offense listed in subdivisions 1 through 6 pursuant to § 18.2-22.

C. For purposes of this section, prior convictions shall include (i) adult convictions for felonies under the laws of any state or the United States that are substantially similar to those listed in subsection B and (ii) findings of not innocent, adjudications or convictions in the case of a juvenile if the juvenile offense is substantially similar to those listed in subsection B, the offense would be a felony if committed by an adult in the Commonwealth and the offense was committed less than twenty years before the second offense.

The Commonwealth shall notify the defendant in writing, at least thirty days prior to trial, of its intention to seek punishment pursuant to this section.

VA. CODE ANN. § 18.2-67.5:3 (2010). Punishment upon conviction of certain subsequent violent felony sexual assault.

A. Any person convicted of more than one offense specified in subsection B, when such offenses were not part of a common act, transaction or scheme, and who has been at liberty as defined in § 53.1-151 between each conviction shall, upon conviction of the second or subsequent such offense, be sentenced to life imprisonment and shall not have all or any portion of the sentence suspended, provided it is admitted, or found by the jury or judge before whom he is tried, that he has been previously convicted of at least one of the specified offenses.

B. The provisions of subsection A shall apply to convictions for:

1. Rape in violation of § 18.2-61;

2. Forcible sodomy in violation of § 18.2-67.1;

3. Object sexual penetration in violation of § 18.2-67.2;

4. Abduction with intent to defile in violation of § 18.2-48; or

5. Conspiracy to commit any offense listed in subdivisions 1 through 4 pursuant to § 18.2-22.

C. For purposes of this section, prior convictions shall include (i) adult convictions for felonies under the laws of any state or the United States that are substantially similar to those listed in subsection B and (ii) findings of not innocent, adjudications or convictions in the case of a juvenile if the juvenile offense is substantially similar to those listed in subsection B, the offense would be a felony if committed by an adult in the Commonwealth and the offense was committed less than twenty years before the second offense.

The Commonwealth shall notify the defendant in the indictment, information, or warrant, at least thirty days prior to trial, of its intention to seek punishment pursuant to this section.

VA. CODE ANN. § 18.2-370 (2010). Taking indecent liberties with children; penalties.

A. Any person 18 years of age or over, who, with lascivious intent, knowingly and intentionally commits any of the following acts with any child under the age of 15 years is guilty of a Class 5 felony:

(1) Expose his or her sexual or genital parts to any child to whom such person is not legally married or propose that any such child expose his or her sexual or genital parts to such person; or

(2) [Repealed.]

(3) Propose that any such child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; or

(4) Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; or

(5) Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this section.

B. Any person 18 years of age or over who, with lascivious intent, knowingly and intentionally receives money, property, or any other remuneration for allowing, encouraging, or enticing any person under the age of 18 years to perform in or be a subject of sexually explicit visual material as defined in § 18.2-374.1 or who knowingly encourages such person to perform in or be a subject of sexually explicit material; shall be guilty of a Class 5 felony.

C. Any person who is convicted of a second or subsequent violation of this section shall be guilty of a Class 4 felony; provided that (i) the offenses were not part of a common act, transaction or scheme; (ii) the accused was at liberty as defined in § 53.1-151 between each conviction; and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

D. Any parent, step-parent, grandparent or step-grandparent who commits a violation of either this section or clause (v) or (vi) of subsection A of § 18.2-370.1 (i) upon his child, step-child, grandchild or step-grandchild who is at least 15 but less than 18 years of age is guilty of a Class 5 felony or (ii) upon his child, step-child, grandchild or step-grandchild less than 15 years of age is guilty of a Class 4 felony.

VA. CODE ANN. § 18.2-370.1 (2010). Taking indecent liberties with child by person in custodial or supervisory relationship; penalties.

A. Any person 18 years of age or older who, except as provided in § 18.2-370, maintains a custodial or supervisory relationship over a child under the age of 18 and is not legally married to such child and such child is not emancipated who, with lascivious intent, knowingly and intentionally (i) proposes that any such child feel or fondle the sexual or genital parts of such person or that such person feel or handle the sexual or genital parts of the child; or (ii) proposes to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; or (iii) exposes his or her sexual or genital parts to such child; or (iv) proposes that

any such child expose his or her sexual or genital parts to such person; or (v) proposes to the child that the child engage in sexual intercourse, sodomy or fondling of sexual or genital parts with another person; or (vi) sexually abuses the child as defined in § 18.2-67.10 (6), shall be guilty of a Class 6 felony.

B. Any person who is convicted of a second or subsequent violation of this section shall be guilty of a Class 5 felony; provided that (i) the offenses were not part of a common act, transaction or scheme; (ii) the accused was at liberty as defined in § 53.1-151 between each conviction; and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

VA. CODE ANN. § 18.2-374.1 (2010). Production, publication, sale, financing, etc., of child pornography; presumption as to age; severability.

A. For purposes of this article and Article 4 (§ 18.2-362 et seq.) of this chapter, "child pornography" means sexually explicit visual material which utilizes or has as a subject an identifiable minor. An identifiable minor is a person who was a minor at the time the visual depiction was created, adapted, or modified; or whose image as a minor was used in creating, adapting or modifying the visual depiction; and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and shall not be construed to require proof of the actual identity of the identifiable minor.

For the purposes of this article and Article 4 (§ 18.2-362 et seq.) of this chapter, the term "sexually explicit visual material" means a picture, photograph, drawing, sculpture, motion picture film, digital image, including such material stored in a computer's temporary Internet cache when three or more images or streaming videos are present, or similar visual representation which depicts sexual bestiality, a lewd exhibition of nudity, as nudity is defined in § 18.2-390, or sexual excitement, sexual conduct or sadomasochistic abuse, as also defined in § 18.2-390, or a book, magazine or pamphlet which contains such a visual representation. An undeveloped photograph or similar visual material may be sexually explicit material notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.

B. A person shall be guilty of production of child pornography who:

1. Accosts, entices or solicits a person less than 18 years of age with intent to induce or force such person to perform in or be a subject of child pornography; or

2. Produces or makes or attempts or prepares to produce or make child pornography; or

3. Who knowingly takes part in or participates in the filming, photographing, or other production of child pornography by any means; or

4. Knowingly finances or attempts or prepares to finance child pornography.

5. [Repealed.]

B1. [Repealed.]

C1. Any person who violates this section, when the subject of the child pornography is a child less than 15 years of age, shall be punished by not less than five years nor more than 30 years in a state correctional facility. However, if the person is at least seven years older than the subject of the child pornography the person shall be punished by a term of imprisonment of not less than five years nor more than 30 years in a state correctional facility, five years of which shall be a mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this section where the person is at least seven years older than the subject shall be punished by a term of imprisonment of not less than 15 years nor more than 40 years, 15 years of which shall be a mandatory minimum term of imprisonment.

C2. Any person who violates this section, when the subject of the child pornography is a person at least 15 but less than 18 years of age, shall be punished by not less than one year nor more than 20 years in a state correctional facility. However, if the person is at least seven years older than the subject of the child pornography the person shall be punished by term of imprisonment of not less than three years nor more than 30 years in a state correctional facility, three years of which shall be a mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this section when he is at least seven years older than the subject shall be punished by a term of imprisonment of not less than 10 years nor more than 30 years, 10 years of which shall be a mandatory minimum term of imprisonment.

D. For the purposes of this section it may be inferred by text, title or appearance that a person who is depicted as or presents the appearance of being less than 18 years of age in sexually explicit visual material is less than 18 years of age.

E. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any sexually explicit visual material associated with a violation of this section is produced, reproduced, found, stored, or possessed.

F. The provisions of this section shall be severable and, if any of its provisions shall be held unconstitutional by a court of competent jurisdiction, then the decision of such court shall not affect or impair any of the remaining provisions.

VA. CODE ANN. § 18.2-374.1:1 (2010). Possession, reproduction, distribution, and facilitation of child pornography; penalty.

A. Any person who knowingly possesses child pornography is guilty of a Class 6 felony.

B. Any person who commits a second or subsequent violation of subsection A is guilty of a Class 5 felony.

C. Any person who reproduces by any means, including by computer, sells, gives away, distributes, electronically transmits, displays with lascivious intent, purchases, or possesses with intent to sell, give away, distribute, transmit, or display child pornography with lascivious intent shall be punished by not less than five years nor more than 20 years in a state correctional facility. Any person who commits a second or subsequent violation under this subsection shall be punished by a term of imprisonment of not less than five years nor more than 20 years in a state correctional facility, five years of which shall be a mandatory minimum term of imprisonment.

D. Any person who intentionally operates an Internet website for the purpose of facilitating the payment for access to child pornography is guilty of a Class 4 felony.

E. All child pornography shall be subject to lawful seizure and forfeiture pursuant to § 19.2-386.31.

F. For purposes of this section it may be inferred by text, title or appearance that a person who is depicted as or presents the appearance of being less than 18 years of age in sexually explicit visual material is less than 18 years of age.

G. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any child pornography is produced, reproduced, found, stored, received, or possessed in violation of this section.

H. The provisions of this section shall not apply to any such material that is possessed for a bona fide medical, scientific, governmental, or judicial purpose by a physician, psychologist, scientist, attorney, or judge who possesses such material in the course of conducting his professional duties as such.

VA. CODE ANN. § 18.2-374.3 (2010). Use of communications systems to facilitate certain offenses involving children.

A. As used in subsections C, D, and E "use a communications system" means making personal contact or direct contact through any agent or agency, any print medium, the United States mail, any common carrier or communication common carrier, any electronic communications system, the Internet, or any telecommunications, wire, computer network, or radio communications system.

B. It shall be unlawful for any person to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means for the purposes of procuring or promoting the use of a minor for any activity in violation of § 18.2-370 or § 18.2-374.1. A violation of this subsection is a Class 6 felony.

C. It shall be unlawful for any person 18 years of age or older to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any person he knows or has reason to believe is a child less than 15 years of age to knowingly and intentionally:

1. Expose his sexual or genital parts to any child to whom he is not legally married or propose that any such child expose his sexual or genital parts to such person;

2. Propose that any such child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child;

3. Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; or

4. Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any purposes set forth in the preceding subdivisions.

Any person who violates this subsection is guilty of a Class 5 felony. However, if the person is at least seven years older than the child he knows or has reason to believe is less than 15 years of

age, the person shall be punished by a term of imprisonment of not less than five years nor more than 30 years in a state correctional facility, five years of which shall be mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this subsection when the person is at least seven years older than the child he knows or has reason to believe is less than 15 years of age shall be punished by a term of imprisonment of not less than 10 years nor more than 40 years, 10 years of which shall be a mandatory minimum term of imprisonment.

D. Any person who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any child he knows or has reason to believe is at least 15 years of age but less than 18 years of age to knowingly and intentionally commit any of the activities listed in subsection C if the person is at least seven years older than the child is guilty of a Class 5 felony. Any person who commits a second or subsequent violation of this subsection shall be punished by a term of imprisonment of not less than one nor more than 20 years, one year of which shall be a mandatory minimum term of imprisonment.

E. Any person 18 years of age or older who uses a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a child less than 18 years of age for (i) any activity in violation of § 18.2-355 or 18.2-361, (ii) any activity in violation of § 18.2-374.1, or (iii) a violation of § 18.2-374.1:1 is guilty of a Class 5 felony.

VA. CODE ANN. § 18.2-376.1 (2010). Enhanced penalties for using a computer in certain violations.

Any person who uses a computer in connection with a violation of §§ 18.2-374, 18.2-375, or § 18.2-376 is guilty of a separate and distinct Class 1 misdemeanor, and for a second or subsequent such offense within 10 years of a prior such offense is guilty of a Class 6 felony, the penalties to be imposed in addition to any other punishment otherwise prescribed for a violation of any of those sections.

VA. CODE ANN. § 18.2-381 (2010). Punishment for subsequent offenses; additional penalty for owner.

Any person, firm, association or corporation convicted of a second or other subsequent offense under §§ 18.2-374 through 18.2-379 shall be guilty of a Class 6 felony. However, if the person, firm, association or corporation convicted of such subsequent offense is the owner of the business establishment where each of the offenses occurred, a fine of not more than $ 10,000 shall be imposed in addition to the penalties otherwise prescribed by this section.

VA. CODE ANN. § 18.2-386.1 (2010). Unlawful filming, videotaping or photographing of another; penalty.

A. It shall be unlawful for any person to knowingly and intentionally videotape, photograph, or film any nonconsenting person or create any videographic or still image record by any means whatsoever of the nonconsenting person if (i) that person is totally nude, clad in undergarments, or in a state of undress so as to expose the genitals, pubic area, buttocks or female breast in a restroom, dressing room, locker room, hotel room, motel room, tanning bed, tanning booth,

bedroom or other location; or (ii) the videotape, photograph, film or videographic or still image record is created by placing the lens or image-gathering component of the recording device in a position directly beneath or between a person's legs for the purpose of capturing an image of the person's intimate parts or undergarments covering those intimate parts when the intimate parts or undergarments would not otherwise be visible to the general public; and when the circumstances set forth in clause (i) or (ii) are otherwise such that the person being videotaped, photographed, filmed or otherwise recorded would have a reasonable expectation of privacy.

B. The provisions of this section shall not apply to filming, videotaping or photographing or other still image or videographic recording by (i) law-enforcement officers pursuant to a criminal investigation which is otherwise lawful or (ii) correctional officials and local or regional jail officials for security purposes or for investigations of alleged misconduct involving a person committed to the Department of Corrections or to a local or regional jail, or to any sound recording of an oral conversation made as a result of any videotaping or filming pursuant to Chapter 6 (§ 19.2-61 et seq.) of Title 19.2.

C. A violation of subsection A shall be punishable as a Class 1 misdemeanor.

D. A violation of subsection A involving a nonconsenting person under the age of 18 shall be punishable as a Class 6 felony.

E. Where it is alleged in the warrant, information, or indictment on which the person is convicted and found by the court or jury trying the case that the person has previously been convicted within the 10-year period immediately preceding the offense charged of two or more of the offenses specified in this section, each such offense occurring on a different date, and when such offenses were not part of a common act, transaction, or scheme, and such person has been at liberty as defined in § 53.1-151 between each conviction, he shall be guilty of a Class 6 felony.

VA. CODE ANN. § 19.2-297.1 (2010). Sentence of person twice previously convicted of certain violent felonies.

A. Any person convicted of two or more separate acts of violence when such offenses were not part of a common act, transaction or scheme, and who has been at liberty as defined in § 53.1-151 between each conviction, shall, upon conviction of a third or subsequent act of violence, be sentenced to life imprisonment and shall not have all or any portion of the sentence suspended, provided it is admitted, or found by the jury or judge before whom he is tried, that he has been previously convicted of two or more such acts of violence. For the purposes of this section, "act of violence" means (i) any one of the following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2:

a. First and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.);

b. Mob-related felonies under Article 2 (§ 18.2-38 et seq.);

c. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.);

d. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.);

e. Robbery under § 18.2-58 and carjacking under § 18.2-58.1;

f. Except as otherwise provided in § 18.2-67.5:2 or § 18.2-67.5:3, criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.); or

g. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79.

(ii) conspiracy to commit any of the violations enumerated in clause (i) of this section; and (iii) violations as a principal in the second degree or accessory before the fact of the provisions enumerated in clause (i) of this section.

B. Prior convictions shall include convictions under the laws of any state or of the United States for any offense substantially similar to those listed under "act of violence" if such offense would be a felony if committed in the Commonwealth.

The Commonwealth shall notify the defendant in writing, at least thirty days prior to trial, of its intention to seek punishment pursuant to this section.

C. Any person sentenced to life imprisonment pursuant to this section shall not be eligible for parole and shall not be eligible for any good conduct allowance or any earned sentence credits under Chapter 6 (§ 53.1-186 et seq.) of Title 53.1. However, any person subject to the provisions of this section, other than a person who was sentenced under subsection A of § 18.2-67.5:3 for criminal sexual assault convictions specified in subdivision f, (i) who has reached the age of sixty-five or older and who has served at least five years of the sentence imposed or (ii) who has reached the age of sixty or older and who has served at least ten years of the sentence imposed may petition the Parole Board for conditional release. The Parole Board shall promulgate regulations to implement the provisions of this subsection.

VA. CODE ANN. § 19.2-390.1 (2010). Sex Offender and Crimes Against Minors Registry; maintenance; access.

The Department of State Police shall keep and maintain a Sex Offender and Crimes Against Minors Registry, separate and apart from all other records maintained by it.

The Superintendent of State Police shall organize, equip, and staff, within the Department of State Police, the Sex Offender and Crimes Against Minors Registry. The Superintendent shall appoint and designate personnel as he deems necessary to carry out all duties and assignments related to the Sex Offender and Crimes Against Minors Registry as required by Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

WASHINGTON

WASH. REV. CODE ANN. § 9.68A.090 (2010). Communication with minor for immoral purposes -- Penalties.

(1) Except as provided in subsection (2) of this section, a person who communicates with a minor for immoral purposes, or a person who communicates with someone the person believes to be a minor for immoral purposes, is guilty of a gross misdemeanor.

(2) A person who communicates with a minor for immoral purposes is guilty of a class C felony punishable according to chapter 9A.20 RCW if the person has previously been convicted under this section or of a felony sexual offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of any other felony sexual offense in this or any other state or if the person communicates with a minor or with someone the person believes to be a minor for immoral purposes through the sending of an electronic communication.

WASH. REV. CODE ANN. § 9.92.010 (2010). Punishment of felony when not fixed by statute.

Every person convicted of a felony for which no maximum punishment is specially prescribed by any statutory provision in force at the time of conviction and sentence, shall be punished by confinement or fine which shall not exceed confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of not more than twenty thousand dollars, or by both such confinement and fine and the offense shall be classified as a class B felony.

WASH. REV. CODE ANN. § 9.92.020 (2010). Punishment of gross misdemeanor when not fixed by statute.

Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

WASH. REV. CODE ANN. § 9.92.030 (2010). Punishment of misdemeanor when not fixed by statute.

Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars or both such imprisonment and fine.

WASH. REV. CODE ANN. § 9.92.080 (2010). Sentence on two or more convictions or counts.

(1) Whenever a person while under sentence of felony shall commit another felony and be sentenced to another term of imprisonment, such latter term shall not begin until the expiration of all prior terms: PROVIDED, That any person granted probation pursuant to the provisions of RCW 9.95.210 and/or 9.92.060 shall not be considered to be under sentence of a felony for the purposes of this subsection.

(2) Whenever a person is convicted of two or more offenses which arise from a single act or omission, the sentences imposed therefor shall run concurrently, unless the court, in pronouncing sentence, expressly orders the service of said sentences to be consecutive.

(3) In all other cases, whenever a person is convicted of two or more offenses arising from separate and distinct acts or omissions, and not otherwise governed by the provisions of subsections (1) and (2) of this section, the sentences imposed therefor shall run consecutively, unless the court, in pronouncing the second or other subsequent sentences, expressly orders concurrent service thereof.

(4) The sentencing court may require the secretary of corrections, or his designee, to provide information to the court concerning the existence of all prior judgments against the defendant, the terms of imprisonment imposed, and the status thereof.

WASH. REV. CODE ANN. § 9.92.090 (2010). Habitual criminals.

Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been twice convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be adjudged to be an habitual criminal and shall be punished by imprisonment in a state correctional facility for not less than ten years.

Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been twice convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been four times convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be punished by imprisonment in a state correctional facility for life.

WASH. REV. CODE ANN. § 9.94A.510 (2010). Table 1 -- Sentencing grid.

SERIOUSNESS LEVEL	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
XVI	Life Sentence without Parole/ Death Penalty									
XV	23y4m 4y 4	2	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y

	m									
240-	2	261-	271-	281-	291-	312-	338-	370-	411-	
5										
0										
-										
320	3	347	361	374	388	416	450	493	548	
3										
3										
XIV 14y4m	1	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y	
5										
y										
4										
m										
123-	1	144-	154-	165-	175-	195-	216-	257-	298-	
3										
4										
-										
220	2	244	254	265	275	295	316	357	397	
3										
4										
XIII 12y	1	14y	15y	16y	17y	19y	21y	25y	29y	
3										
y										
123-	1	144-	154-	165-	175-	195-	216-	257-	298-	
3										
4										
-										
164	1	192	205	219	233	260	288	342	397	
7										
8										
XII 9y	9	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m	
y										
1										
1										
m										
93-	1	111-	120-	129-	138-	162-	178-	209-	240-	
0										
2										
-										
123	1	147	160	171	184	216	236	277	318	
3										
6										
XI 7y6m	8	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m	
y										
4										
m										
78-	8	95-	102-	111-	120-	146-	159-	185-	210-	
6										
-										
102	1	125	136	147	158	194	211	245	280	
1										

X	5y	4 5 y	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	6 m 5 7 -	62-	67-	72-	77-	98-	108-	129-	149-
	68	7 5	82	89	96	102	130	144	171	198
IX	3y	3 y	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	6 m 3 6 -	41-	46-	51-	57-	77-	87-	108-	129-
	41	4 8	54	61	68	75	102	116	144	171
VIII	2y	2 y	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	6 m 2 6 -	31-	36-	41-	46-	67-	77-	87-	108-
	27	3 4	41	48	54	61	89	102	116	144
VII	18m	2 y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	2 1 -	26-	31-	36-	41-	57-	67-	77-	87-
	20	2 7	34	41	48	54	75	89	102	116
VI	13m	1 8 m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	1 5 -	21-	26-	31-	36-	46-	57-	67-	77-
	14	2 0	27	34	41	48	61	75	89	102
V	9m	1 3 m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	1 2 + -	13-	15-	22-	33-	41-	51-	62-	72-
	12	1	17	20	29	43	54	68	82	96

	4									
IV	6m	9	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	m									
	3-	6	12+-	13-	15-	22-	33-	43-	53-	63-
	-									
	9	12	14	17	20	29	43	57	70	84
	2									
III	2m	5	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	m									
	1-	3	4-	9-	12+-	17-	22-	33-	43-	51-
	-									
	3	8	12	12	16	22	29	43	57	68
II		4	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
		m								
	0-90	2	3-	4-	12+-	14-	17-	22-	33-	43-
		-								
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0	2-	2-	3-	4-	12+-	14-	17-	22-
		-								
		9								
		0								
	Days	D	5	6	8	12	14	18	22	29
		a								
		y								
		s								

Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent standard sentence ranges in months, or in days if so designated. 12+ equals one year and one day.

WASH. REV. CODE ANN. § 9.94A.515 (2010). Table 2 -- Crimes included within each seriousness level.

	TABLE 2 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120)

	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	PROMOTING COMMERCIAL SEXUAL ABUSE OF A MINOR (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083)
	Criminal Mistreatment 1 (RCW 9A.42.020)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))
	Malicious explosion 3 (RCW 70.74.280(3))
	Sexually Violent Predator Escape (RCW 9A.76.115)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)
	Assault of a Child 2 (RCW 9A.36.130)
	Explosive devices prohibited (RCW 70.74.180)
	Hit and Run--Death (RCW 46.52.020(4)(a))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
	Malicious placement of an explosive 2 (RCW 70.74.270(2))
	Robbery 1 (RCW 9A.56.200)
	Sexual Exploitation (RCW 9.68A.040)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
VIII	Arson 1 (RCW 9A.48.020)
	COMMERCIAL SEXUAL ABUSE OF A MINOR (RCW 9.68A.100)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
	Manslaughter 2 (RCW 9A.32.070)
	Promoting Prostitution 1 (RCW 9A.88.070)

	Theft of Ammonia (RCW 69.55.010) Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
VII	Burglary 1 (RCW 9A.52.020) Child Molestation 2 (RCW 9A.44.086) Civil Disorder Training (RCW 9A.48.120) Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050 (1)) Drive-by Shooting (RCW 9A.36.045) Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050) Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c)) Introducing Contraband 1 (RCW 9A.76.140) Malicious placement of an explosive 3 (RCW 70.74.270(3)) Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675) Sending, bringing into state depictions of minor engaged in sexually explicit conduct [A> 1 <A] (RCW 9.68A.060 [A> (1) <A]) Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)) Use of a Machine Gun in Commission of a Felony (RCW 9.41.225) Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
VI	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a)) Bribery (RCW 9A.68.010) Incest 1 (RCW 9A.64.020(1)) Intimidating a Judge (RCW 9A.72.160) Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130) Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b)) Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070 (1)) Rape of a Child 3 (RCW 9A.44.079) Theft of a Firearm (RCW 9A.56.300)

	Unlawful Storage of Ammonia (RCW 69.55.020)
V	Abandonment of Dependent Person 2 (RCW 9A.42.070)
	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
	Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
	Child Molestation 3 (RCW 9A.44.089)
	Criminal Mistreatment 2 (RCW 9A.42.030)
	Custodial Sexual Misconduct 1 (RCW 9A.44.160)
	DEALING IN DEPICTIONS OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT 2 (RCW 9.68A.050(2))
	Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
	Driving While Under the Influence (RCW 46.61.502(6))
	Extortion 1 (RCW 9A.56.120)
	Extortionate Extension of Credit (RCW 9A.82.020)
	Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
	Incest 2 (RCW 9A.64.020(2))
	Kidnapping 2 (RCW 9A.40.030)
	Perjury 1 (RCW 9A.72.020)
	Persistent prison misbehavior (RCW 9.94.070)
	Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
	Possession of a Stolen Firearm (RCW 9A.56.310)
	Rape 3 (RCW 9A.44.060)
	Rendering Criminal Assistance 1 (RCW 9A.76.070)
	SENDING, BRINGING INTO STATE DEPICTIONS OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT 2 (RCW 9.68A.060(2))
	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
	Sexually Violating Human Remains (RCW 9A.44.105)
	Stalking (RCW 9A.46.110)

	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
IV	Arson 2 (RCW 9A.48.030)
	Assault 2 (RCW 9A.36.021)
	Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
	Assault by Watercraft (RCW 79A.60.060)
	Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
	Cheating 1 (RCW 9.46.1961)
	Commercial Bribery (RCW 9A.68.060)
	Counterfeiting (RCW 9.16.035(4))
	Endangerment with a Controlled Substance (RCW 9A.42.100)
	Escape 1 (RCW 9A.76.110)
	Hit and Run -- Injury (RCW 46.52.020(4)(b))
	Hit and Run with Vessel -- Injury Accident (RCW 79A.60.200(3))
	Identity Theft 1 (RCW 9.35.020(2))
	Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
	Influencing Outcome of Sporting Event (RCW 9A.82.070)
	Malicious Harassment (RCW 9A.36.080)
	POSSESSION OF DEPICTIONS OF A MINOR ENGAGED IN SEXUALLY] EXPLICIT CONDUCT 2 (RCW 9.68.070(2))
	Residential Burglary (RCW 9A.52.025)
	Robbery 2 (RCW 9A.56.210)
	Theft of Livestock 1 (RCW 9A.56.080)
	Threats to Bomb (RCW 9.61.160)
	Trafficking in Stolen Property 1 (RCW 9A.82.050)
	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
	Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
	Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
	Unlawful transaction of insurance business (RCW 48.15.023(3))
	Unlicensed practice as an insurance professional (RCW 48.17.063

	(2))
	Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
	Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
	VIEWING OF DEPICTIONS OF A MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT 1 (SECTION 7(1) OF THIS ACT)
	Willful Failure to Return from Furlough (RCW 72.66.060)
III	Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
	Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
	Assault of a Child 3 (RCW 9A.36.140)
	Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
	Burglary 2 (RCW 9A.52.030)
	Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
	Criminal Gang Intimidation (RCW 9A.46.120)
	Custodial Assault (RCW 9A.36.100)
	Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
	Escape 2 (RCW 9A.76.120)
	Extortion 2 (RCW 9A.56.130)
	Harassment (RCW 9A.46.020)
	Intimidating a Public Servant (RCW 9A.76.180)
	Introducing Contraband 2 (RCW 9A.76.150)
	Malicious Injury to Railroad Property (RCW 81.60.070)
	Mortgage Fraud (RCW 19.144.080)
	Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
	Organized Retail Theft 1 (RCW 9A.56.350(2))
	Perjury 2 (RCW 9A.72.030)
	Possession of Incendiary Device (RCW 9.40.120)

	Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190) Promoting Prostitution 2 (RCW 9A.88.080) Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2)) Securities Act violation (RCW 21.20.400) Tampering with a Witness (RCW 9A.72.120) Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2)) Theft of Livestock 2 (RCW 9A.56.083) Theft with the Intent to Resell 1 (RCW 9A.56.340(2)) Trafficking in Stolen Property 2 (RCW 9A.82.055) Unlawful Imprisonment (RCW 9A.40.040) Unlawful possession of firearm in the second degree (RCW 9.41.040(2)) Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522) Willful Failure to Return from Work Release (RCW 72.65.070)
II	Computer Trespass 1 (RCW 9A.52.110) Counterfeiting (RCW 9.16.035(3)) Escape from Community Custody (RCW 72.09.310) Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130(11)(a)) Health Care False Claims (RCW 48.80.030) Identity Theft 2 (RCW 9.35.020(3)) Improperly Obtaining Financial Information (RCW 9.35.010) Malicious Mischief 1 (RCW 9A.48.070) Organized Retail Theft 2 (RCW 9A.56.350(3)) Possession of Stolen Property 1 (RCW 9A.56.150) Possession of a Stolen Vehicle (RCW 9A.56.068) Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3)) Theft 1 (RCW 9A.56.030)

	Theft of a Motor Vehicle (RCW 9A.56.065)
	Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
	Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
	Trafficking in Insurance Claims (RCW 48.30A.015)
	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
	Unlawful Practice of Law (RCW 2.48.180)
	Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
	Voyeurism (RCW 9A.44.115)
I	Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
	False Verification for Welfare (RCW 74.08.055)
	Forgery (RCW 9A.60.020)
	Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
	Malicious Mischief 2 (RCW 9A.48.080)
	Mineral Trespass (RCW 78.44.330)
	Possession of Stolen Property 2 (RCW 9A.56.160)
	Reckless Burning 1 (RCW 9A.48.040)
	Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
	Theft 2 (RCW 9A.56.040)
	Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
	Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
	Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
	Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
	Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
	Unlawful Possession of Payment Instruments (RCW 9A.56.320)
	Unlawful Possession of a Personal

Identification Device (RCW 9A.56.320)
Unlawful Production of Payment Instruments (RCW 9A.56.320)
Unlawful Trafficking in Food Stamps (RCW 9.91.142)
Unlawful Use of Food Stamps (RCW 9.91.144)
Vehicle Prowl 1 (RCW 9A.52.095)

WASH. REV. CODE ANN. § 9.94A.530 (2010). Standard sentence range.

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the standard sentence range (see RCW 9.94A.510, (Table 1) and RCW 9.94A.517, (Table 3)). The additional time for deadly weapon findings or for other adjustments as specified in RCW 9.94A.533 shall be added to the entire standard sentence range. The court may impose any sentence within the range that it deems appropriate. All standard sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence other than a sentence above the standard range, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, or proven pursuant to RCW 9.94A.537. Acknowledgment includes not objecting to information stated in the presentence reports and not objecting to criminal history presented at the time of sentencing. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence, except as otherwise specified in RCW 9.94A.537. On remand for resentencing following appeal or collateral attack, the parties shall have the opportunity to present and the court to consider all relevant evidence regarding criminal history, including criminal history not previously presented.

(3) In determining any sentence above the standard sentence range, the court shall follow the procedures set forth in RCW 9.94A.537. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the standard sentence range except upon stipulation or when specifically provided for in RCW 9.94A.535(3)(d), (e), (g), and (h).

WASH. REV. CODE ANN. § 9.94A.533 (2010). Adjustments to standard sentences.

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this

subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under *RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other

than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under *RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or **9.94A.605. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

(8) (a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under *RCW 9.94A.728(4);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement

increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10) (a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

WASH. REV. CODE ANN. § 9.94A.540 (2010). Mandatory minimum terms.

(1) Except to the extent provided in subsection (3) of this section, the following minimum terms of total confinement are mandatory and shall not be varied or modified under RCW 9.94A.535:

(a) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years.

(b) An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years.

(c) An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years.

(d) An offender convicted of the crime of sexually violent predator escape shall be sentenced to a minimum term of total confinement not less than sixty months.

(2) During such minimum terms of total confinement, no offender subject to the provisions of this section is eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (a) In the case of an offender in need of emergency medical treatment; (b) for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree; or (c) for an extraordinary medical placement when authorized under *RCW 9.94A.728(4).

(3) (a) Subsection (1) of this section shall not be applied in sentencing of juveniles tried as adults pursuant to RCW 13.04.030(1)(e)(i).

(b) This subsection (3) applies only to crimes committed on or after July 24, 2005.

WASH. REV. CODE ANN. § 9.94A.550 (2010). Fines.

Unless otherwise provided by a statute of this state, on all sentences under this chapter the court may impose fines according to the following ranges:

Class A felonies $ 0 -- 50,000

Class B felonies $ 0 -- 20,000

Class C felonies $ 0 -- 10,000

WASH. REV. CODE ANN. § 9.95.011 (2010). Minimum terms.

(1) When the court commits a convicted person to the department of corrections on or after July 1, 1986, for an offense committed before July 1, 1984, the court shall, at the time of sentencing or revocation of probation, fix the minimum term. The term so fixed shall not exceed the maximum sentence provided by law for the offense of which the person is convicted.

The court shall attempt to set the minimum term reasonably consistent with the purposes, standards, and sentencing ranges adopted under RCW 9.94A.850, but the court is subject to the same limitations as those placed on the board under RCW 9.92.090, 9.95.040 (1) through (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The court's minimum term decision is subject to review to the same extent as a minimum term decision by the parole board before July 1, 1986.

Thereafter, the expiration of the minimum term set by the court minus any time credits earned under RCW 9.95.070 and 9.95.110 constitutes the parole eligibility review date, at which time the board may consider the convicted person for parole under RCW 9.95.100 and 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the board's authority to reduce or increase the minimum term, once set by the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080, 9.95.100, 9.95.115, 9.95.125, or 9.95.047.

(2) (a) Except as provided in (b) of this subsection, not less than ninety days prior to the expiration of the minimum term of a person sentenced under RCW 9.94A.507, for a sex offense committed on or after September 1, 2001, less any time credits permitted by statute, the board shall review the person for conditional release to community custody as provided in RCW 9.95.420. If the board does not release the person, it shall set a new minimum term not to exceed an additional five years. The board shall review the person again not less than ninety days prior to the expiration of the new minimum term.

(b) If at the time a person sentenced under RCW 9.94A.507 for a sex offense committed on or after September 1, 2001, arrives at a department of corrections facility, the offender's minimum term has expired or will expire within one hundred twenty days of the offender's arrival, then no later than one hundred twenty days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall review the person for conditional release to community custody as provided in RCW 9.95.420. If the board does not release the person, it shall set a new minimum term not to exceed an additional five years. The board shall review the person again not less than ninety days prior to the expiration of the new minimum term.

(c) In setting a new minimum term, the board may consider the length of time necessary for the offender to complete treatment and programming as well as other factors that relate to the offender's release under RCW 9.95.420. The board's rules shall permit an offender to petition for an earlier review if circumstances change or the board receives new information that would warrant an earlier review.

WASH. REV. CODE ANN. § 9A.20.020 (2010). Authorized sentences for crimes committed before July 1, 1984.

(1) Felony. Every person convicted of a classified felony shall be punished as follows:

(a) For a class A felony, by imprisonment in a state correctional institution for a maximum term fixed by the court of not less than twenty years, or by a fine in an amount fixed by the court of not more than fifty thousand dollars, or by both such imprisonment and fine;

(b) For a class B felony, by imprisonment in a state correctional institution for a maximum term of not more than ten years, or by a fine in an amount fixed by the court of not more than twenty thousand dollars, or by both such imprisonment and fine;

(c) For a class C felony, by imprisonment in a state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than ten thousand dollars, or by both such imprisonment and fine.

(2) Gross Misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed prior to July 1, 1984.

WASH. REV. CODE ANN. § 9A.20.021 (2010). Maximum sentences for crimes committed July 1, 1984, and after.

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

WASH. REV. CODE ANN. § 9A.20.030 (2010). Alternative to a fine -- Restitution.

(1) If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, the court, in lieu of imposing the fine authorized for the offense under RCW 9A.20.020, may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court. It shall be the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court shall make a finding as to the amount of the defendant's gain or victim's loss from the crime, and if the record does not contain sufficient evidence to support such finding the court may conduct a hearing upon the issue. For purposes of this section, the terms "gain" or "loss" refer to the amount of money or the value of property or services gained or lost.

(2) Notwithstanding any other provision of law, this section also applies to any corporation or joint stock association found guilty of any crime.

WASH. REV. CODE ANN. § 9A.44.130 (2010). Registration of sex offenders and kidnapping offenders -- Procedures -- Definition -- Penalties.

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. WHEN a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within THREE BUSINESS days prior to arriving at the school to attend classes, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within THREE business dayS PRIOR TO arriving at the institution, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within THREE business dayS PRIOR TO commencing work at the institution, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within THREE BUSINESS days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(D) (i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or

juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within THREE BUSINESS DAYS from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within THREE BUSINESS DAYS from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register WITHIN THREE BUSINESS DAYS of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within THREE BUSINESS DAYS of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within THREE BUSINESS DAYS from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within THREE BUSINESS DAYS of receiving notice of this registration requirement.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than THREE BUSINESS DAYS after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within THREE BUSINESS days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within THREE BUSINESS days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of section 3 OF THIS ACT, or arraignment on charges for a violation of section 3 OF THIS ACT , constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under section 3 OF THIS ACT who asserts as a defense the lack of notice of the duty to register shall register WITHIN THREE BUSINESS DAYS following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must PROVIDE, BY CERTIFIED MAIL, WITH RETURN RECEIPT REQUESTED OR IN PERSON, signed written notice of the change of address to the county sheriff within THREE BUSINESS DAYS of moving.

(B) If any person required to register pursuant to this section moves to a new county, the person must register with that county sheriff within THREE BUSINESS DAYS <A] of moving. WITHIN THREE BUSINESS DAYS, T he person must also PROVIDE, BY CERTIFIED MAIL, WITH RETURN RECEIPT REQUESTED OR IN PERSON, signed written notice of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within THREE BUSINESS DAYS after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. THE PERSON MUST KEEP AN ACCURATE ACCOUNTING OF WHERE HE OR SHE STAYS DURING THE WEEK AND PROVIDE IT TO THE COUNTY SHERIFF UPON REQUEST. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within THREE BUSINESS DAYS OF ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within THREE BUSINESS days of the entry of the order.

(8) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

WEST VIRGINIA

W. VA. CODE ANN. § 15-12-2 (2010). Registration.

(a) The provisions of this article apply both retroactively and prospectively.

(b) Any person who has been convicted of an offense or an attempted offense or has been found not guilty by reason of mental illness, mental retardation or addiction of an offense under any of the following provisions of chapter sixty-one [§§ 61-1-1 et seq.] of this code or under a statutory provision of another state, the United States Code or the Uniform Code of Military Justice which requires proof of the same essential elements shall register as set forth in subsection (d) of this section and according to the internal management rules promulgated by the superintendent under authority of section twenty-five [§ 15-2-25], article two of this chapter:

(1) Article eight-b [§§ 61-8B-1 et seq.], including the provisions of former section six of said article, relating to the offense of sexual assault of a spouse, which was repealed by an Act of the Legislature during the year two thousand legislative session;

(2) Article eight-c [§§ 61-8C-1 et seq.];

(3) Sections five [§ 61-8D-5] and six [§ 61-8D-6], article eight-d;

(4) Section fourteen [§ 61-2-14], article two;

(5) Sections six [§ 61-8-6], seven [§ 61-8-7], twelve [§ 61-8-12] and thirteen [§ 61-8-13], article eight; or

(6) Section fourteen-b [§ 61-3C-14b], article three-c, as it relates to violations of those provisions of chapter sixty-one listed in this subsection.

(c) Any person who has been convicted of a criminal offense and the sentencing judge made a written finding that the offense was sexually motivated shall also register as set forth in this article.

(d) Persons required to register under the provisions of this article shall register in person at the West Virginia State Police detachment in the county of his or her residence, the county in which he or she owns or leases habitable real property that he or she visits regularly, the county of his or her place of employment or occupation and the county in which he or she attends school or a training facility, and in doing so, provide or cooperate in providing, at a minimum, the following when registering:

(1) The full name of the registrant, including any aliases, nicknames or other names used by the registrant;

(2) The address where the registrant intends to reside or resides at the time of registration, the address of any habitable real property owned or leased by the registrant that he or she regularly visits: Provided, That a post office box may not be provided in lieu of a physical residential address, the name and address of the registrant's employer or place of occupation at the time of registration, the names and addresses of any anticipated future employers or places of occupation, the name and address of any school or training facility the registrant is attending at the time of registration and the names and addresses of any schools or training facilities the registrant expects to attend;

(3) The registrant's social security number;

(4) A full-face photograph of the registrant at the time of registration;

(5) A brief description of the crime or crimes for which the registrant was convicted;

(6) Fingerprints;

(7) Information related to any motor vehicle, trailer or motor home owned or regularly operated by a registrant, including vehicle make, model, color and license plate number: Provided, That for the purposes of this article, the term "trailer" shall mean travel trailer, fold-down camping trailer

and house trailer as those terms are defined in section one [§ 17A-1-1], article one, chapter seventeen-a of this code;

(8) Information relating to any internet accounts the registrant has and the screen names, user names or aliases the registrant uses on the internet; and

(9) Information related to any telephone or electronic paging device numbers that the registrant has or uses, including, but not limited to, residential, work and mobile telephone numbers.

(e) (1) On the date that any person convicted or found not guilty by reason of mental illness, mental retardation or addiction of any of the crimes listed in subsection (b) of this section, hereinafter referred to as a "qualifying offense", including those persons who are continuing under some post-conviction supervisory status, are released, granted probation or a suspended sentence, released on parole, probation, home detention, work release, conditional release or any other release from confinement, the Commissioner of Corrections, regional jail administrator, city official or sheriff operating a jail or Secretary of the Department of Health and Human Resources who releases the person and any parole or probation officer who releases the person or supervises the person following the release, shall obtain all information required by subsection (d) of this section prior to the release of the person, inform the person of his or her duty to register and send written notice of the release of the person to the State Police within three business days of receiving the information. The notice must include the information required by said subsection. Any person having a duty to register for a qualifying offense shall register upon conviction, unless that person is confined or incarcerated, in which case he or she shall register within three business days of release, transfer or other change in disposition status.

(2) Notwithstanding any provision of this article to the contrary, a court of this State shall, upon presiding over a criminal matter resulting in conviction or a finding of not guilty by reason of mental illness, mental retardation or addiction of a qualifying offense, cause, within seventy-two hours of entry of the commitment or sentencing order, the transmittal to the sex offender registry for inclusion in the registry all information required for registration by a registrant as well as the following non-identifying information regarding the victim or victims:

(A) His or her sex;

(B) His or her age at the time of the offense; and

(C) The relationship between the victim and the perpetrator.

The provisions of this paragraph do not relieve a person required to register pursuant to this section from complying with any provision of this article.

(f) For any person determined to be a sexually violent predator, the notice required by subsection (d) of this section must also include:

(1) Identifying factors, including physical characteristics;

(2) History of the offense; and

(3) Documentation of any treatment received for the mental abnormality or personality disorder.

(g) At the time the person is convicted or found not guilty by reason of mental illness, mental retardation or addiction in a court of this State of the crimes set forth in subsection (b) of this section, the person shall sign in open court a statement acknowledging that he or she understands the requirements imposed by this article. The court shall 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 the provisions. The statement, when signed and witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of this article. Upon completion of the statement, the court shall provide a copy to the registry. Persons who have not signed a statement under the provisions of this subsection and who are subject to the registration requirements of this article must be informed of the requirement by the State Police whenever the State Police obtain information that the person is subject to registration requirements.

(h) The State Police shall maintain a central registry of all persons who register under this article and shall release information only as provided in this article. The information required to be made public by the State Police by subdivision (2), subsection (b), section five [§ 15-12-5] of this article is to be accessible through the internet. No information relating to telephone or electronic paging device numbers a registrant has or uses may be released through the internet.

(i) For the purpose of this article, "sexually violent offense" means:

(1) Sexual assault in the first degree as set forth in section three [§ 61-8B-3], article eight-b, chapter sixty-one of this code or of a similar provision in another state, federal or military jurisdiction;

(2) Sexual assault in the second degree as set forth in section four [§ 61-8B-4], article eight-b, chapter sixty-one of this code or of a similar provision in another state, federal or military jurisdiction;

(3) Sexual assault of a spouse as set forth in the former provisions of section six [§ 61-8B-6], article eight-b, chapter sixty-one of this code, which was repealed by an Act of the Legislature during the two thousand legislative session, or of a similar provision in another state, federal or military jurisdiction;

(4) Sexual abuse in the first degree as set forth in section seven [§ 61-8B-7], article eight-b, chapter sixty-one of this code or of a similar provision in another state, federal or military jurisdiction.

(j) For purposes of this article, the term "sexually motivated" means that one of the purposes for which a person committed the crime was for any person's sexual gratification.

(k) For purposes of this article, the term "sexually violent predator" means a person who has been convicted or found not guilty by reason of mental illness, mental retardation or addiction of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(l) For purposes of this article, the term "mental abnormality" means a congenital or acquired condition of a person, that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(m) For purposes of this article, the term "predatory act" means an act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(n) For the purposes of this article, the term "business days", means days exclusive of Saturdays, Sundays and legal holidays as defined in section one [§ 2-2-1], article two, chapter two of this code.

W. VA. CODE ANN. § 15-13-2 (2010). Registration.

(a) The provisions of this article apply both retroactively and prospectively.

(b) Any person who has been convicted of an offense or has been found not guilty solely by reason of mental illness, mental retardation or addiction of an offense under any of the provisions of sections two [§ 61-8D-2], two-a [§ 61-8D-2a], three [§ 61-8D-3], three-a [§ 61-8D-3a], four [§ 61-8D-4] and four-a [§ 61-8D-4a], article eight-d, of chapter sixty-one of this code or under a statutory provision of another state, the United States Code or the Uniform Code of Military Justice which requires proof of the same essential elements shall register as set forth in subsection (e) of this section and according to the internal management rules promulgated by the superintendent under authority of section twenty-five [§ 15-2-25], article two of this chapter.

(c) The clerk of the court in which a person is convicted for an offense described in subsection (b) of this section, or for an offense described in a municipal ordinance which has the same elements as an offense described in said section, shall forward to the superintendent, at a minimum, information required on forms provided by the State Police relating to the person required to register.

(1) If the conviction is the judgment of a magistrate court, mayor, police court judge or municipal court judge, the clerk or recorder shall forward to the superintendent, at a minimum, information required on forms provided by the State Police relating to the person required to register when the person convicted has not requested an appeal within thirty days of the sentencing for such conviction.

(2) If the conviction is the judgment of a circuit court, the circuit clerk shall submit, at a minimum, the required information to the superintendent regarding the person convicted within thirty days after the judgment was entered.

(d) If a person has been convicted of any criminal offense against a child in his or her household or of whom he or she has custodial responsibility, and the sentencing judge makes a written finding that there is a continued likelihood that the person 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 is subject to the reporting requirements of this article.

(e) In addition to any other requirements of this article, persons required to register under the provisions of this article shall provide or cooperate in providing, at a minimum, the following when registering:

(1) The full name of the registrant, including any aliases, nicknames or other names used by the registrant;

(2) The address where the registrant intends to reside or resides at the time of registration, the name and address of the registrant's employer or place of occupation at the time of registration, the names and addresses of any anticipated future employers or places of occupation, the name and address of any school or training facility the registrant is attending at the time of registration and the names and addresses of any schools or training facilities the registrant expects to attend: Provided, That a post office box or other address that does not have a physical street address of residence may not be provided in lieu of a physical residence address;

(3) The registrant's Social Security number;

(4) Ages and names of any children in the household of the registrant, and any children currently living or subsequently born to the registrant.

(5) A brief description of the offense or offenses for which the registrant was convicted; and

(6) A complete set of the registrant's fingerprints.

(f) On the date that any person convicted or found not guilty solely by reason of mental illness, mental retardation or addiction of any of the offenses listed in subsection (b) of this section, hereinafter referred to as a "qualifying offense", including those persons who are continuing under some post-conviction supervisory status, are released, granted probation or a suspended sentence, released on parole, probation, home detention, work release, conditional release or any other release from confinement, the Commissioner of Corrections, Regional Jail Administrator, city or sheriff operating a jail or Secretary of the Department of Health and Human Resources who releases the person, and any parole or probation officer who releases the person or supervises the person following the release, shall inform the person of his or her duty to register and send written notice of the release to the superintendent within three business days of release, and provide any other information as directed by rule of the State Police. The notice must include, at a minimum, the information required by subsection (e) of this section.

(g) Any person having a duty to register for a qualifying offense shall register upon conviction, unless that person is confined or incarcerated, in which case he or she shall register within three business days of release, transfer or other change in disposition status.

(h) At the time the person is convicted or found not guilty solely by reason of mental illness, mental retardation or addiction in a court of this State of the offenses set forth in subsection (b) of this section, the person shall sign in open court a notification statement acknowledging that he or she understands the requirements imposed by this article. The court shall 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 the provisions. The statement, when signed and witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of this article. Upon completion of the statement, the court shall provide a copy to the registry. Persons who have not signed a statement under the provisions of this subsection and who are subject to the registration requirements of this article must be informed of the requirement by the State Police whenever the State Police obtain information that the person is subject to registration requirements.

(i) The State Police shall maintain a central registry of all persons who register under this article and shall release information only as provided in this article.

(j) The superintendent shall provide forms to law-enforcement agencies, circuit clerks and parole officers to facilitate submission of appropriate information necessary to administer the Child Abuse and Neglect Registry established by this article.

(k) For the purposes of this article, the term "business days", means days exclusive of Saturdays, Sundays and legal holidays as defined in section one [§ 2-2-1], article two, chapter two of this code.

W. VA. CODE ANN. § 48-27-903 (2010). Misdemeanor offenses for violation of protective order, repeat offenses, penalties.

(a) Any person who knowingly and willfully violates:

(1) A provision of an emergency or final protective order entered pursuant to:

(A) Subsection (a) or (b) of section five hundred two [§ 48-27-502] of this article;

(B) If the court has ordered such relief; subsection (2), (7), (9), or (14) of section five hundred three [§ 48-27-503] of this article;

(C) Subsection (b) or (c) of section five hundred nine [§ 48-5-509], article five of this chapter; or (D) subsection (b) or (c) of section six hundred eight [§ 48-5-608], article five of this chapter; or

(2) A condition of bail, probation or parole which has the express intent or effect of protecting the personal safety of a particular person or persons; is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than one day nor more than one year, which jail term shall include actual confinement of not less than twenty-four hours, and shall be fined not less than $250 nor more than $2,000.

(b) Any person who is convicted of a second offense under subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than three months nor more than one year, which jail term shall include actual confinement of not less than thirty days, and fined not less than $500 nor more than $3,000, or both.

(c) A respondent who is convicted of a third or subsequent offense under subsection (a) which the violation occurs within ten years of a prior conviction of this offense is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail not less than six months nor more than one year, which jail term shall include actual confinement of not less than six months, and fined not less than $500 nor more than $4,000.

W. VA. CODE ANN. § 61-2-2 (2010). Penalty for murder of first degree.

Murder of the first degree shall be punished by confinement in the penitentiary for life.

W. VA. CODE ANN. § 61-2-14 (2010). Abduction of person; kidnapping or concealing child; penalties.

(a) Any person who takes away another person, or detains another person against such person's will, with intent to marry or defile the person, or to cause the person to be married or defiled by another person; or takes away a child under the age of sixteen years from any person having lawful charge of such child, for the purpose of prostitution or concubinage, shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than three nor more than ten years.

(b) Any person, other than the father or mother, who illegally, or for any unlawful, improper or immoral purpose other than the purposes stated in subsection (a) of this section or section fourteen-a [§ 61-2-14a] or fourteen-c [§ 61-2-14c] of this article, seizes, takes or secretes a child under sixteen years of age, from the person or persons having lawful charge of such child, shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than ten years.

W. VA. CODE ANN. § 61-2-14D (2010). Concealment or removal of minor child from custodian or from person entitled to visitation; penalties; defenses.

(a) Any person who conceals, takes or removes a minor child in violation of any court order and with the intent to deprive another person of lawful custody or visitation rights shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than five years, or in the discretion of the court, shall be imprisoned in the county jail not more than one year or fined not more than one thousand dollars, or both fined and imprisoned.

(b) Any person who violates this section and in so doing removes the minor child from this State or conceals the minor child in another state shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than five years or fined not more than one thousand dollars, or both fined and imprisoned.

(c) It shall be a defense under this section that the accused reasonably believed such action was necessary to preserve the welfare of the minor child. The mere failure to return a minor child at the expiration of any lawful custody or visitation period without the intent to deprive another person of lawful custody or visitation rights shall not constitute an offense under this section.

W. VA. CODE ANN. § 61-2-14F (2010). Penalties for abduction of a child near a school.

Any person who, under the provisions of section fourteen [§ 61-2-14] of this article, abducts a child sixteen years of age or under within one thousand feet of a school is guilty of a felony, and, upon conviction, shall be punished by confinement in the penitentiary not less than five nor more than fifteen years.

W. VA. CODE ANN. § 61-2-28 (2010). Domestic violence -- Criminal acts.

(a) Domestic battery.

Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature with his or her family or household member or unlawfully and intentionally causes physical harm to his or her family or household member, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not more than twelve months, or fined not more than five hundred dollars, or both.

(b) Domestic assault.
Any person who unlawfully attempts to commit a violent injury against his or her family or household member or unlawfully commits an act which places his or her family or household member in reasonable apprehension of immediately receiving a violent injury, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not more than six months, or fined not more than one hundred dollars, or both.

(c) Second offense - Domestic Assault or Domestic Battery.
A person convicted of a violation of subsection (a) of this section after having been previously convicted of a violation of subsection (a) or (b) of this section, after having been convicted of a violation of subsection (b) or (c), section nine [§ 61-2-9] of this article where the victim was his or her current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or who has previously been granted a period of pretrial diversion pursuant to section twenty-two [§ 61-11-22], article eleven of this chapter for a violation of subsection (a) or (b) of this section, or a violation of subsection (b) or (c), section nine of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense is guilty of a misdemeanor, and upon conviction thereof, shall be confined in a county or regional jail for not less than sixty days nor more than one year, or fined not more than one thousand dollars, or both.

A person convicted of a violation of subsection (b) of this section after having been previously convicted of a violation of subsection (a) or (b) of this section, after having been convicted of a violation of subsection (b) or (c), section nine [§ 61-2-9] of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or having previously been granted a period of pretrial diversion pursuant to section twenty-two [§ 61-11-22], article eleven of this chapter for a violation of subsection (a) or (b) of this section or subsection (b) or (c), section nine of this article where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense shall be confined in a county or regional jail for not less than thirty days nor more than six months, or fined not more than five hundred dollars, or both.

(d) Any person who has been convicted of a third or subsequent violation of the provisions of subsection (a) or (b) of this section, a third or subsequent violation of the provisions of section nine [§ 61-2-9] of this article where the victim is a family or household member was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of

the offense or who has previously been granted a period of pretrial diversion pursuant to section twenty-two [§ 61-11-22], article eleven of this chapter for a violation of subsection (a) or (b) of this section or a violation of the provisions of section nine of this article in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or any combination of convictions or diversions for these offenses, is guilty of a felony if the offense occurs within ten years of a prior conviction of any of these offenses and, upon conviction thereof, shall be confined in a state correctional facility not less than one nor more than five years or fined not more than two thousand five hundred dollars, or both.

(e) As used in this section, "family or household member" means "family or household member" as defined in 48-27-204 of this code.

(f) A person charged with a violation of this section may not also be charged with a violation of subsection (b) or (c), section nine [§ 61-2-9] of this article for the same act.

(g) No law-enforcement officer may be subject to any civil or criminal action for false arrest or unlawful detention for effecting an arrest pursuant to this section or pursuant to 48-27-1002 of this code.

W. VA. CODE ANN. § 61-8-25 (2010). Requiring children to beg, sing or play musical instruments in streets; penalty.

Any person, having the care, custody, or control, lawful or unlawful, of any minor child under the age of eighteen years, who shall use such minor, or apprentice, give away, let out, hire or otherwise dispose of, such minor child to any person, for the purpose of singing, playing on musical instruments, begging, or for any mendicant business whatsoever in the streets, roads, or other highways of this State, and any person who shall take, receive, hire, employ, use or have in custody, any minor for the vocation, occupation, calling, service or purpose of singing, playing upon musical instruments, or begging upon the streets, roads or other highways of this State, or for any mendicant business whatever, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five nor more than one hundred dollars.

W. VA. CODE ANN. § 61-8-26 (2010). Permitting children to sing, dance or act in dance house, etc.; penalty.

Any person, having the care, custody, or control of any minor child under the age of fifteen years, who shall in any manner sell, apprentice, give away or permit such child to sing, dance, act, or in any manner exhibit it in any dance house, concert saloon, theater or place of entertainment where wines or spirituous or malt liquors are sold or given away, or with which any place for the sale of wines or spirituous or malt liquors is directly or indirectly connected by any passageway or entrance, and any proprietor of any dance house whatever, or any such concert saloon, theater, or place of entertainment, so employing any such child, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five nor more than one hundred dollars for each offense.

W. VA. CODE ANN. § 61-8B-3 (2010). Sexual assault in the first degree.

(a) A person is guilty of sexual assault in the first degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person and, in so doing:

(i) Inflicts serious bodily injury upon anyone; or

(ii) Employs a deadly weapon in the commission of the act; or

(2) The person, being fourteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is younger than twelve years old and is not married to that person.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than fifteen nor more than thirty-five years, or fined not less than one thousand dollars nor more than ten thousand dollars and imprisoned in a state correctional facility not less than fifteen nor more than thirty-five years.

(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any person violating the provisions of subsection (a) of this section who is eighteen years of age or older and whose victim is younger than twelve years of age, shall be imprisonment in a state correctional facility for not less than twenty-five nor more than one hundred years and a fine of not less than five thousand dollars nor more than twenty-five thousand dollars.

W. VA. CODE ANN. § 61-8B-4 (2010). Sexual assault in the second degree.

(a) A person is guilty of sexual assault in the second degree when:

(1) Such person engages in sexual intercourse or sexual intrusion with another person without the person's consent, and the lack of consent results from forcible compulsion; or

(2) Such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless.

(b) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than ten nor more than twenty-five years, or fined not less than one thousand dollars nor more than ten thousand dollars and imprisoned in the penitentiary not less than ten nor more than twenty-five years.

W. VA. CODE ANN. § 61-8B-5 (2010). Sexual assault in the third degree.

(a) A person is guilty of sexual assault in the third degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated; or

(2) The person, being sixteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than sixteen years old and who is at least four years younger than the defendant and is not married to the defendant.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years, or fined not more than ten thousand dollars and imprisoned in a state correctional facility not less than one year nor more than five years.

W. VA. CODE ANN. § 61-8B-7 (2010). § 61-8B-7. Sexual abuse in the first degree.

(a) A person is guilty of sexual abuse in the first degree when:

(1) Such person subjects another person to sexual contact without their consent, and the lack of consent results from forcible compulsion; or

(2) Such person subjects another person to sexual contact who is physically helpless; or

(3) Such person, being fourteen years old or more, subjects another person to sexual contact who is younger than twelve years old.

(b) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years, or fined not more than ten thousand dollars and imprisoned in a state correctional facility not less than one year nor more than five years.

(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any person violating the provisions of subsection (a) of this section who is eighteen years of age or older and whose victim is younger than twelve years of age, shall be imprisonment for not less than five nor more than twenty-five years and fined not less than one thousand dollars nor more than five thousand dollars.

W. VA. CODE ANN. § 61-8B-8 (2010). § 61-8B-7. Sexual abuse in the second degree.

(a) A person is guilty of sexual abuse in the second degree when such person subjects another person to sexual contact who is mentally defective or mentally incapacitated.

(b) Any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not more than twelve months, or fined not more than five hundred dollars and confined in the county jail not more than twelve months.

W. VA. CODE ANN. § 61-8B-9 (2010). § 61-8B-7. Sexual abuse in the third degree.

(a) A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent, when such lack of consent is due to the victim's incapacity to consent by reason of being less than sixteen years old.

(b) In any prosecution under this section it is a defense that:

(1) The defendant was less than sixteen years old; or

(2) The defendant was less than four years older than the victim.

(c) Any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not more than ninety days, or fined not more than five hundred dollars and confined in the county jail not more than ninety days.

W. VA. CODE ANN. § 61-8B-9A (2010). Mandatory sentence for person committing certain sex offenses against children.

(a) Notwithstanding the provisions of section one-a [§ 62-11A-1a], article eleven-a, section four [§ 62-11B-4], article eleven-b and section two [§ 62-12-2], article twelve of chapter sixty-two of this code, a person shall not be eligible for probation, home incarceration or an alternative sentence provided under this code if they are convicted of an offense under section three [§ 61-8B-3], four [§ 61-8B-4], five [§ 61-8B-5], seven [§ 61-8B-7], eight [§ 61-8B-8] or nine [§ 61-8B-9], article eight-b, chapter sixty-one of this code, are eighteen years of age or older, the victim is younger than twelve years of age and the finder of fact determines that one of the following aggravating circumstances exists:

(1) The person employed forcible compulsion in commission of the offense;

(2) The offense constituted, resulted from or involved a predatory act as defined in subsection (m), section two [§ 15-12-2], article twelve, chapter fifteen of this code;

(3) The person was armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon and used or threatened to use the weapon or article to cause the victim to submit; or

(4) The person removed the victim from one place to another and did not release the victim in a safe place. For the purposes of this section, "release the victim in a safe place" means release of a victim in a place and manner which realistically conveys to the victim that he or she is free from captivity in circumstances and surroundings wherein aid is readily available.

(b) (1) The existence of any fact which would make any person ineligible for probation under subsection (a) of this section because of the existence of an aggravating circumstance shall not be applicable unless such fact is clearly stated and included in the indictment or presentment by which such person is charged and is either: (i) Found by the court upon a plea of guilty or nolo contendere; or (ii) found by the jury, if the matter be tried before a jury, upon submitting to such jury a special interrogatory for such purpose; or (iii) found by the court, if the matter be tried by the court, without a jury.

(2) Insofar as the provisions of this section relate to mandatory sentences without probation, home incarceration or alternative sentences, all such matters requiring such sentence shall be proved beyond a reasonable doubt in all cases tried by the jury or the court.

W. VA. CODE ANN. § 61-8B-9B (2010). Enhanced penalties for subsequent offenses committed by those previously convicted of sexually violent offenses against children.

(a) Notwithstanding any provision of this article to the contrary, any person who has been convicted of a sexually violent offense, as defined in section two [§ 15-12-2], article twelve, chapter fifteen of this code, against a victim under the age of twelve years old and thereafter commits and thereafter is convicted of one of the following offenses shall be subject to the following penalties unless another provision of this code authorizes a longer sentence:

(1) For a violation of section three [§ 61-8B-3] of this article, the penalty shall be imprisonment in a state correctional facility for not less than fifty nor more than one hundred fifty years;

(2) For a violation of section four [§ 61-8B-4] of this article, the penalty shall be imprisonment in a state correctional facility for not less than thirty nor more than one hundred years;

(3) For a violation of section five [§ 61-8B-5] of this article, the penalty shall be imprisonment in a state correctional facility for not less than five nor more than twenty-five years;

(4) For a violation of section seven [§ 61-8B-7] of this article, the penalty shall be imprisonment in a state correctional facility for not less than ten nor more than thirty-five years; and

(5) Notwithstanding the penalty provisions of section eight [§ 61-8B-8] of this article, a violation of its provisions by a person previously convicted of a sexually violent offense, as defined in section two [§ 15-12-2], article twelve, chapter fifteen of this code, shall be a felony and the penalty therefor shall be imprisonment in a state correctional facility for not less than three nor more than fifteen years.

(b) Notwithstanding the provisions of section two [§ 62-12-2], article twelve, chapter sixty-two of this code, any person sentenced pursuant to this section shall not be eligible for probation.

(c) Notwithstanding the provisions of section one-a [§ 62-11A-1a], article eleven-a and section four [§ 62-11B-4], article eleven-b of chapter sixty-two of this code, a person sentenced under this section shall not be eligible for home incarceration or an alternative sentence.

W. VA. CODE ANN. § 61-8C-2 (2010). Use of minors in filming sexually explicit conduct prohibited; penalty.

(a) Any person who causes or knowingly permits, uses, persuades, induces, entices or coerces such minor to engage in or uses such minor to do or assist in any sexually explicit conduct shall be guilty of a felony when such person has knowledge that any such act is being photographed or filmed. Upon conviction thereof, such person shall be fined not more than ten thousand dollars, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.

(b) Any person who photographs or films such minor engaging in any sexually explicit conduct shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than ten thousand dollars, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.

(c) Any parent, legal guardian or person having custody and control of a minor, who photographs or films such minor in any sexually explicit conduct or causes or knowingly permits, uses, persuades, induces, entices or coerces such minor child to engage in or assist in any sexually explicit act shall be guilty of a felony when such person has knowledge that any such act may be photographed or filmed. Upon conviction thereof, such persons shall be fined not more than ten thousand dollars, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.

W. VA. CODE ANN. § 61-8C-3 (2010). Distribution and exhibiting of material depicting minors engaged in sexually explicit conduct prohibited; penalty.

Any person who, with knowledge, sends or causes to be sent, or distributes, exhibits, possesses or displays or transports any material visually portraying a minor engaged in any sexually explicit conduct is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not more than two years, and fined not more than two thousand dollars.

W. VA. CODE ANN. § 61-8C-4 (2010). Payments of treatment costs for minor.

In addition to any penalty provided under this article and any restitution which may be ordered by the court under article eleven-a [§§ 61-11A-1 et seq.] of this chapter, the court may order any person convicted under the provisions of this article to pay all or any portion of the cost of medical, psychological or psychiatric treatment of the minor resulting from the act or acts for which the person is convicted, whether or not the minor is considered to have sustained bodily injury.

W. VA. CODE ANN. § 61-8D-2A (2010). Death of a child by a parent, guardian or custodian or other person by child abuse; criminal penalties.

(a) If any parent, guardian or custodian shall maliciously and intentionally inflict upon a child under his or her care, custody or control substantial physical pain, illness or any impairment of physical condition by other than accidental means, thereby causing the death of such child, then such parent, guardian or custodian shall be guilty of a felony.

(b) If any parent, guardian or custodian shall knowingly allow any other person to maliciously and intentionally inflict upon a child under the care, custody or control of such parent, guardian or custodian substantial physical pain, illness or any impairment of physical condition by other than accidental means, which thereby causes the death of such child, then such other person and such parent, guardian or custodian shall each be guilty of a felony.

(c) Any person convicted of a felony described in subsection (a) or (b) of this section shall be punished by a definite term of imprisonment in the penitentiary which is not less than ten nor more than forty years. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of ten years of his or her sentence or the minimum period required by the provisions of section thirteen [§ 62-12-13], article twelve, chapter sixty-two of this code, whichever is greater.

(d) The provisions of this section shall not apply to any parent, guardian or custodian or other person who, without malice, fails or refuses, or allows another person to, without malice, fail or refuse, to supply a child under the care, custody or control of such parent, guardian or custodian with necessary medical care, when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which such parent, guardian or custodian is an adherent or member. The provisions of this section shall not apply to any health care provider who fails or refuses, or allows another person to fail or refuse, to supply a child with necessary medical care when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which the parent, guardian or custodian of the child is an adherent or member, or where such failure or refusal is pursuant to a properly executed do not resuscitate form.

W. VA. CODE ANN. § 61-8D-3 (2010). Child abuse resulting in injury; child abuse or neglect creating risk of injury; criminal penalties.

(a) If any parent, guardian or custodian shall abuse a child and by such abuse cause such child bodily injury as such term is defined in section one [§ 61-8B-1], article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars and committed to the custody of the division of corrections for not less than one nor more than five years, or in the discretion of the court, be confined in the county or regional jail for not more than one year.

(b) If any parent, guardian or custodian shall abuse a child and by such abuse cause said child serious bodily injury as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than one thousand nor more than five thousand dollars and committed to the custody of the division of corrections not less than two nor more than ten years.

(c) Any person who abuses a child and by the abuse creates a substantial risk of serious bodily injury or of death to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than three thousand dollars and confined to the custody of the division of corrections for not less than one nor more than five years.

W. VA. CODE ANN. § 61-8D-3A (2010). Female genital mutilation; penalties; definitions.

(a) Except as otherwise provided in subsection (b) of this section, any person who circumcises, excises or infibulates, in whole or in part, the labia majora, labia minora or clitoris of a female under the age of eighteen, or any parent, guardian or custodian of a female under the age of eighteen who allows the circumcision, excision or infibulation, in whole or in part, of such female's labia majora, labia minora or clitoris, shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than ten years and fined not less than one thousand dollars nor more than five thousand dollars.

(b) A surgical procedure is not a violation of this section if the procedure:

(1) Is necessary to preserve the health of the child on whom it is performed and is performed by a licensed medical professional authorized to practice medicine in this state; or

(2) The procedure is performed on a child who is in labor or has just given birth and is performed for legitimate medical purposes connected with that labor or birth by a licensed medical professional authorized to practice medicine in this state.

(c) A person's belief that the conduct described in subsection (a) of this section: (i) Is required as a matter of custom, ritual or standard practice; or (ii) was consented to by the female on which the circumcision, excision or infibulation was performed shall not constitute a defense to criminal prosecution under subsection (a) of this section.

W. VA. CODE ANN. § 61-8D-4 (2010). Child neglect resulting in injury; child neglect creating risk of injury; criminal penalties.

(a) If any parent, guardian or custodian shall neglect a child and by such neglect cause said child bodily injury, as such term is defined in section one [§ 61-8B-1], article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars or committed to the custody of the Division of Corrections for not less than one nor more than three years, or in the discretion of the court, be confined in the county jail for not more than one year, or both such fine and confinement or imprisonment.

(b) If any parent, guardian or custodian shall neglect a child and by such neglect cause said child serious bodily injury, as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than three hundred nor more than three thousand dollars or committed to the custody of the Division of Corrections for not less than one nor more than ten years, or both such fine and imprisonment.

(c) The provisions of this section shall not apply if the neglect by the parent, guardian or custodian is due primarily to a lack of financial means on the part of such parent, guardian or custodian.

(d) The provisions of this section shall not apply to any parent, guardian or custodian who fails or refuses, or allows another person to fail or refuse, to supply a child under the care, custody or control of such parent, guardian or custodian with necessary medical care, when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which such parent, guardian or custodian is an adherent or member.

(e) Any person who grossly neglects a child and by the gross neglect creates a substantial risk of serious bodily injury or of death to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than three thousand dollars and confined to the custody of the Division of Corrections for not less than one nor more than five years.

W. VA. CODE ANN. § 61-8D-4A (2010). Child neglect resulting in death; criminal penalties.

(a) If any parent, guardian or custodian shall neglect a child under his or her care, custody or control and by such neglect cause the death of said child, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than one thousand

dollars nor more than five thousand dollars or committed to the custody of the Division of Corrections for not less than three nor more than fifteen years, or both such fine and imprisonment.

(b) No child who in lieu of medical treatment was under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing with a reasonable proven record of success shall, for that reason alone, be considered to have been neglected within the provisions of this section. A method of religious healing shall be presumed to be a recognized method of religious healing if fees and expenses incurred in connection with such treatment are permitted to be deducted from taxable income as "medical expenses" pursuant to regulations or rules promulgated by the United States Internal Revenue Service.

(c) A child whose parent, guardian or legal custodian has inhibited or interfered with the provision of medical treatment in accordance with a court order may be considered to have been neglected for the purposes of this section.

W. VA. CODE ANN. § 61-8D-5 (2010). Sexual abuse by a parent, guardian, custodian or person in a position of trust to a child; parent, guardian, custodian or person in a position of trust allowing sexual abuse to be inflicted upon a child; displaying of sex organs by a parent, guardian, or custodian; penalties.

(a) In addition to any other offenses set forth in this code, the Legislature hereby declares a separate and distinct offense under this subsection, as follows: If any parent, guardian or custodian of or other person in a position of trust in relation to a child under his or her care, custody or control, shall engage in or attempt to engage in sexual exploitation of, or in sexual intercourse, sexual intrusion or sexual contact with, a child under his or her care, custody or control, notwithstanding the fact that the child may have willingly participated in such conduct, or the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than ten nor more than twenty years, or fined not less than $500 nor more than $5,000 and imprisoned in a correctional facility not less than ten years nor more than twenty years.

(b) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is less than sixteen years of age, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than five years nor more than fifteen years, or fined not less than $1,000 nor more than $10,000 and imprisoned in a correctional facility not less than five years nor more than fifteen years.

(c) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces another person to engage in or attempt to engage

in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is sixteen years of age or older, notwithstanding the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than one year nor more than five years.

(d) The provisions of this section shall not apply to a custodian or person in a position of trust whose age exceeds the age of the child by less than four years.

W. VA. CODE ANN. § 61-8D-6 (2010). Sending, distributing, exhibiting, possessing, displaying or transporting material by a parent, guardian or custodian, depicting a child engaged in sexually explicit conduct; penalty.

Any parent, guardian or custodian who, with knowledge, sends or causes to be sent, or distributes, exhibits, possesses, displays or transports, any material visually portraying a child under his or her care, custody or control engaged in any sexually explicit conduct, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not more than two years, and fined not less than four hundred dollars nor more than four thousand dollars.

W. VA. CODE ANN. § 61-11-6 (2010). Punishment of principals in the second degree and accessories before and after the fact.

(a) In the case of every felony, every principal in the second degree and every accessory before the fact shall be punishable as if he or she were the principal in the first degree; and every accessory after the fact shall be confined in jail not more than one year and fined not exceeding $500. But no person in the relation of husband and wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity, or servant to the offender, who, after the commission of a felony, shall aid or assist a principal felon, or accessory before the fact, to avoid or escape from prosecution or punishment shall be deemed an accessory after the fact.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who knowingly harbors, conceals, maintains or assists the principal felon after the commission of the underlying offense violating the felony provisions of sections one [§ 61-2-1], four [§ 61-2-4], or nine [§ 61-2-9] of article two of this chapter, or gives such offender aid knowing that he or she has committed such felony, with the intent that the offender avoid or escape detention, arrest, trial or punishment, shall be considered an accessory after the fact and, upon conviction, be guilty of a felony and confined in a state correctional facility for a period not to exceed five years, or a period of not more than one half of the maximum penalty for the underlying felony offense, whichever is the lesser maximum term of confinement. But no person who is a person in the relation of husband and wife, parent, grandparent, child, grandchild, brother or sister, whether by consanguinity or affinity, or servant to the offender shall be considered an accessory after the fact.

W. VA. CODE ANN. § 61-11-8 (2010). Attempts; classification and penalties therefor.

Every person who attempts to commit an offense, but fails to commit or is prevented from committing it, shall, where it is not otherwise provided, be punished as follows:

(1) If the offense attempted be punishable with life imprisonment, the person making such attempt shall be guilty of a felony and, upon conviction, shall be imprisoned in the penitentiary not less than three nor more than fifteen years.

(2) If the offense attempted be punishable by imprisonment in the penitentiary for a term less than life, such person shall be guilty of a felony and, upon conviction, shall, in the discretion of the court, either be imprisoned in the penitentiary for not less than one nor more than three years, or be confined in jail not less than six nor more than twelve months, and fined not exceeding five hundred dollars.

(3) If the offense attempted be punishable by confinement in jail, such person shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail not more than six months, or fined not exceeding one hundred dollars.

W. VA. CODE ANN. § 61-11-16 (2010). Term of imprisonment for felony; indeterminate sentence.

Every sentence to the penitentiary of a person convicted of a felony for which the maximum penalty prescribed by law is less than life imprisonment, except offenses committed by convicts in the penitentiary punishable under chapter sixty-two, article eight, section one [§ 62-8-1] of the Code, shall be a general sentence of imprisonment in the penitentiary. In imposing this sentence, the judge may, however, designate a definite term, which designation may be considered by the Board of Probation and Parole [Division of Corrections] as the opinion of the judge under the facts and circumstances then appearing of the appropriate term recommended by him to be served by the person sentenced. Imprisonment under a general sentence shall not exceed the maximum term prescribed by law for the crime for which the prisoner was convicted, less such good time allowance as is provided by sections twenty-seven [§ 28-5-27] and twenty-seven-a [§ 28-5-27a, repealed], article five, chapter twenty-eight of this Code, in the case of persons sentenced for a definite term. Every other sentence of imprisonment in the penitentiary shall be for a definite term or for life, as the court may determine. The term of imprisonment in jail, where that punishment is prescribed in the case of conviction for felony, shall be fixed by the court.

W. VA. CODE ANN. § 61-11-18 (2010). Punishment for second or third offense of felony.

(a) Except as provided by subsection (b) of this section, when any person is convicted of an offense and is subject to confinement in the state correctional facility therefor, and it is determined, as provided in section nineteen [§ 61-11-19] of this article, that such person had been before convicted in the United States of a crime punishable by confinement in a penitentiary, the court shall, if the sentence to be imposed is for a definite term of years, add five years to the time for which the person is or would be otherwise sentenced. Whenever in such case the court

imposes an indeterminate sentence, the minimum term shall be twice the term of years otherwise provided for under such sentence.

(b) Notwithstanding the provisions of subsection (a) or (c) of this section or any other provision of this code to the contrary, when any person is convicted of first degree murder or second degree murder or a violation of section three [§ 61-8B-3], article eight-b of this chapter and it is determined, as provided in section nineteen [§ 61-11-19] of this article, that such person had been before convicted in this state of first degree murder, second degree murder or a violation of section three, article eight-b of said chapter or has been so convicted under any law of the United States or any other state for an offense which has the same elements as any offense described in this subsection, such person shall be punished by confinement in the state correctional facility for life and is not eligible for parole.

(c) When it is determined, as provided in section nineteen [§ 61-11-19] of this article, that such person shall have been twice before convicted in the United States of a crime punishable by confinement in a penitentiary, the person shall be sentenced to be confined in the state correctional facility for life.

W. VA. CODE ANN. § 62-12-13 (2010). Powers and duties of board; eligibility for parole; procedure for granting parole.

(a) The board of parole, whenever it is of the opinion that the best interests of the state and of the inmate will be served, and subject to the limitations hereinafter provided, shall release any inmate on parole for terms and upon conditions as are provided by this article.

(b) Any inmate of a state correctional center is eligible for parole if he or she:

(1) (A) Has served the minimum term of his or her indeterminate sentence or has served one fourth of his or her definite term sentence, as the case may be, or

(B) He or she:

(I) has applied for and been accepted by the Commissioner of Corrections into an accelerated parole program;

(ii) does not have a prior criminal conviction for a felony crime of violence against the person, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child;

(iii) has no record of institutional disciplinary rule violations for a period of 120 days prior to parole consideration unless the requirement is waived by the commissioner;

(iv) is not serving a sentence for a crime of violence against the person, or more than one felony for a controlled substance offense for which the inmate is serving a consecutive sentence, a felony offense involving the use of a firearm, or a felony offence where the victim was a minor child; and,

(v) has successfully completed a rehabilitation treatment program created with the assistance of a standardized risk and needs assessment;

(I) as used in this paragraph "felony crime of violence against the person" means felony offenses set forth in articles two [§§ 61-2-1 et seq.], three-e [§§ 61-3E-1 et seq.], eight-b [§§ 61-8B-1 et seq.] or eight-d [§§ 61-8D-1 et seq.] of chapter sixty-one of this code; and

(II) as used in this paragraph "felony offense where the victim was a minor child" means any felony crime of violence against the person and any felony violation set forth in article eight [§§ 61-8-1 et seq.], eight-a, eight-c or eight-d of chapter sixty-one of this code.

(C) Notwithstanding any provision of this code to the contrary, any person who committed, or attempted to commit a felony with the use, presentment or brandishing of a firearm, is not eligible for parole prior to serving a minimum of three years of his or her sentence or the maximum sentence imposed by the court, whichever is less: Provided, That any person who committed, or attempted to commit, any violation of section twelve [§ 61-2-12], article two, chapter sixty-one of this code, with the use, presentment or brandishing of a firearm, is not eligible for parole prior to serving a minimum of five years of his or her sentence or one third of his or her definite term sentence, whichever is greater. Nothing in this section applies to an accessory before the fact or a principal in the second degree who has been convicted as if he or she were a principal in the first degree if, in the commission of or in the attempted commission of the felony, only the principal in the first degree used, presented or brandished a firearm. A person is not ineligible for parole under the provisions of this subdivision because of the commission or attempted commission of a felony with the use, presentment or brandishing of a firearm unless that fact is clearly stated and included in the indictment or presentment by which the person was charged and was either: (I) Found by the court at the time of trial upon a plea of guilty or nolo contendere; or (ii) found by the jury, upon submitting to the jury a special interrogatory for such purpose if the matter was tried before a jury; or (iii) found by the court, if the matter was tried by the court without a jury.

For the purpose of this section, the term "firearm" means any instrument which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive, gunpowder or any other similar means.

(D) The amendments to this subsection adopted in the year 1981:

(I) Apply to all applicable offenses occurring on or after August 1 of that year;

(ii) Apply with respect to the contents of any indictment or presentment returned on or after August 1 of that year irrespective of when the offense occurred;

(iii) Apply with respect to the submission of a special interrogatory to the jury and the finding to be made thereon in any case submitted to the jury on or after August 1 of that year or to the requisite findings of the court upon a plea of guilty or in any case tried without a jury: Provided, That the state gives notice in writing of its intent to seek such finding by the jury or court, as the case may be, which notice shall state with particularity the grounds upon which the finding will be sought as fully as such grounds are otherwise required to be stated in an indictment, unless the grounds therefor are alleged in the indictment or presentment upon which the matter is being tried; and

(iv) Does not apply with respect to cases not affected by the amendments and in such cases the prior provisions of this section apply and are construed without reference to the amendments.

Insofar as the amendments relate to mandatory sentences restricting the eligibility for parole, all matters requiring a mandatory sentence shall be proved beyond a reasonable doubt in all cases tried by the jury or the court.

(2) Is not in punitive segregation or administrative segregation as a result of disciplinary action;

(3) Has maintained a record of good conduct in prison for a period of at least three months immediately preceding the date of his or her release on parole;

(4) Has prepared and submitted to the board a written parole release plan setting forth proposed plans for his or her place of residence, employment and, if appropriate, his or her plans regarding education and post-release counseling and treatment. The Commissioner of Corrections or his or her designee shall review the plan to be reviewed and investigated and provide recommendations to the board as to the suitability of the plan: Provided, That in cases in which there is a mandatory thirty day notification period required prior to the release of the inmate, pursuant to section twenty-three [§ 62-12-23] of this article, the board may conduct an initial interview and deny parole without requiring the development of a plan. In the event the board does not believe parole should be denied, it may defer a final decision pending completion of an investigation and receipt of recommendations. Upon receipt of the plan together with the investigation and recommendation, the board, through a panel, shall make a final decision regarding the granting or denial of parole; and

(5) Has satisfied the board that if released on parole he or she will not constitute a danger to the community.

(c) Except in the case of a person serving a life sentence, no person who has been previously twice convicted of a felony may be released on parole until he or she has served the minimum term provided by law for the crime for which he or she was convicted. A person sentenced for life may not be paroled until he or she has served ten years, and a person sentenced for life who has been previously twice convicted of a felony may not be paroled until he or she has served fifteen years: Provided, That a person convicted of first degree murder for an offense committed on or after June 10, 1994, is not eligible for parole until he or she has served fifteen years.

(d) In the case of a person sentenced to any state correctional center, it is the duty of the board, as soon as a person becomes eligible, to consider the advisability of his or her release on parole.

(e) If, upon consideration, parole is denied, the board shall promptly notify the inmate of the denial. The board shall, at the time of denial, notify the person of the month and year he or she may apply for reconsideration and review. The board shall at least once a year reconsider and review the case of every inmate who was denied parole and is still eligible.

(f) Any person serving a sentence on a felony conviction who becomes eligible for parole consideration prior to being transferred to a state correctional center may make written application for parole. The terms and conditions for parole consideration established by this article apply to such inmates.

(g) The board shall, with the approval of the Governor, adopt rules governing the procedure in the granting of parole. No provision of this article and none of the rules adopted hereunder are intended or may be construed to contravene, limit or otherwise interfere with or affect the authority of the Governor to grant pardons and reprieves, commute sentences, remit fines or otherwise exercise his or her constitutional powers of executive clemency.

(h) The Division of Corrections shall promulgate policies and procedures for developing a rehabilitation treatment plan created with the assistance of a standardized risk and needs assessment. The policies and procedures shall include, but not be limited to, policy and procedures for screening and selecting inmates for rehabilitation treatment and development and use of standardized risk and needs assessment tools. An inmate shall not be paroled solely due to having successfully completed a rehabilitation treatment plan but completion of all the requirements of a rehabilitation parole plan along with compliance with the requirements of subsection (b) of this section shall create a rebuttable presumption that parole is appropriate. The presumption created by this subsection may be rebutted by a parole board finding that at the time parole release is sought the inmate still constitutes a reasonable risk to the safety or property of other persons if released. Nothing in subsection (b) of this section or in this subsection may be construed to create a right to parole.

(I) Notwithstanding the provisions of subsection (b) of this section, the parole board may, in its discretion, grant or deny parole to an inmate against whom a detainer is lodged by a jurisdiction other than West Virginia for service of a sentence of incarceration, upon a written request for parole from the inmate. A denial of parole under this subsection shall preclude consideration for a period of one year or until the provisions of subsection (b) of this section are applicable.

(j) Where an inmate is otherwise eligible for parole pursuant to subsection (b) of this section but the parole board determines that the inmate should participate in an additional program or complete an assigned task or tasks prior to actual release on parole, the board may grant parole contingently, effective upon successful completion of the program or assigned task or tasks, without the need for a further hearing. The Commissioner of Corrections shall provide notice to the parole board of the imminent release of a contingently paroled inmate to effectuate appropriate supervision.

(k) The Division of Corrections is charged with the duty of supervising all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the uniform act for out-of-state parolee supervision.

(l) (1) When considering an inmate of a state correctional center for release on parole, the parole board panel considering the parole is to have before it an authentic copy of or report on the inmate's current criminal record as provided through the West Virginia State Police, the United States Department of Justice or other reliable criminal information sources and written reports of the warden or superintendent of the state correctional center to which the inmate is sentenced:

(A) On the inmate's conduct record while in custody, including a detailed statement showing any and all infractions of disciplinary rules by the inmate and the nature and extent of discipline administered therefor;

(B) On improvement or other changes noted in the inmate's mental and moral condition while in custody, including a statement expressive of the inmate's current attitude toward society in general, toward the judge who sentenced him or her, toward the prosecuting attorney who prosecuted him or her, toward the policeman or other officer who arrested the inmate and toward the crime for which he or she is under sentence and his or her previous criminal record;

(C) On the inmate's industrial record while in custody which shall include: The nature of his or her work, occupation or education, the average number of hours per day he or she has been employed or in class while in custody and a recommendation as to the nature and kinds of

employment which he or she is best fitted to perform and in which the inmate is most likely to succeed when he or she leaves prison;

(D) On physical, mental and psychiatric examinations of the inmate conducted, insofar as practicable, within the two months next preceding parole consideration by the board.

(2) The board panel considering the parole may waive the requirement of any report when not available or not applicable as to any inmate considered for parole but, in every such case, shall enter in the record thereof its reason for the waiver: Provided, That in the case of an inmate who is incarcerated because the inmate has been found guilty of, or has pleaded guilty to a felony under the provisions of section twelve [§ 61-8-12], article eight, chapter sixty-one of this code or under the provisions of article eight-b [§§ 61-8B-1 et seq.] or eight-c [§§ 61-8C-1 et seq.] of said chapter, the board panel may not waive the report required by this subsection and the report is to include a study and diagnosis including an on-going treatment plan requiring active participation in sexual abuse counseling at an approved mental health facility or through some other approved program: Provided, however, That nothing disclosed by the person during the study or diagnosis may be made available to any law-enforcement agency, or other party without that person's consent, or admissible in any court of this state, unless the information disclosed indicates the intention or plans of the parolee to do harm to any person, animal, institution or to property. Progress reports of outpatient treatment are to be made at least every six months to the parole officer supervising the person. In addition, in such cases, the parole board shall inform the prosecuting attorney of the county in which the person was convicted of the parole hearing and shall request that the prosecuting attorney inform the parole board of the circumstances surrounding a conviction or plea of guilty, plea bargaining and other background information that might be useful in its deliberations.

(m) Before releasing any inmate on parole, the board of parole shall arrange for the inmate to appear in person before a parole board panel and the panel may examine and interrogate him or her on any matters pertaining to his or her parole, including reports before the board made pursuant to the provisions hereof: Provided, That an inmate may appear by video teleconference if the members of the panel conducting the examination are able to contemporaneously see the inmate and hear all of his or her remarks and if the inmate is able to contemporaneously see each of the members of the panel conducting the examination and hear all of the members' remarks. The panel shall reach its own written conclusions as to the desirability of releasing the inmate on parole and the majority of the panel considering the release shall concur in the decision. The warden or superintendent shall furnish all necessary assistance and cooperate to the fullest extent with the parole board. All information, records and reports received by the board are to be kept on permanent file.

(n) The board and its designated agents are at all times to have access to inmates imprisoned in any state correctional center or in any jail in this state and may obtain any information or aid necessary to the performance of its duties from other departments and agencies of the state or from any political subdivision thereof.

(o) The board shall, if so requested by the Governor, investigate and consider all applications for pardon, reprieve or commutation and shall make recommendation thereon to the Governor.

(p) Prior to making a recommendation for pardon, reprieve or commutation and prior to releasing any inmate on parole, the board shall notify the sentencing judge and prosecuting attorney at least ten days before the recommendation or parole.

(q) Any person released on parole shall participate as a condition of parole in the litter control program of the county to the extent directed by the board, unless the board specifically finds that this alternative service would be inappropriate.

(r) Except for the amendments to this section contained in subdivision (4), subsection (b) and subsection (i) of this section the amendments to this section enacted during the 2010 regular session of the legislature shall become effective on January 1, 2011.

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WIS. STAT. ANN. § 973.01 (2010). Bifurcated sentence of imprisonment and extended supervision.

(1) BIFURCATED SENTENCE REQUIRED.

Except as provided in sub. (3), whenever a court sentences a person to imprisonment in the Wisconsin state prisons for a felony committed on or after December 31, 1999, or a misdemeanor committed on or after February 1, 2003, the court shall impose a bifurcated sentence under this section.

(2) STRUCTURE OF BIFURCATED SENTENCES.

A bifurcated sentence is a sentence that consists of a term of confinement in prison followed by a term of extended supervision under s. 302.113 The total length of a bifurcated sentence equals the length of the term of confinement in prison plus the length of the term of extended supervision. An order imposing a bifurcated sentence under this section shall comply with all of the following:

(a) Total length of bifurcated sentence. Except as provided in par. (c), the total length of the bifurcated sentence may not exceed the maximum period of imprisonment specified in s. 939.50 (3), if the crime is a classified felony, or the maximum term of imprisonment provided by statute for the crime, if the crime is not a classified felony, plus additional imprisonment authorized by any applicable penalty enhancement statutes.

(b) Confinement portion of bifurcated sentence. The portion of the bifurcated sentence that imposes a term of confinement in prison may not be less than one year and, except as provided in par. (c), is subject to whichever of the following limits is applicable:

1. For a Class B felony, the term of confinement in prison may not exceed 40 years.

3. For a Class C felony, the term of confinement in prison may not exceed 25 years.

4. For a Class D felony, the term of confinement in prison may not exceed 15 years.

5. For a Class E felony, the term of confinement in prison may not exceed 10 years.

6m. For a Class F felony, the term of confinement in prison may not exceed 7 years and 6 months.

7. For a Class G felony, the term of confinement in prison may not exceed 5 years.

8. For a Class H felony, the term of confinement in prison may not exceed 3 years.

9. For a Class I felony, the term of confinement in prison may not exceed one year and 6 months.

10. For any crime other than one of the following, the term of confinement in prison may not exceed 75% of the total length of the bifurcated sentence:

a. A felony specified in subds. 1. to 9.

b. An attempt to commit a classified felony if the attempt is punishable under s. 939.32 (1) (intro.) (c) Penalty enhancement.

1. Subject to the minimum period of extended supervision required under par. (d), the maximum term of confinement in prison specified in par. (b) may be increased by any applicable penalty enhancement statute. If the maximum term of confinement in prison specified in par. (b) is increased under this paragraph, the total length of the bifurcated sentence that may be imposed is increased by the same amount.

2. If more than one of the following penalty enhancement statutes apply to a crime, the court shall apply them in the order listed in calculating the maximum term of imprisonment for that crime:

a. Sections 939.621, 939.632, 939.645, 946.42 (4), 961.46, and 961.49

b. Section 939.63

c. Section 939.62 (1) or 961.48 (d) Minimum and maximum term of extended supervision. The term of extended supervision may not be less than 25% of the length of the term of confinement in prison imposed under par. (b) and, for a classified felony, is subject to whichever of the following limits is applicable:

1. For a Class B felony, the term of extended supervision may not exceed 20 years.

2. For a Class C felony, the term of extended supervision may not exceed 15 years.

3. For a Class D felony, the term of extended supervision may not exceed 10 years.

4. For a Class E, F, or G felony, the term of extended supervision may not exceed 5 years.

5. For a Class H felony, the term of extended supervision may not exceed 3 years.

6. For a Class I felony, the term of extended supervision may not exceed 2 years.

(3) NOT APPLICABLE TO LIFE SENTENCES.

If a person is being sentenced for a felony that is punishable by life imprisonment, he or she is not subject to this section but shall be sentenced under s. 973.014 (1g)

(3d) POSITIVE ADJUSTMENT TIME ELIGIBILITY.

(a) The department shall apply to every person serving a sentence imposed under sub. (1) an objective risk assessment instrument supported by research to determine how likely it is that the person will commit another offense.

(b) If the department of corrections determines under par. (a) that the person poses a high risk of reoffending, the person shall be ineligible to earn positive adjustment time under s. 302.113 (2) (b)

(3g) EARNED RELEASE PROGRAM ELIGIBILITY.

When imposing a bifurcated sentence under this section on a person convicted of a crime other than a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the exercise of its sentencing discretion, decide whether the person being sentenced is eligible or ineligible to participate in the earned release program under s. 302.05 (3) during the term of confinement in prison portion of the bifurcated sentence.

(3m) CHALLENGE INCARCERATION PROGRAM ELIGIBILITY.

When imposing a bifurcated sentence under this section on a person convicted of a crime other than a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095, the court shall, as part of the exercise of its sentencing discretion, decide whether the person being sentenced is eligible or ineligible for the challenge incarceration program under s. 302.045 during the term of confinement in prison portion of the bifurcated sentence.

(4) EXTENSION OR REDUCTION OF TERM OF IMPRISONMENT.

A person sentenced to a bifurcated sentence under sub. (1) shall serve the term of confinement in prison portion of the sentence without reduction for good behavior. The term of confinement in prison portion is subject to extension under s. 302.113 (3) and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a., or 973.195 (1r), or adjustment under s. 302.113 (2) (b), 302.1135 (6) (a), or 304.06 (1)

(4m) DISCHARGE FROM EXTENDED SUPERVISION.

(a) The department may discharge a person from extended supervision after he or she has served 2 years of extended supervision if the person has met the conditions of extended supervision and the reduction is in the interests of justice. This subsection does not apply if the court sentences a person for a violation of s. 940.03, 940.06, 940.11 (1), 940.235, 940.302, 940.31 (1), 940.32 (3), 941.21, 946.465, 948.03 (2) (a), or 948.40 (4) (a) or for an offense against an elderly or vulnerable person, as defined in s. 939.22 (20d), an offense related to ethical government, as defined in s. 939.22 (20m), or an offense related to school safety, as defined in s. 939.22 (20s) (b) The department shall notify the victim of the person, as defined under s. 950.02 (4) (a), of its intent to discharge the person from extended supervision.

(c) The department may promulgate rules under ch. 227 establishing guidelines and criteria for the exercise of discretion under this section.

(5) EXTENDED SUPERVISION CONDITIONS.

Whenever the court imposes a bifurcated sentence under sub. (1), the court may impose conditions upon the term of extended supervision.

(6) NO PAROLE.

A person serving a bifurcated sentence imposed under sub. (1) is not eligible for release on parole under that sentence.

(7) DISCHARGE.

The department of corrections shall discharge a person who is serving a bifurcated sentence from custody, control and supervision when the person has served the entire bifurcated sentence, as modified under sub. (4m) or s. 302.113 (2) (b) or (9h), 302.1135, or 304.06 (1), if applicable.

(8) EXPLANATION OF SENTENCE.

(a) When a court imposes a bifurcated sentence under this section it shall explain in writing all of the following to the person being sentenced:

1. The total length of the bifurcated sentence.

2. The amount of time the person will serve in prison under the term of confinement in prison portion of the sentence.

3. The amount of time the person will spend on extended supervision, assuming that the person does not commit any act that results in the extension of the term of confinement in prison under s. 302.113 (3)

4. That the amount of time the person must actually serve in prison may be extended as provided under s. 302.113 (3) and that because of extensions under s. 302.113 (3) the person could serve the entire bifurcated sentence in prison.

5. That the person will be subject to certain conditions while on release to extended supervision, and that violation of any of those conditions may result in the person being returned to prison, as provided under s. 302.113 (9) (ag) If the court provides under sub. (3g) that the person is eligible to participate in the earned release program under s. 302.05 (3), the court shall also inform the person of the provisions of s. 302.05 (3) (c) (am) If the court provides under sub. (3m) that the person is eligible for the challenge incarceration program, the court shall also inform the person of the provisions of s. 302.045 (3m) (b) The courts explanation under par. (a) 3. of a persons potential period of extended supervision does not create a right to a minimum period of extended supervision.

WIS. STAT. ANN. § 973.013 (2010). Indeterminate sentence; Wisonsin state prisons.

(1) (a) If imprisonment in the Wisconsin state prisons for a term of years is imposed, the court may fix a term less than the prescribed maximum. The form of such sentence shall be substantially as follows: "You are hereby sentenced to the Wisconsin state prisons for an indeterminate term of not more than ... (the maximum as fixed by the court) years."(b) Except as provided in s. 973.01, the sentence shall have the effect of a sentence at hard labor for the

maximum term fixed by the court, subject to the power of actual release from confinement by parole by the department or by pardon as provided by law. If a person is sentenced for a definite time for an offense for which the person may be sentenced under this section, the person is in legal effect sentenced as required by this section, said definite time being the maximum period. A defendant convicted of a crime for which the minimum penalty is life shall be sentenced for life.

(2) Upon the recommendation of the department, the governor may, without the procedure required by ch. 304, discharge absolutely, or upon such conditions and restrictions and under such limitation as the governor thinks proper, any inmate committed to the Wisconsin state prisons after he or she has served the minimum term of punishment prescribed by law for the offense for which he or she was sentenced, except that if the term was life imprisonment, 5 years must elapse after release on parole or extended supervision before such a recommendation can be made to the governor. The discharge has the effect of an absolute or conditional pardon, respectively.

(3) Female persons convicted of a felony may be committed to the Taycheedah Correctional Institution unless they are subject to sub. (3m)

(3m) If a person who has not attained the age of 16 years is sentenced to the Wisconsin state prisons, the department shall place the person at a juvenile correctional facility or a secured residential care center for children and youth, unless the department determines that placement in an institution under s. 302.01 is appropriate based on the persons prior record of adjustment in a correctional setting, if any; the persons present and potential vocational and educational needs, interests and abilities; the adequacy and suitability of available facilities; the services and procedures available for treatment of the person within the various institutions; the protection of the public; and any other considerations promulgated by the department by rule. The department may not place any person under the age of 18 years in the correctional institution authorized in s. 301.16 (1n) This subsection does not preclude the department from designating an adult correctional institution, other than the correctional institution authorized in s. 301.16 (1n), as a reception center for the person and subsequently transferring the person to a juvenile correctional facility or a secured residential care center for children and youth. Section 302.11 and ch. 304 apply to all persons placed in a juvenile correctional facility or a secured residential care center for children and youth under this subsection.

(4) If information under s. 972.15 (2m) has been provided in a presentence investigation report, the court shall consider that information when sentencing the defendant.

WIS. STAT. ANN. § 973.0135 (2010). Sentence for certain serious felonies; parole eligibility determination.

973.0135. Sentence for certain serious felonies; parole eligibility determination.

(1) In this section:

(a) "Prior offender" means a person who meets all of the following conditions:

1. The person has been convicted of a serious felony on at least one separate occasion at any time preceding the serious felony for which he or she is being sentenced.

2. The persons conviction under subd. 1. remains of record and unreversed.

3. As a result of the conviction under subd. 1., the person was sentenced to more than one year of imprisonment.

(b) "Serious felony" means any of the following:

1. Any felony under s. 961.41 (1), (1m) or (1x) if the felony is punishable by a maximum prison term of 30 years or more.

2. Any felony under s. 940.09 (1), 1999 stats., s. 943.23 (1m) or (1r), 1999 stats., s. 948.35 (1) (b) or (c), 1999 stats., or s. 948.36, 1999 stats., s. 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.16, 940.19 (5), 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02, 943.10 (2), 943.23 (1g), 943.32 (2), 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.06, 948.07, 948.075, 948.08, or 948.30 (2)

3. The solicitation, conspiracy or attempt, under s. 939.30, 939.31 or 939.32, to commit a Class A felony.

4. A crime at any time under federal law or the law of any other state or, prior to April 21, 1994, under the law of this state that is comparable to a crime specified in subd. 1., 2. or 3.

(2) Except as provided in sub. (3), when a court sentences a prior offender to imprisonment in a state prison for a serious felony committed on or after April 21, 1994, but before December 31, 1999, the court shall make a parole eligibility determination regarding the person and choose one of the following options:

(a) The person is eligible for parole under s. 304.06 (1) (b) The person is eligible for parole on a date set by the court. Under this paragraph, the court may not set a date that occurs before the earliest possible parole eligibility date as calculated under s. 304.06 (1) and may not set a date that occurs later than two-thirds of the sentence imposed for the felony.

(3) A person is not subject to this section if the current serious felony is punishable by life imprisonment.

(4) If a prior conviction is being considered as being covered under sub. (1) (b) 4. as comparable to a felony specified under sub. (1) (b) 1., 2. or 3., the conviction may be counted as a prior conviction under sub. (1) (a) only if the court determines, beyond a reasonable doubt, that the violation relating to that conviction would constitute a felony specified under sub. (1) (b) 1., 2. or 3. if committed by an adult in this state.

WIS. STAT. ANN. § 973.014 (2010). Sentence of life imprisonment; parole eligibility determination; extended supervision eligibility determination.

(1) Except as provided in sub. (2), when a court sentences a person to life imprisonment for a crime committed on or after July 1, 1988, but before December 31, 1999, the court shall make a parole eligibility determination regarding the person and choose one of the following options:

(a) The person is eligible for parole under s. 304.06 (1) (b) The person is eligible for parole on a date set by the court. Under this paragraph, the court may set any later date than that provided in s. 304.06 (1), but may not set a date that occurs before the earliest possible parole eligibility date

as calculated under s. 304.06 (1) (c) The person is not eligible for parole. This paragraph applies only if the court sentences a person for a crime committed on or after August 31, 1995, but before December 31, 1999.

(1g) (a) Except as provided in sub. (2), when a court sentences a person to life imprisonment for a crime committed on or after December 31, 1999, the court shall make an extended supervision eligibility date determination regarding the person and choose one of the following options:

1. The person is eligible for release to extended supervision after serving 20 years.

2. The person is eligible for release to extended supervision on a date set by the court. Under this subdivision, the court may set any later date than that provided in subd. 1., but may not set a date that occurs before the earliest possible date under subd. 1.

3. The person is not eligible for release to extended supervision.

(b) When sentencing a person to life imprisonment under par. (a), the court shall inform the person of the provisions of s. 302.114 (3) and the procedure for petitioning under s. 302.114 (5) for release to extended supervision.

(c) A person sentenced to life imprisonment under par. (a) is not eligible for release on parole.

(2) When a court sentences a person to life imprisonment under s. 939.62 (2m) (c), the court shall provide that the sentence is without the possibility of parole or extended supervision.

WIS. STAT. ANN. § 973.015 (2010). Special dispositions.

(1) (a) Subject to par. (b) and except as provided in par. (c), when a person is under the age of 25 at the time of the commission of an offense for which the person has been found guilty in a court for violation of a law for which the maximum period of imprisonment is 6 years or less, the court may order at the time of sentencing that the record be expunged upon successful completion of the sentence if the court determines the person will benefit and society will not be harmed by this disposition. This subsection does not apply to information maintained by the department of transportation regarding a conviction that is required to be included in a record kept under s. 343.23 (2) (a) (b) The court shall order at the time of sentencing that the record be expunged upon successful completion of the sentence if the offense was a violation of s. 942.08 (2) (b), (c), or (d), and the person was under the age of 18 when he or she committed it.

(c) No court may order that a record of a conviction for any of the following be expunged:

1. A Class H felony, if the person has, in his or her lifetime, been convicted of a prior felony offense, or if the felony is a violent offense, as defined in s. 301.048 (2) (bm), or is a violation of s. 940.32, 948.03 (2) or (3), or 948.095

2. A Class I felony, if the person has, in his or her lifetime, been convicted of a prior felony offense, or if the felony is a violent offense, as defined in s. 301.048 (2) (bm), or is a violation of s. 948.23

(2) A person has successfully completed the sentence if the person has not been convicted of a

subsequent offense and, if on probation, the probation has not been revoked and the probationer has satisfied the conditions of probation. Upon successful completion of the sentence the detaining or probationary authority shall issue a certificate of discharge which shall be forwarded to the court of record and which shall have the effect of expunging the record. If the person has been imprisoned, the detaining authority shall also forward a copy of the certificate of discharge to the department.

WIS. STAT. ANN. § 973.01 (2010). Bifurcated sentences; use of guidelines; consideration of aggravating and mitigating factors.

(1) DEFINITION.

In this section, "sentencing decision" means a decision as to whether to impose a bifurcated sentence under s. 973.01 or place a person on probation and a decision as to the length of a bifurcated sentence, including the length of each component of the bifurcated sentence, the amount of a fine, and the length of a term of probation.

(2) GENERAL REQUIREMENT.

When a court makes a sentencing decision concerning a person convicted of a criminal offense committed on or after February 1, 2003, the court shall consider all of the following:

(ad) The protection of the public.

(ag) The gravity of the offense.

(ak) The rehabilitative needs of the defendant.

(b) Any applicable mitigating factors and any applicable aggravating factors, including the aggravating factors specified in subs. (3) to (8)

(3) AGGRAVATING FACTORS; GENERALLY.

When making a sentencing decision for any crime, the court shall consider all of the following as aggravating factors:

(a) The fact that the person committed the crime while his or her usual appearance was concealed, disguised, or altered, with the intent to make it less likely that he or she would be identified with the crime.

(b) The fact that the person committed the crime using information that was disclosed to him or her under s. 301.46 (c) The fact that the person committed the crime for the benefit of, at the direction of, or in association with any criminal gang, as defined in s. 939.22 (9), with the specific intent to promote, further, or assist in any criminal conduct by criminal gang members, as defined in s. 939.22 (9g) (d) The fact that the person committed the felony while wearing a vest or other garment designed, redesigned, or adapted to prevent bullets from penetrating the garment.

(e)

1. Subject to subd. 2., the fact that the person committed the felony with the intent to influence

the policy of a governmental unit or to punish a governmental unit for a prior policy decision, if any of the following circumstances also applies to the felony committed by the person:

a. The person caused bodily harm, great bodily harm, or death to another.

b. The person caused damage to the property of another and the total property damaged is reduced in value by 25,000 or more. For the purposes of this subd. 1. b., property is reduced in value by the amount that it would cost either to repair or to replace it, whichever is less.

c. The person used force or violence or the threat of force or violence.

2.

a. In this subdivision, "labor dispute" includes any controversy concerning terms, tenure, or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

b. Subdivision 1. does not apply to conduct arising out of or in connection with a labor dispute.

(4) AGGRAVATING FACTORS; SERIOUS SEX CRIMES COMMITTED WHILE INFECTED WITH CERTAIN DISEASES.

(a) In this subsection:

1. "HIV" means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.

2. "Serious sex crime" means a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.085

3. "Sexually transmitted disease" means syphilis, gonorrhea, hepatitis B, hepatitis C, or chlamydia.

4. "Significantly exposed" means sustaining a contact that carries a potential for transmission of a sexually transmitted disease or HIV by one or more of the following:

a. Transmission, into a body orifice or onto mucous membrane, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid; or other body fluid that is visibly contaminated with blood.

b. Exchange, during the accidental or intentional infliction of a penetrating wound, including a needle puncture, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid; or other body fluid that is visibly contaminated with blood.

c. Exchange, into an eye, an open wound, an oozing lesion, or other place where a significant breakdown in the epidermal barrier has occurred, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid; or other body fluid that is visibly contaminated with blood.

(b) When making a sentencing decision concerning a person convicted of a serious sex crime, the court shall consider as an aggravating factor the fact that the serious sex crime was committed under all of the following circumstances:

1. At the time that he or she committed the serious sex crime, the person convicted of committing the serious sex crime had a sexually transmitted disease or acquired immunodeficiency syndrome or had had a positive test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV.

2. At the time that he or she committed the serious sex crime, the person convicted of committing the serious sex crime knew that he or she had a sexually transmitted disease or acquired immunodeficiency syndrome or that he or she had had a positive test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV.

3. The victim of the serious sex crime was significantly exposed to HIV or to the sexually transmitted disease, whichever is applicable, by the acts constituting the serious sex crime.

(5) AGGRAVATING FACTORS; VIOLENT FELONY COMMITTED AGAINST ELDER PERSON.

(a) In this subsection:

1. "Elder person" means any individual who is 62 years of age or older.

2. "Violent felony" means any felony under s. 940.19 (2), (4), (5), or (6), 940.225 (1), (2), or (3), 940.23, or 943.32 (b) When making a sentencing decision concerning a person convicted of a violent felony, the court shall consider as an aggravating factor the fact that the victim of the violent felony was an elder person. This paragraph applies even if the person mistakenly believed that the victim had not attained the age of 62 years.

(6) AGGRAVATING FACTORS; CHILD SEXUAL ASSAULT OR CHILD ABUSE BY CERTAIN PERSONS.

(a) In this subsection, "person responsible for the welfare of the child" includes the childs parent, stepparent, guardian, foster parent, or treatment foster parent; an employee of a public or private residential home, institution, or agency; any other person legally responsible for the childs welfare in a residential setting; or a person employed by one who is legally responsible for the childs welfare to exercise temporary control or care for the child.

(b) When making a sentencing decision concerning a person convicted of a violation of s. 948.02 (1) or (2), 948.025 (1), 948.03 (2) or (3), or 948.051, the court shall consider as an aggravating factor the fact that the person was a person responsible for the welfare of the child who was the victim of the violation.

(7) AGGRAVATING FACTORS; HOMICIDE OR INJURY BY INTOXICATED USE OF A VEHICLE.

When making a sentencing decision concerning a person convicted of a violation of s. 940.09 (1) or 940.25 (1), the court shall consider as an aggravating factor the fact that, at the time of the violation, there was a minor passenger under 16 years of age or an unborn child in the persons motor vehicle.

(8) AGGRAVATING FACTORS; CONTROLLED SUBSTANCES OFFENSES.

(a) Distribution or delivery to prisoners.

1. In this paragraph, "precinct" means a place where any activity is conducted by a prison, jail, or house of correction.

2. When making a sentencing decision concerning a person convicted of violating s. 961.41 (1) or (1m), the court shall consider as an aggravating factor the fact that the violation involved delivering, distributing, or possessing with intent to deliver or distribute a controlled substance or controlled substance analog to a prisoner within the precincts of any prison, jail, or house of correction.

3. When making a sentencing decision concerning a person convicted of violating s. 961.65, the court shall consider as an aggravating factor the fact that the person intended to deliver or distribute methamphetamine or a controlled substance analog of methamphetamine to a prisoner within the precincts of any prison, jail, or house of correction.

(b) Distribution or delivery on public transit vehicles. When making a sentencing decision concerning a person convicted of violating s. 961.41 (1) or (1m), the court shall consider as an aggravating factor the fact that the violation involved delivering, distributing, or possessing with intent to deliver or distribute a controlled substance included in schedule I or II or a controlled substance analog of any controlled substance included in schedule I or II and that the person knowingly used a public transit vehicle during the violation.

(c) When making a sentencing decision concerning a person convicted of violating s. 961.65, the court shall consider as an aggravating factor the fact that the person intended to deliver or distribute methamphetamine or a controlled substance analog of methamphetamine and that the person knowingly used a public transit vehicle during the violation.

(9) AGGRAVATING FACTORS NOT AN ELEMENT OF THE CRIME.

The aggravating factors listed in this section are not elements of any crime. A prosecutor is not required to charge any aggravating factor or otherwise allege the existence of an aggravating factor in any pleading for a court to consider the aggravating factor when making a sentencing decision.

(10m) STATEMENT OF REASONS FOR SENTENCING DECISION.

(a) The court shall state the reasons for its sentencing decision and, except as provided in par. (b), shall do so in open court and on the record.

(b) If the court determines that it is not in the interest of the defendant for it to state the reasons for its sentencing decision in the defendants presence, the court shall state the reasons for its sentencing decision in writing and include the written statement in the record.

WIS. STAT. ANN. § 973.02 (2010). Place of imprisonment when none expressed.

Except as provided in s. 973.032, if a statute authorizes imprisonment for its violation but does not prescribe the place of imprisonment, a sentence of less than one year shall be to the county jail, a sentence of more than one year shall be to the Wisconsin state prisons and the minimum under the indeterminate sentence law shall be one year, and a sentence of one year may be to either the Wisconsin state prisons or the county jail. In any proper case, sentence and commitment may be to the department or any house of correction or other institution as provided by law or to detention under s. 973.03 (4)

WIS. STAT. ANN. § 973.03 (2010). Jail sentence.

(1) If at the time of passing sentence upon a defendant who is to be imprisoned in a county jail there is no jail in the county suitable for the defendant and no cooperative agreement under s. 302.44, the court may sentence the defendant to any suitable county jail in the state. The expenses of supporting the defendant there shall be borne by the county in which the crime was committed.

(2) A defendant sentenced to the Wisconsin state prisons and to a county jail or house of correction for separate crimes shall serve all sentences whether concurrent or consecutive in the state prisons.

(3) (a) If a court sentences a defendant to imprisonment in the county jail, the court may provide that the defendant perform community service work under pars. (b) and (c) Except as provided in par. (am), the defendant earns good time at a rate of one day for each 3 days of work performed. A day of work equals 8 hours of work performed. This good time is in addition to good time authorized under s. 302.43 (am) If a court provides that a defendant may perform community service work pursuant to par. (a) and the defendant is sentenced to probation or imprisonment in a Huber facility under s. 303.09, or if a defendant has been ordered to perform community service work under s. 800.09, a county may, with the approval of the chief judge in the county, allow the defendant to perform community service work under pars. (b) and (c) The county may determine the rate at which all defendants in the county earn good time, except that a defendant may not earn less than one day of good time for every 3 days of work performed, nor more than one day of good time for each day of work performed. A day of work equals 8 hours of work performed. This good time is in addition to good time authorized under s. 302.43 (b) The court may require that the defendant perform community service work for a public agency or a nonprofit charitable organization. The number of hours of work required may not exceed what would be reasonable considering the seriousness of the offense and any other offense which is read into the record at the time of conviction. An order may only apply if agreed to by the defendant and the organization or agency. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored.

(c) Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of 25,000 for acts or omissions by or impacting on the defendant.

(d) This subsection applies to persons who are sentenced to a county jail but are transferred to a Huber facility under s. 303.09, to a county work camp under s. 303.10 or to a tribal jail under s.

302.445 (e) A court may not provide that a defendant perform community service work under this subsection if the defendant is being sentenced regarding any of the following:

1. A crime which is a Class A, B, or C felony.

2. A crime which is a Class D, E, F, or G felony listed in s. 969.08 (10) (b), but not including any crime specified in s. 943.10

(4) (a) In lieu of a sentence of imprisonment to the county jail, a court may impose a sentence of detention at the defendants place of residence or other place designated by the court. The length of detention may not exceed the maximum possible period of imprisonment. The detention shall be monitored by the use of an electronic device worn continuously on the defendants person and capable of providing positive identification of the wearer at the detention location at any time. A sentence of detention in lieu of jail confinement may be imposed only if agreed to by the defendant. The court shall ensure that the defendant is provided a written statement of the terms of the sentence of detention, including a description of the detention monitoring procedures and requirements and of any applicable liability issues. The terms of the sentence of detention may include a requirement that the defendant pay a daily fee to cover the costs associated with monitoring him or her. In that case, the terms must specify to whom the payments are made.

(b) A person sentenced to detention under par. (a) is eligible to earn good time in the amount of one-fourth of his or her term for good behavior if sentenced to at least 4 days, but fractions of a day shall be ignored. The person shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4) If the defendant fails to comply with the terms of the sentence of detention, the court may order the defendant brought before the court and the court may order the defendant deprived of good time.

(c) If the defendant fails to comply with the terms of the sentence of detention, the court may order the defendant brought before the court and the court may order that the remainder of the sentence of detention be served in the county jail.

(d) A sentence under this subsection is not a sentence of imprisonment, except for purposes of ss. 973.04, 973.15 (8) (a) and 973.19

(5) (a) In this subsection:

1. "Commission of a serious crime" has the meaning given under s. 969.08 (10) (a)

2. "Serious crime" has the meaning given under s. 969.08 (10) (b) (b) In lieu of a continuous sentence, a court may sentence a person to serve a series of periods, not less than 48 hours nor more than 3 days for each period, of imprisonment in a county jail. The person is not subject to confinement between periods of imprisonment.

(c) A court may not sentence a person under par. (b) regarding any violation under ch. 961 or the commission of a serious crime.

WIS. STAT. ANN. § 973.031 (2010). Risk reduction sentence.

Whenever a court imposes a sentence for a felony under s. 973.01, the court may order the person it sentences to serve a risk reduction sentence if the court determines that a risk reduction sentence is appropriate and the person agrees to cooperate in an assessment of his or her criminogenic factors and his or her risk of reoffending, and to participate in programming or treatment the department develops for the person under s. 302.042 (1) This section does not apply if the court sentences a person for a violation of s. 940.03, 940.06, 940.11 (1), 940.235, 940.302, 940.31 (1), 940.32 (3), 941.21, 946.465, 948.03 (2) (a), or 948.40 (4) (a) or for a felony murder under s. 940.03, an offense against an elderly or vulnerable person, as defined in s. 939.22 (20d), an offense related to ethical government, as defined in s. 939.22 (20m), or an offense related to school safety, as defined in s. 939.22 (20s)

WIS. STAT. ANN. § 973.01 (2010). Child pornography surcharge.

(1) In this section, "image" includes a video recording, a visual representation, a positive or negative image on exposed film, and data representing a visual image.

(2) If a court imposes a sentence or places a person on probation for a crime under s. 948.05 or 948.12 and the person was at least 18 years of age when the crime was committed, the court shall impose a child pornography surcharge of 500 for each image or each copy of an image associated with the crime. The court shall determine the number of images or copies of images associated with the crime by a preponderance of the evidence and without a jury.

(3) The clerk shall record any surcharge imposed under this section in 3 parts as follows:

(a) Part A is 50 percent of any amount collected.

(b) Part B is 30 percent of any amount collected.

(c) Part C is 20 percent of any amount collected.

(4) After determining the amount due, the clerk of court shall collect and transmit the amount to the county treasurer under s. 59.40 (2) (m) The county treasurer shall then make payment to the secretary of administration under s. 59.25 (3) (f) 2.

(5) The secretary of administration shall credit part A of the surcharge to the appropriation account under s. 20.410 (1) (gj) The secretary of administration shall credit part B of the surcharge to the appropriation account under s. 20.455 (2) (gj) The secretary of administration shall credit part C of the surcharge to the appropriation account under s. 20.505 (6) (gj)

(6) If an inmate in a state prison or a person sentenced to a state prison has not paid the child pornography surcharge under this section, the department shall assess and collect the amount owed from the inmates wages or other moneys. Any amount collected under this subsection shall be transmitted to the secretary of administration.

WIS. STAT. ANN. § 973.048 (2010). Sex offender reporting requirements.

(1m) (a) Except as provided in sub. (2m), if a court imposes a sentence or places a person on probation for any violation, or for the solicitation, conspiracy, or attempt to commit any violation, under ch. 940, 944, or 948 or s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require the person to comply with the reporting requirements under s. 301.45 if the court determines that

the underlying conduct was sexually motivated, as defined in s. 980.01 (5), and that it would be in the interest of public protection to have the person report under s. 301.45 (b) If a court under par. (a) orders a person to comply with the reporting requirements under s. 301.45 in connection with a violation, or the solicitation, conspiracy, or attempt to commit a violation, of s. 942.09 and the person was under the age of 21 when he or she committed the offense, the court may provide that the person be released from the requirement to comply with the reporting requirements under s. 301.45 upon successfully completing the sentence or probation imposed for the offense. A person successfully completes a sentence if he or she is not convicted of a subsequent offense during the term of the sentence. A person successfully completes probation if probation is not revoked and the person satisfies the conditions of probation.

(2m) If a court imposes a sentence or places a person on probation for a violation, or for the solicitation, conspiracy or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and the person was not the victims parent, the court shall require the person to comply with the reporting requirements under s. 301.45 unless the court determines, after a hearing on a motion made by the person, that the person is not required to comply under s. 301.45 (1m)

(3) In determining under sub. (1m) (a) whether it would be in the interest of public protection to have the person report under s. 301.45, the court may consider any of the following:

(a) The ages, at the time of the violation, of the person and the victim of the violation.

(b) The relationship between the person and the victim of the violation.

(c) Whether the violation resulted in bodily harm, as defined in s. 939.22 (4), to the victim.

(d) Whether the victim suffered from a mental illness or mental deficiency that rendered him or her temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions.

(e) The probability that the person will commit other violations in the future.

(g) Any other factor that the court determines may be relevant to the particular case.

(4) If the court orders a person to comply with the reporting requirements under s. 301.45, the court may order the person to continue to comply with the reporting requirements until his or her death.

(5) If the court orders a person to comply with the reporting requirements under s. 301.45, the clerk of the court in which the order is entered shall promptly forward a copy of the order to the department of corrections. If the conviction on which the order is based is reversed, set aside or vacated, the clerk of the court shall promptly forward to the department of corrections a certificate stating that the conviction has been reversed, set aside or vacated.

WIS. STAT. ANN. § 973.049 (2010). Sentencing; restrictions on contact.

(1) In this section:

(a) "Co-actor" means any individual who was a party to a crime considered at sentencing, whether or not the individual was charged with or convicted of the crime considered at sentencing.

(b) "Crime considered at sentencing" means any crime for which the defendant was convicted or any read-in crime, as defined in s. 973.20 (1g) (b)

(2) When a court imposes a sentence on an individual or places an individual on probation for the conviction of a crime, the court may prohibit the individual from contacting victims of, or co-actors in, a crime considered at sentencing during any part of the individuals sentence or period of probation if the court determines that the prohibition would be in the interest of public protection. For purposes of the prohibition, the court may determine who are the victims of any crime considered at sentencing.

(3) If a court issues an order under sub. (2), the court shall inform the individual of the prohibition and of the penalty under s. 941.39

WIS. STAT. ANN. § 973.125 (2010). Notice of lifetime supervision for serious sex offenders.

(1) Whenever a prosecutor decides to seek lifetime supervision under s. 939.615 of a person charged with a serious sex offense specified in s. 939.615 (1) (b) 1., the prosecutor shall, at any time before or at arraignment and before acceptance of any plea, state in the complaint, indictment or information or amendments to the complaint, indictment or information that the prosecution will seek to have the person placed on lifetime supervision under s. 939.615

(2) Whenever a prosecutor decides to seek lifetime supervision under s. 939.615 of a person charged with a serious sex offense specified in s. 939.615 (1) (b) 2., the prosecutor shall, at any time before or at arraignment and before acceptance of any plea, do all of the following:

(a) State in the complaint, indictment or information or amendments to the complaint, indictment or information that the prosecution will seek to have the person placed on lifetime supervision under s. 939.615 (b) Allege in the complaint that the violation with which the person is charged is a serious sex offense under s. 939.615 (1) (b) because one of the purposes for the conduct constituting the violation was for the persons sexual arousal or gratification.

(3) Before accepting a plea, the court may, upon motion of the district attorney, grant a reasonable time to investigate whether lifetime supervision may be necessary for a defendant or whether one of the purposes for the conduct constituting a violation with which a defendant is charged was for the defendants sexual arousal or gratification.

WYOMING

WYO. STAT. ANN. § 6-10-101 (2010). Felony and midemeanor defined.

Crimes which may be punished by death or by imprisonment for more than one (1) year are felonies. All other crimes are misdemeanors.

WYO. STAT. ANN. § 6-10-102 (2010). Imposition of fine for any felony; maximum fine where not established by statute; court automation fee.

The court may impose a fine as part of the punishment for any felony. If the statute does not establish a maximum fine, the fine shall be not more than ten thousand dollars ($10,000.00). The court shall impose a court automation fee of ten dollars ($10.00) in every criminal case wherein the defendant is found guilty, enters a plea of guilty or no contest or is placed on probation under W.S. 7-13-301. The fee shall be remitted as provided by W.S. 5-3-205.

WYO. STAT. ANN. § 6-10-103 (2010). Penalties for misdemeanors where not prescribed by statute.

Unless a different penalty is prescribed by law, every crime declared to be a misdemeanor is punishable by imprisonment in the county jail for not more than six (6) months, a fine of not more than seven hundred fifty dollars ($750.00), or both. The court shall impose a court automation fee of ten dollars ($10.00) in every criminal case wherein the defendant is found guilty, enters a plea of guilty or no contest or is placed on probation under W.S. 7-13-301. The fee shall be remitted as provided by W.S. 5-3-205.

WYO. STAT. ANN. § 6-10-104 (2010). Penalties for misdemeanors where not prescribed by statute.

Within the limits prescribed by law, and subject to W.S. 7-13-108, the court shall determine and fix the punishment for any felony or misdemeanor, whether the punishment consists of imprisonment, or fine, or both.

WYO. STAT. ANN. § 6-10-105 (2010). Commitment for refusal to pay fine or costs; rate per day.

A person committed to jail for refusing to pay a fine or costs may be imprisoned until the imprisonment, at the rate of fifteen dollars ($15.00) per day, equals the amount of the fine or costs, or the amount shall be paid or secured to be paid when he is discharged.

WYO. STAT. ANN. § 6-10-106 (2010). Rights lost by conviction of felony; restoration.

(a) A person convicted of a felony is incompetent to be an elector or juror or to hold any office of honor, trust or profit within this state, unless:

(i) His conviction is reversed or annulled;

(ii) He receives a pardon;

(iii) His rights are restored pursuant to W.S. 7-13-105(a); or

(iv) His rights as an elector are restored pursuant to W.S. 7-13-105(b) and (c), in which case the person shall remain incompetent to be a juror or to hold any office of honor, trust or profit within this state.

WYO. STAT. ANN. § 6-10-107 (2010). Minimum term of imprisonment.

The minimum term of imprisonment in any state penal institution is not less than one (1) year.

WYO. STAT. ANN. § 6-10-109 (2010). Sentences for felonies.

Wherever in this or in any other title of the Wyoming statutes a statute makes reference to a term of imprisonment or a sentence to the penitentiary, or other references to incarceration in a state penal institution, such references shall include the Wyoming state penitentiary, the Wyoming women's center or any other state penal institution created by law for the incarceration of convicted felons. The place of incarceration of a convicted felon shall be determined as provided by W.S. 7-13-108.

WYO. STAT. ANN. § 7-19-302 (2010). Registration of offenders; procedure; verification.

(a) Any offender residing in this state or entering this state for the purpose of residing, attending school or being employed in this state shall register with the sheriff of the county in which he resides, attends school or is employed, or other relevant entity specified in subsection (c) of this section. The offender shall be photographed, fingerprinted and palmprinted by the registering entity or another law enforcement agency and shall provide the following additional information when registering:

(i) Name, including any aliases ever used;

(ii) Address;

(iii) Date and place of birth;

(iv) Social security number;

(v) Place of employment;

(vi) Date and place of conviction;

(vii) Crime for which convicted;

(viii) The name and location of each educational institution in this state at which the person is

employed or attending school;

(ix) The license plate number and a description of any vehicle owned or operated by the offender;

(x) A DNA sample. As used in this paragraph, "DNA" means as defined in W.S. 7-19-401(a)(vi); and

(xi) The age of each victim.

(b) In addition to the requirements of subsection (a) of this section, the department, for offenders sentenced to imprisonment, and the sheriff of the county where judgment and sentence is entered for all other offenders, shall obtain the name of the offender, identifying features, anticipated future residence, offense history and documentation of any treatment received, including prescribed psychotropic medication history, for any psychiatric condition of the offender. This information shall be transmitted to the division within three (3) working days of receipt for entry into the central registration system. A person found to be an offender by a court in another state shall provide information required under this subsection at the time of registration under this act.

(c) Offenders required to register under this act shall register with the entities specified in this subsection and within the following time periods:

(i) Offenders who, on or after July 1, 1999, are in custody of the department, local jail or a public or private agency pursuant to a court order, as a result of an offense subjecting them to registration, who are sentenced on or after January 1, 1985, shall register prior to release from custody. The agency with custody of the offender immediately prior to release shall register the offender and perform the duties specified in W.S. 7-19-305. If the offender refuses to register or refuses to provide the required information, the agency shall so notify local law enforcement before releasing the offender;

(ii) Offenders who are convicted of an offense subjecting them to registration under this act but who are not sentenced to a term of confinement shall register immediately after the imposition of the sentence. The sheriff of the county where the judgment and sentence is entered shall register the offender and perform the related duties specified in W.S. 7-19-305 unless the offender does not reside in the county where the judgment and sentence is entered, in which case he shall register in the county in which he resides within three (3) working days;

(iii) Offenders convicted of an offense subjecting them to registration, who are sentenced on or after January 1, 1985, who reside in or enter this state for the purposes of residing and who are under the jurisdiction of the department or state board of parole or other public agency as a result of that offense shall register within three (3) working days of entering this state or on or before August 1, 1999, if a current resident. The Wyoming agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to this state and shall register the offender and perform the related duties specified in W.S. 7-19-305;

(iv) Offenders convicted of an offense subjecting them to registration, who are sentenced on or after January 1, 1985, who reside in or enter this state and who are not under the jurisdiction or custody of the department, board of parole or other public agency as a result of that offense shall register on or before August 1, 1999, if a current resident, or within three (3) working days of entering this state if not a current resident.

(d) A nonresident who is employed or attends school in this state shall register with the county sheriff of the county in which he is employed or attends school. A resident or nonresident who is employed, resides or attends school in more than one (1) location in this state, shall register with the county sheriff of each county in which he is employed, resides or attends school. The registration information accepted under this subsection shall be subject to the provisions of W.S. 7-19-303.

(e) If any person required to register under this act changes his residence address within the same county, he shall provide notice of the change of address in person to the sheriff of the county in which he resides within three (3) working days of establishing the new residence. If any person required to register under this act moves to a new county in this state, he shall notify in person the county sheriff in the new county and the county sheriff of the county of his previous residence within three (3) working days of establishing the new residence. If the person changes residence to another state and that state has a registration requirement, the division shall, within three (3) working days of receipt of the information, notify the law enforcement agency with which the person must register in the new state. Any person who has not established a new residence within three (3) working days of leaving his previous residence, or becomes transient through lack of residence, shall report on a weekly basis to the sheriff in the county in which he is registered, until he establishes another residence. The information provided to a sheriff under this subsection shall be transmitted by the sheriff to the division within three (3) working days of receipt for entry into the central registry. The division shall notify the victim, or if the victim is a minor the victim's parent or guardian, within the same time period if the victim, or a minor victim's parent or guardian, has requested in writing that the division provide notification of a change of address of the offender and has provided the division a current address of the victim, parent or guardian as applicable.

(f) An offender who changes residence to another state shall register the new address with the law enforcement agency with whom he last registered and shall also register with the designated law enforcement agency in the new state not later than three (3) working days after establishing residence in the new state.

(g) For an offender convicted of a violation of W.S. 6-2-202 if the victim was a minor and the offender is not the victim's parent or guardian, W.S. 6-2-203 if the victim was a minor and the offender is not the victim's parent or guardian, W.S. 6-2-315(a)(iv), 6-2-316(a)(iii) and (iv), 6-2-317(a)(i), 6-4-303(b)(iv) or W.S. 6-4-304(b) if the victim was a minor, or an attempt or conspiracy to commit any of the offenses specified in this subsection, the division shall annually verify the accuracy of the offender's registered address, and the offender shall annually report, in person, his current address to the sheriff in the county in which the offender resides, during the period in which he is required to register. During the annual in-person verification, the sheriff shall photograph the offender. Confirmation of the in-person verification required under this subsection, along with the photograph of the offender, shall be transmitted by the sheriff to the division within three (3) working days. Any person under this subsection who has not established a residence or is transient, and who is reporting to the sheriff as required under subsection (e) of this section, shall be deemed in compliance with the address verification requirements of this section.

(h) For an offender convicted of a violation of W.S. 6-2-304(a)(iii) if the victim was at least fourteen (14) years of age, W.S. 6-2-314(a)(ii) and (iii), 6-2-315(a)(iii), 6-2-316(a)(i), 6-2-317(a)(ii) or 6-2-318, W.S. 6-4-102 if the person solicited was a minor, W.S. 6-4-103 if the person enticed or compelled was a minor, W.S. 6-4-302(a)(i) if the offense involves the use of a minor in a sexual performance or W.S. 6-4-303(b)(i) through (iii), an attempt or conspiracy to

commit any of the offenses specified in this subsection, or any felony enumerated in this section if the offender was previously convicted of a felony under subsection (g) of this section, the division shall verify the accuracy of the offender's registered address, and the offender shall report, in person, his current address to the sheriff in the county in which the offender resides, every six (6) months after the date of the initial release or commencement of parole. If the offender's appearance has changed substantially, and in any case at least annually, the sheriff shall photograph the offender. Confirmation of the in-person verification required by this subsection, and any new photographs of the offender, shall be transmitted by the sheriff to the division within three (3) working days. Any person under this subsection who has not established a residence or is transient, and who is reporting to the sheriff as required under subsection (e) of this section, shall be deemed in compliance with the address verification requirements of this section.

(j) For an offender convicted of a violation of W.S. 6-2-201 if the victim was a minor, W.S. 6-2-302 or 6-2-303, W.S. 6-2-304(a)(iii) if the victim was under fourteen (14) years of age, W.S. 6-2-314(a)(i), 6-2-315(a)(i) and (ii), 6-2-316(a)(ii), 6-4-402, an attempt or conspiracy to commit any of the offenses specified in this subsection, or any felony enumerated in this section if the offender was previously convicted of a felony under subsection (h) of this section, the division shall verify the accuracy of the offender's registered address, and the offender shall report, in person, his current address to the sheriff in the county in which the offender resides every three (3) months after the date of the initial release or commencement of parole. If the offender's appearance has changed substantially, and in any case at least annually, the sheriff shall photograph the offender. Confirmation of the in-person verification required by this subsection, and any new photographs of the offender, shall be transmitted by the sheriff to the division within three (3) working days. Any person under this subsection who has not established a residence or is transient, and who is reporting to the sheriff as required under subsection (e) of this section, shall be deemed in compliance with the address verification requirements of this section.

(k) Any person required to register under this act shall provide information in person to the sheriff of the county in which he is registered and to any other relevant registering entity specified in subsection (c) of this section regarding each change in employment or enrollment status at any educational institution in this state, including any of the information collected pursuant to subsection (a) of this section within three (3) working days of the change to the entity with whom the offender last registered. This information shall be forwarded immediately from the registering entity to the division on a form prescribed by the division, and the division shall then enter the information into the central registry and forward the information to the campus police department or other law enforcement agency with jurisdiction over the educational institution.

(m) Any person required to register under this act shall provide information in person to the sheriff of the county in which he is registered and to any other relevant registering entity specified in subsection (c) of this section regarding each change of employment and shall disclose all places of employment if there is more than one (1), including any loss of employment, within three (3) working days of the change to the entity with whom the offender last registered. The information shall be forwarded within three (3) working days from the registering entity to the division and the division shall then enter the information into the central registry.

(n) Any person required to register under this act shall provide any new or updated information in person to the sheriff of the county in which he is registered and to any other relevant registering entity specified in subsection (c) of this section regarding any changes, modifications or other information necessary to keep current any of the information specified in this section and W.S. 7-19-303, within three (3) working days of the change to the entity with whom the offender last

registered. The information shall be forwarded within three (3) working days from the registering entity to the division and the division shall then enter the information into the central registry.

(o) If the division lacks sufficient information or documentation to identify the offender's crime for which convicted or equivalent Wyoming offense, it shall register the offender as if he were convicted of an offense listed in subsection (j) of this section. If the division receives additional verifiable information or documentation that demonstrates that the offender was not convicted of an offense specified under subsection (j) of this section or an offense from any other jurisdiction containing the same or similar elements or arising out of the same or similar facts or circumstances, it shall modify the offender's status.

U.S. TERRITORIES

AMERICAN SAMOA

AM. SAMOA CODE ANN. §46.1901 (2007). Authorized dispositions.

(a) Every person found guilty of an offense, whether defined in this title or in the American Samoa Code Annotated in accordance with the classifications in this chapter, shall be dealt with by the court in accordance with the provisions of this chapter, except that for offenses defined outside this title and not in accordance with the classifications of this chapter and not repealed, the term of imprisonment or the fine that may be imposed is that provided in the statute defining the offense.

AM. SAMOA CODE ANN. §46.1902 (2007). Felony or misdemeanor – Combination of dispositions.

Whenever any person has been found guilty of a felony or a misdemeanor, the court shall make 1 or more of the following dispositions of the offender in any appropriate combination. The court may:

(1) sentence the person to a term of imprisonment as authorized by 46.2301 et seq.;
(2) sentence the person to pay a fine as authorized by 46.2101 et seq.;
(3) suspend the imposition of sentence, with or without placing the person on probation;
(4) pronounce sentence and suspend its execution, placing the person on probation;
(5) impose a period of detention as a condition of probation, as authorized by 46.2206;
(6) require the person to do ordinary labor.

The sentence shall be carried out under the direction of the pulenu'u of the person's village, the Attorney General, or the county chief of the person's county as the court may direct.

AM. SAMOA CODE ANN. §46.1903 (2007). Infraction – Combination of dispositions.

Whenever any person has been found guilty of an infraction, the court shall make 1 or the

following dispositions of the offender in any appropriate combination. This court may:

(1) sentence the person to pay a fine as authorized by 46.2 101 et seq.;

(2) suspend the imposition of sentence, with or without placing the person on probation;

(3) pronounce sentence and suspend its execution, placing the person on probation;

(4) require the person to do ordinary labor in the county of the person's residence as provided in subsection (6) of 46.1902.

AM. SAMOA CODE ANN. §46.1904 (2007). Offense by organization – Combination of dispositions.

Whenever any organization has been found guilty of an offense, the court shall make 1 or more of the following dispositions of the organization in any appropriate combination. The court may:

(1) sentence the organization to pay a fine as authorized by 46.2101 et seq.;

(2) suspend the imposition of sentence, with or without placing the organization on probation;

(3) pronounce sentence and suspend its execution, placing the organization on probation;

(4) impose any special sentence or sanction authorized by law including, but not limited to, requiring the officers or directors of the organization to do ordinary labor, as provided in subsection (6) of 46.1902.

AM. SAMOA CODE ANN. §46.1905 (2007). Interpretation by chapter.

This chapter is not to be construed to deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. An appropriate order exercising that authority may be included as part of any sentence.

AM. SAMOA CODE ANN. §46.1906 (2007). Classification of offenses.

(a) Felonies are classified for the purpose of sentencing into the following 4 categories:

(1) class A felonies;

(2) class B felonies;

(3) class C felonies;

(4) class D felonies.

(b) Misdemeanors are classified for the purpose of sentencing into the following 3 categories:

(1) class A misdemeanors;

(2) class B misdemeanors;

(3) class C misdemeanors.

(c) Infractions are not further classified.

AM. SAMOA CODE ANN. §46.1907 (2007). Classification of offenses outside this title.

(a) Any offense defined outside this title which is declared to be a misdemeanor without specification its penalty is a class A misdemeanor.

(b) Any offense defined outside this title which is declared to be a felony without specification its penalty is a class D felony.

(c) For the purpose of applying the extended term provisions of 46.2305, and for determining the penalty for attempts and conspiracies, offenses defined outside of this title are classified as

follows.

(1) If the offense is a felony:

(A) it is a class A felony if the authorized penalty includes death, life imprisonment, or imprisonment for a minimum term of 10 years or more;

(B) it is a class B felony if the term of imprisonment authorized exceeds 5 years but is less than 15 years;

(C) it is a class C felony if the maximum term of imprisonment authorized is 7 years;

(D) it is a class D felony if the maximum term if imprisonment is less than 5 years;

(2) If the offense is a misdemeanor:

(A) it is a class A misdemeanor if the authorized imprisonment exceeds 6 months in jail;

(B) it is a class B misdemeanor if the authorized imprisonment exceeds 15 days but is not more than 6 months;

(C) it is a class C misdemeanor if the authorized imprisonment is 15 days or less;

(D) it is an infraction if there is no authorized imprisonment.

AM. SAMOA CODE ANN. §46.1910 (2007). Role of court in sentencing – Effect of Ifoga ceremony.

(a) Upon a finding of guilt upon verdict or plea, except as provided in 46.3513, the court shall decide the extent or duration of sentence or other disposition to be imposed under all the circumstances, having regard to the nature and circumstances of the offense and the history and character of the defendant, and render judgment accordingly.

(b) In deciding the extent or duration of sentence or other disposition to be imposed, the court may, in addition to the factors included in subsection (a), reduce the extent or duration of the sentence or other disposition if the court finds that an ifoga ceremony has been performed.

(1) "Ifoga" means the Samoan custom of public apology.

(2) In deciding the extent or duration of sentence or other disposition to be imposed when an ifoga ceremony has been performed, the court may reduce the level of the crime by a maximum of 1 classification from the classification upon which judgment of guilt has been entered following a plea of guilty or trial.

AM. SAMOA CODE ANN. §46.2801 (2007). Registration of persons convicted of offenses against a victim who is a child.

(a) Any person convicted of the following offenses, when the act was committed upon a victim who was a minor, or person under the age of 18 years at the time of commission, is required to register their name, identifying information, current residential address, and provide fingerprint, photograph, and any requested body fluids to the Department of Public Safety, corrections division warden:

46.3531 Kidnapping
46.3532 Felonious restraint
46.3533 False imprisonment
46.3534 Interference with custody
46.3604 Rape
46.3610 Sexual Assault
46.3611 Sodomy
46.3612 Deviate sexual assault
46.3615 Sexual abuse in the first degree
46.3616 Sexual abuse in the second degree

46.3617 Child molesting
46.3703 Patronizing Prostitution
46.3706 Promoting prostitution in the first degree
46.3707 Promoting prostitution in the second degree

46.3401 Attempt, when committed with the purpose of attempting the above offenses

(b) Persons convicted of these offenses, when the victim is a minor, or person under 18 years of age, shall for a period of ten (10) years from the date of release from prison, being placed on parole, supervised release, or probation, be required to notify the Department of Public Safety, correction division, of any change of residence within ten (10) days of the change of address. This requirement includes being out of the territory for a period of over six (6) months, or for any period of time where he/she is employed, or is a student.

Any person convicted of the above offenses who fails to register, or who fails to notify the Department of Public Safety, corrections division warden within ten (10) days of any change in residence, including being out of the Territory of American Samoa, is guilty of a crime, and upon convictions may be sentenced as for a class A misdemeanor.

(c) Any person who is required to register under subsection (a) above is also required to notify the Department of Public Safety, corrections division warden, within ten days of the registrant's commencement, termination or current enrollment or employment at any institution of higher learning within the territory. Any person who fails to provide timely notification in compliance with this subsection is guilty of a crime, and upon conviction may be sentenced as for a class A misdemeanor.

(a) Upon the conviction for any of the offenses set forth in subparagraph (a), the Court shall document through the judgment and sentencing record that prior to release from prison, being placed on parole, supervised release, or probation, that the warden of the Department of Public Safety, corrections division, will inform and explain to the convicted person his/her requirement to registered and obtain verification of notification through the signature of the offender.

The corrections division warden is responsible for the maintenance of the registry, which at a minimum, shall contain the following:

(1) notification to the offender of the offender's duty to register, maintaining a copy of this notification, signed by the offender and the Warden of the corrections division, and to obtain the information, fingerprints, photographs, and samples required for such registration;

(2) notification to the offender of the offender's duty to notify the Department of Public Safety, correction division warden of any change in their residential address within ten (10) days of changing addresses;

(3) notification to the offender of the offender's duty to contact the state agency responsible for registering offenders in any other state, territory, or jurisdiction of the United States in which they intend to reside, move or relocate;

(4) The Department of Public Safety, corrections division warden is responsible for maintaining a registry of offenders which include at a minimum the offender's photograph, fingerprints, criminal history, and identifying information, which includes information on current residential address, spouse, and family matai;

(5) The Department of Public Safety, correction division warden shall be responsible for verifying the addresses of each offender in American Samoa through a physical verification of the residential address every three months;

(6) The Department of Public Safety, corrections division warden shall be responsible for maintaining a registry of those offenders' records which are referred from other states or jurisdictions of the United States, including those military or former military personnel and federal employees under federal judgments;

(7) The Department of Public Safety, corrections division warden shall be responsible for transmitting all registry information, including photographs and fingerprints, criminal history, and identifying information to the U.S. Department of Justice, Federal Bureau of Investigation

repository, National Sex Offender Registry (NSOR) and Department of Human and Social Services within ten (10) days of release, placement on parole, supervised release, or probation.

(8) The Department of Public Safety, corrections division warden shall be responsible for maintaining registry records of non-resident offenders who reside in American Samoa for school or employment for more than 14 days or for an aggregate period exceeding 30 days in a calendar year;

(9) The Department of Public Safety, corrections division warden shall be responsible for transmitting all registry information on offenders who change their residence to another state or territory or who work or attend school in other jurisdictions, including photographs, fingerprints, criminal history, and identifying information for those offenders who notify the corrections division of a change of address to another jurisdiction, or upon determining that the offender has moved to another jurisdiction and has failed to notify the corrections division.

GUAM

GUAM CODE ANN. TIT. 9, § 26.09 (2009). Sentencing Enhancements.

(a) Sentencing considerations in cases involving criminal sexual conduct, serious bodily injury, or death. If a violation of this article involves kidnapping or an attempt to kidnap, criminal sexual conduct, or an attempt to commit homicide, or if a homicide results, the defendant commits a first degree felony.]

(b) Additional sentencing considerations, include but not limited to;

(1) Bodily Injury. If, pursuant to a violation of this article, a victim suffered bodily injury, the sentence may be enhanced as follows:

(A) bodily injury, up to an additional three (3) years of imprisonment;
(B) serious bodily injury, up to an additional eight (8) years if imprisonment;
(C) permanent or life-threatening bodily injury, an additional 7 years of imprisonment;
(D) if death results, defendant shall be sentenced in accordance with the homicide statute relevant for the level of criminal intent.

(2) Time in Servitude. In determining sentences within statutory maximums, the sentencing court should take into account the time in which the victim was held in servitude, with increased penalties for cases in which the victim was held for between ninety (90) days and one (1) year, and further increased penalties for cases in which the victim was held for more than (1) one year.

(3) Number of Victims. In determining sentences within statutory maximums, the sentencing court should take into account the number of victims, and may provide for substantially increased sentences in cases involving more than two (2) victims.

GUAM CODE ANN. TIT. 9, § 30.20 (2009). Family Violence.

(a) Any person who intentionally, knowingly, or recklessly commits an act of family violence, as defined in § 30.10 of this Chapter, is guilty of a misdemeanor, or of a third degree felony.

(b) Upon a written, noticed motion prior to commencement of trial, the defendant may move that a felony charge filed pursuant to this § 30.20 be reduced to a misdemeanor. Whether any charge shall proceed as a misdemeanor or a felony rests within the discretion of the court.

(c) In determining whether any felony charge filed pursuant to this § 30.20 should be reduced to a misdemeanor, the court shall consider the following factors, among others:

1. The extent or seriousness of the victim's injuries;
2. The defendant's history of violence against the same victim whether charged or uncharged;
3. The use of a gun or other weapon by the defendant;
4. The defendant's prior criminal history;
5. The victim's attitude and conduct regarding the incident;
6. The involvement of alcohol or other substance, and the defendant's history of substance abuse as reflected in the defendant's criminal history and other sources; and
7. The defendant's history of and amenability to counseling.

(d) If the court, after hearing, finds substantial evidence that a victim suffered serious bodily injury as defined in subsection (c) of § 16.10 of this title, no felony charged filed under this § 30.20 shall be reduced to a misdemeanor unless the court finds that due to unusual circumstances a reduction of the charge is manifestly in the interest of justice.

(e) The fact that an alleged criminal act involved family violence as defined in § 30.10 of this Chapter shall not preclude the prosecuting attorney from charging and prosecuting the defendant for any other violations of law, subject to the provisions set forth in § 1.22 of this title;

(f) In any case in which a person is convicted of violating this § 30.20 and probation is granted, the court shall require participation in an education and treatment program as a condition of probation unless, considering all the facts and the circumstances, the court finds participation in an education and treatment program inappropriate for the defendant.

(g) If probation is granted, or the imposition of a sentence is suspended, for any person convicted under subsection (a) of this § 30.20 who previously has been convicted under such subsection (a) for an offense that occurred within seven (7) years of the offense of the second conviction, it shall be a condition of such probation or suspended sentence that he or she be punished by imprisonment for not less than ten (10) days, and that he or she participate in, for no less than one (1) year, and successfully complete an education and treatment program, as designated by the court. However, the court, upon a showing of good cause, may find that the minimum imprisonment, or the participation in an education and treatment program, or both the minimum imprisonment and participation in an education and treatment program, as required by this subsection, shall not be imposed and may grant probation or the suspension of the imposition of a sentence.

(h) If probation is granted or the imposition of a sentence is suspended for any person convicted under subsection (a) of this § 30.20 who previously has been convicted of two (2) or more violations of such subsection (a) for offenses that occurred within seven (7) years of the most recent conviction, it shall be a condition of such probation or suspended sentence that he or she be punished by imprisonment for not less than thirty (30) days and that he or she participate in, for no less than one (1) year, and successfully complete an education and treatment program, as designated by the court. However, the court, upon a showing of good cause, may find that the minimum imprisonment, or the participation in an education and treatment program, or both the minimum imprisonment and participation in an education and treatment program, as required by this subsection, shall not be imposed and may grant probation or the suspension of the imposition of a sentence.

GUAM CODE ANN. TIT. 9, § 80.00 (2009). Terms of Imprisonment Are Fixed Terms.

All terms of imprisonment specified in the Guam Codes imposed upon conviction of an offense shall be fixed terms, having a determined termination date set at the time of sentencing by the court, except as provided for extension of terms of imprisonment under §§ 80.32 and 80.36 of this Code.

GUAM CODE ANN. TIT. 9, § 80.10 (2009). Types of Sentences Allowed.

(a) Unless otherwise provided by law, the court may suspend the imposition of sentence of a person who has been convicted of a crime in accordance with § 80.60, may order him to be committed in lieu of sentence in accordance with § 80.20 or may sentence him as follows:

(1) to imprisonment for a term required by law;
(2) to imprisonment and to an additional parole;
(3) to pay a fine or make restitution as authorized by law;
(3.5) to alternative community service or to self-improvement and rehabilitative programs;
(4) to be placed on probation as authorized by law; or
(5) to pay a fine, to make restitution and to be placed on probation; to make restitution and imprisonment or to pay a fine and imprisonment.

(b) Where the judgment of conviction included more than one crime, the sentences imposed may run concurrently or consecutively except that if such sentences run consecutively, the provisions of §§ 80.38, 80.40 and 80.42 shall not be applicable.

(c) The court may suspend the imposition of sentence on a person who has been convicted of a violation or may sentence him to pay a fine or make restitution as authorized by § 80.50.

(d) Nothing in this Code deprives the court of any authority otherwise conferred by law to decree [a] forfeiture of property, suspend or cancel the license, remove a person from office or impose any other civil penalty, such a judgment or order may be included in the sentence.

GUAM CODE ANN. TIT. 9, § 80.31 (2009). Prison Terms for First Offenders.

In the cases to which § 80.30 is applicable as to the sentencing of the person, a person who has not previously been convicted of a criminal offense and has been convicted of a felony for the first time may be sentenced to imprisonment as follows:

(a) In the case of a felony of the first degree, the court shall impose a sentence of not less than three (3) years and not more than fifteen (15) years;
(b) In the case of a felony of the second degree, the court shall impose a sentence of not less than one (1) year and not more than eight (8) years; and
(c) In the case of a felony of the third degree, the court may impose a sentence of not more than three (3) years.

GUAM CODE ANN. TIT. 9, § 80.32 (2009). Extended Terms Allowed.

In the cases designated in §§ 80.38 and 80.42, a person who has been convicted of a felony may be sentenced to an extended term of imprisonment as follows:

(a) In the case of a felony of the first degree, for a sentence of life imprisonment;
(b) In the case of a felony of the second degree, the court may impose a sentence of not less than five (5) years and not more than twenty (20) years; or
(c) In the case of a felony of the third degree, the court may impose a sentence of not less than three (3) years and not more than ten (10) years.

GUAM CODE ANN. TIT. 9, § 80.34 (2009). Misdemeanor & Petty Misdemeanor.

Except as otherwise provided by § 80.36, a person who has been convicted of a misdemeanor or a petty misdemeanor may be sentenced to imprisonment, as follows:

(a) in the case of a misdemeanor, the court shall set a maximum term not to exceed one (1) year;
(b) in the case of a petty misdemeanor, the court shall set a definite term not to exceed sixty (60) days.

GUAM CODE ANN. TIT. 9, § 80.36 (2009). Same.

In the cases designated in §§ 80.40 and 80.42, a person who has been convicted of a misdemeanor may be sentenced to an extended maximum term of imprisonment not to exceed three (3) years.

GUAM CODE ANN. TIT. 9, § 80.37 (2009). Deadly Weapons Used in Felonies; Sentence.

Whoever unlawfully possesses or uses a deadly weapon in the commission of a felony punishable under the laws of Guam shall, in addition to the punishment imposed for the commission of such felony, be imprisoned for a term of not less than five (5) years nor more than twenty-five (25) years, and shall be fined not less than one thousand dollars ($ 1,000), but not more than five-thousand ($ 5,000), which fine shall be payable to the Criminal Injuries Compensation fund. The sentence shall include a special parole term of not less than three (3) years in addition to such term of imprisonment. No person convicted and sentenced hereunder shall be eligible for parole or probation until he shall have served at least five (5) years in prison. No person convicted or sentenced hereunder shall be eligible to participate in any work release program until he shall have served at least five (5) years. The term required to be imposed by this Section shall not run concurrently with any term of imprisonment imposed for the commission of any other felony.

GUAM CODE ANN. TIT. 9, § 80.37.5 (2009). Felony Commited on Release.

(a) Whoever commits a felony punishable under the laws of Guam while on release on a felony charge pursuant to Chapter 40 (Criminal Procedure) of Title 8, Guam Code Annotated, shall, in addition to the sentence imposed for the crime committed while on release, be imprisoned for a term of not less than five (5) years nor more than twenty-five (25) years.

(b) A sentence imposed under subsection (a) of this section shall include a special parole term of not less than three (3) years nor more than five (5) years in addition to the term of imprisonment. No person convicted and sentenced under this section shall be eligible for parole or probation until he serves at least five (5) years in prison.

(c) The term required to be imposed under this section shall run consecutive to any term of imprisonment imposed for the commission of any other felony.

GUAM CODE ANN. TIT. 9, § 80.38 (2009). Extended Terms for Felonies: When Allowed: Repeat Offenders.

The court may sentence a person who has been convicted of a felony to an extended term of imprisonment if it finds one or more of the grounds specified in this Section. The finding of the court shall be incorporated in the record:

(a) The offender is a persistent offender whose commitment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the offender is over twenty-one (21) years of age and has previously been convicted as an adult of two (2) felonies or of one (1) felony and two (2) misdemeanors.

(b) The offender is a multiple offender whose criminality was so extensive that a sentence of imprisonment for an extended term is warranted. The court shall not make such a finding unless:

(1) the offender is being sentenced for two (2) or more felonies, or is already under sentence of imprisonment for felony, or admits in open court the commission of one or more other felonies and asks that they be taken into account when he is sentenced; and

(2) the longest sentences of imprisonment authorized for each of the offender's crimes, including admitted crimes taken into account, if made to run consecutively, would exceed in length the maximum of the extended term imposed.

(c) The offender is a dangerous, mentally abnormal person whose commitment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the offender has been subjected to a psychiatric examination resulting in the conclusions that his mental condition is gravely abnormal; that his criminal conduct has been characterized by a pattern of repetitive or compulsive behavior or by persistent aggressive behavior with heedless indifference to consequences; and that such condition makes him a serious danger to others.

GUAM CODE ANN. TIT. 9, § 80.40 (2009). Extended Terms for Misdemeanors: When Allowed: Repeat or Multiple Offenders.

The court may sentence a person who has been convicted of a misdemeanor to an extended term of imprisonment if it finds one or more of the grounds specified in this Section. The findings of the court shall be incorporated in the record:

(a) The offender is a persistent offender whose commitment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the offender has previously been convicted as an adult of two (2) crimes.

(b) The offender is a multiple offender whose criminality was so extensive that a sentence of imprisonment for an extended term is warranted. The court shall not make such a finding unless:

(1) the offender is being sentenced for two (2) or more misdemeanors or one misdemeanor and two (2) or more petty misdemeanors or is already under sentence of imprisonment for crimes of such grades, or admits in open court the commission of crimes of such grades and asks that they be taken into account when he is sentenced; and

(2) the longest sentences of imprisonment authorized for each of the offender's crimes, including admitted crimes taken into account, if made to run consecutively, would exceed in length the maximum of the extended term imposed.

(c) The offender is an alcoholic, narcotic addict or person of abnormal mental condition who requires rehabilitative treatment for a substantial period of time. The court shall not make such a finding unless with respect to the particular category to which the offender belongs, the Director of Corrections has certified that there is a specialized institution or facility which is satisfactory for the rehabilitative treatment of such persons.

GUAM CODE ANN. TIT. 9, § 80.42 (2009). Extended Term by Petition of Department of Corrections.

On petition of the Director of Corrections to the court in which the person was originally sentenced to imprisonment the court may extend his sentence to the terms prescribed by §§ 80.32 and 80.36 if it finds that such extension is necessary for protection of the public. In the case of a person originally sentenced to imprisonment for a petty misdemeanor, the court may extend his sentence to a term not to exceed two (2) years. Such a finding, which must be incorporated in the record, shall be based on the grounds that:

(a) the person's record, both within and without the correctional system, reveals a clear pattern of assaultive or sexually aggressive behavior; and

(b) there is a substantial risk that he will at some time in the future inflict death or serious bodily injury upon another.

In making such a finding, the court shall proceed upon the same basis as in an original sentencing hearing and the person shall have the same rights as any person being sentenced.

GUAM CODE ANN. TIT. 9, § 80.48 (2009). Extension of Limits of Confinement: Failure to Adhere to Conditions Punished: Failure to Return is Escape.

(a) Except as otherwise provided by law, either the court at the time of sentencing or the Director of Corrections after the offender has been placed in custody, may extend the limits of his confinement to permit the offender to continue in his regular employment or educational program or if the prisoner does not have regular employment or a regular educational program, to secure employment or education. Any employment or education so secured must be suitable for the offender. Such employment or educational program if such educational program includes earnings by the offender, must be at a wage at least as high as the prevailing wage for similar work in the Territory and in accordance with the prevailing working conditions in the Territory. In no event may any such employment or educational program involving earnings by the offender be permitted where there is a labor dispute in the establishment in which the offender is or is to be employed or educated. Whenever the offender is not employed or being educated and between the hours or periods of employment or education, he shall be confined in such facility designated by the court or Director of Corrections.

(b) The earnings of the offender may be collected by the Director of Corrections. From such earnings, the Director may deduct such costs incident to the offender's confinement as the Director deems appropriate and reasonable. The Director may also deduct payments for the support of the offender's dependents and forward such payments to them.

(c) In the event the offender violates the conditions laid down for his conduct, custody, education or employment, the Director (or the court, if the limits of confinement were originally extended by the court) may order the balance of the offender's sentence to be spent in actual confinement subject to any release on parole pursuant to Article 5 (commencing with § 80.70).

(d) Willful failure of the offender to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement pursuant to this Section is punishable as an escape.

(e) Except for inmates participating in the Work and Educational Programs, all inmates sentenced to the custody of the Department of Corrections and in the Adult Correctional Facility shall be issued uniforms which they shall wear at all times they are outside the facility. The uniform shall be prominently marked to indicate that the person wearing it is an inmate. The uniforms shall at the least have the letter "P" permanently marked on the front and back of the shirt or top portion of the uniform. All inmates including those in the Work and Educational Programs shall have as many haircuts as necessary to maintain a short style so that hair does not extend over the ear or over the shirt collar of the uniform. No beards shall be worn by inmates.

(f) The remaining balance of earnings by an inmate from participating in a Work Release Program shall be deposited into the Criminal Injuries Compensation Fund (the "Fund"). After complying with subsection (b) of this Section, associated with support of dependents and debts, the remaining balance shall be deposited in the Fund.

(g). Termination of Eligibility; Work and Education Programs. Notwithstanding Subsection (c) of this Section, any inmate who has been placed under the work and educational programs must comply with the conditions laid down for the inmate's conduct while enjoying the benefits of the program. Any violations of the conditions, such as failure of the offender to return to the place of

confinement within the time pursuant to the terms and conditions of the programs, shall suspend the offender's eligibility to the programs as outlined below.

Any inmate who is found guilty of escape or attempted escape shall immediately be removed from work and educational programs and shall not be eligible for participation in work and educational programs for a period of not less than five (5) years. Any inmate not currently participating or eligible to participate in work or educational programs and is found guilty of escape or attempted escape shall not be eligible to participate in work or educational programs for a period of not less than five (5) years.\

GUAM CODE ANN. TIT. 9, § 89.03 (2009). Registration; Duty to Register.

(a) Persons Required to Register. The following persons shall register pursuant to this Chapter:

(1) any person who, since January 1, 1993, has been or is hereafter convicted in any court of Guam of a violation of any of the following offenses:

(A) a sexually violent offense;
(B) a criminal sexual conduct offense; *or*
(C) a criminal offense against a victim who is a minor.
(2) any person who, since January 1, 1993, has been or is hereafter convicted in any Federal or military court for a violation of any of the following offenses:

(A) an offense under Title 18 USC §§ 2241 or 2242; *or*
(B) a criminal offense against a victim who is a minor.
(3) any person convicted in another state, territory or tribe of any of the following offenses if that person is required to register in the state, territory or tribe wherein that person was convicted of any of the following:

(A) a criminal sexual conduct offense; *or*
(B) a criminal offense against a victim who is a minor.
(4) any person who is a non-resident who is on Guam for the purpose of work or education and:

(A) who is or has been convicted in another state, territory or tribal jurisdiction of a criminal sexual conduct offense, or a criminal offense against a victim who is a minor and is required to register in the state, territory or tribal jurisdiction wherein that person was convicted; *or*
(B) who, since January 1, 1993, has been or is hereafter convicted in a military court or a court in another state, territory or tribal jurisdiction, of a criminal sexual conduct offense or a criminal offense against a victim who is a minor.

(b) Registration Requirements; Information to be Registered.

(1) Form A Registration: Level One and Level Two Offenders:

(A) name, aliases, date of birth, social security number, *if any*, and any other identifying factors;
(B) current physical address and mailing address, or, if the person is incarcerated, the address of the residence where the person will be residing immediately upon release and the mailing address the person plans to use immediately upon release;
(C) anticipated future residence;
(D) current and anticipated employment;

(E) offense history, including the underlying crime which triggered the registration requirements of this Chapter;
(F) documentation of treatment;
(G) fingerprints;
(H) current photograph; and
(I) name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the person is enrolled, employed or carrying on a vocation.
(2) Form B Registration: Level Three offenders shall provide the following:

(A) name, aliases, date of birth, social security number, *if any*, and any other identifying factors;
(B) current physical address and mailing address, or, if the person is incarcerated, the address of the residence where the person will be residing immediately upon release and the mailing address the person plans to use immediately upon release;
(C) fingerprints;
(D) current photograph; *and*
(E) name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the person is enrolled, employed or carrying on a vocation.
(3) Federally Protected Witnesses. Where the person required to register is a Federally protected witness, the person shall *not* be required to provide a photograph, alias(es), original name, place of offense, date of birth, social security number or prior residence.
(4) Pardoned Convict or Conviction Reversed Upon Appeal. The duty to register under this Chapter shall *not* be applicable to any sex offender whose conviction was reversed upon appeal, or who was pardoned by *I Maga'lahen Guahan.*

(c) Biological Samples.

(1) Every person convicted in the Superior Court of Guam of a criminal sexual conduct offense, or of a criminal offense against a victim who is a minor, shall provide a biological sample to the Guam Police Department for DNA typing *no later than* thirty (30) calendar days after the person's sentencing.
(2) Every person who was convicted in the Superior Court of Guam *prior to* the effective date of this law of a criminal sexual conduct offense or of a criminal offense against a victim who is a minor and is incarcerated on the effective date of this law shall provide a biological sample for DNA typing *no later than* six (6) months after the effective date of this law.
(3) Every person who was convicted in the Superior Court of Guam *prior to* the effective date of this law of a criminal sexual conduct offense, or of a criminal offense against a victim who is a minor and was released on parole or probation after January 1, 1993, shall provide a biological sample for DNA typing to the Guam Police Department at the time of that person's initial registration.
(4) Every person required to register pursuant to Paragraphs (2), (3) or (4) of § 89.03(a) shall provide a biological sample to the Guam Police Department for DNA typing at the time of that person's initial registration on Guam.
(5) Intentional or knowing failure to provide a biological sample shall have the same penalty as a failure to provide initial registration information.

(d) Registration Requirements for Persons Required to Register Pursuant to § 89.03(a)(1); Initial Registration; Penalty.

(1) Where a Person Required to Register is Sentenced to Incarceration. Initial registration

information must be provided to the Parole Services Division of the Department of Corrections *no later than* two (2) weeks before the person's anticipated release. Intentional or knowing failure to provide this information shall result in the delay of that person's release.
(2) Where a Person Required to Register is Sentenced to Probation. Initial registration information must be provided to the Probation Services Division of the Superior Court of Guam *no later than* the date the person is scheduled to be placed on probation. Intentional or knowing failure to provide this information by that date shall result in the revocation of the person's probation and shall make that person *ineligible* for probation.
(3) Where a Person Identified as a Person Required to Register is on Supervised Parole or Probation at the Time of the Passage of This Law. Initial registration information must be provided to the registrant's parole or probation officer *no later than* six (6) months after the effective date of this law. Intentional or knowing failure to register pursuant to this Subsection is a felony of the third degree.
(4) Where a Person Required to Register is No Longer Under the Supervision of Either Probation or Parole at the Time of the Passage of This Law. Subject to written notice by certified or registered mail provided by the Superior Court of Guam to a person as described in this Section, initial registration information must be provided to the Guam Police Department *no later than* one (1) year after receipt of written notice by the person. The Guam Police Department shall transmit the information to the Court *no later than* three (3) business days thereafter for inclusion into the Sex Offender Registry database. Intentional or knowing failure to register pursuant to this Subsection is a felony of the third degree.

(e) Registration Requirements for Persons Required to Register Pursuant to § 89.03(a), Paragraphs (2), (3) or (4); Initial Registration.

(1) Persons required to register pursuant to § 89.03(a)(2) shall provide *all* the information that must be registered pursuant to § 89.03(b) to the Guam Police Department *no later than* seven (7) calendar days after release from incarceration, release on probation or arrival on Guam. *If* the registrant is on probation in another jurisdiction and that registrant's probation is to be transferred to Guam, then the Guam Police Department may obtain the necessary information from the office of probation of the jurisdiction from where registrant came; said registrant is required to verify the registered information as required by this Chapter *no later than* seven (7) calendar days after the person's arrival on Guam.
(2) Persons required to register pursuant to Paragraphs (3) or (4) of § 89.03(a) shall provide all the information that must be registered pursuant to § 89.03(b) to the Guam Police Department *no later than* seven (7) calendar days after their arrival on Guam. *If* the registrant is on probation in another jurisdiction, and that registrant's probation is to be transferred to Guam, then the Guam Police Department may obtain the necessary information from the office of probation of the jurisdiction from where the registrant came; said registrant is required to verify the registered information as required by this Chapter *no later than* seven (7) calendar days after the registrant's arrival on Guam.

(f) Registration Requirements; Verification. A registrant must verify the following information:

(1) Level One Offender. The registrant shall verify the following registered information ninety (90) calendar days from the date the registrant's release from incarceration, or ninety (90) calendar days from the date of the registrant's release on probation *if* the registrant is placed on probation, and every ninety (90) calendar days thereafter. *If* the ninetieth (90th) day falls on a weekend or holiday, the registrant shall verify the following information on the following business day:

(A) current physical and mailing address(es);
(B) recent criminal offenses, *if any;*
(C) documentation of treatment;
(D) a current photograph; *and*
(E) name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the person is enrolled, employed or carrying on a vocation.
(2) Level Two Offender. The registrant shall verify the following registered information exactly one (1) year from the date of the registrant's release from incarceration or the date of the registrant's release on probation *if* the registrant is placed on probation, and exactly every year thereafter. *If* the date the registrant is to verify falls on a weekend or holiday, the registrant shall verify the following information on the following business day:

(A) current physical and mailing addresses;
(B) recent criminal offenses, *if any;*
(C) documentation of treatment, *if any;*
(D) a current photograph; *and*
(E) name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the person is enrolled, employed or carrying on a vocation.
(3) Level Three Offender. The registrant shall verify registered information in the same manner as a Level Two Offender.
(4) Notwithstanding Subsections (a), (b) *and* (c) of this Section, a registrant shall register the registrant's new physical address with the Court within seven (7) calendar days of any change in physical residence. If a registrant anticipates moving from Guam, that registrant shall register his intended place of residence with the Court *no later than* three (3) calendar days before his departure from Guam.

(g) Registration Requirements for Offenders Enrollment and Employment in an Institution of Higher Education. The registrant must update the name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the registrant is enrolled, employed or carrying on a vocation in an institution of higher education within seven (7) days of any changes in employment or enrollment in an institution of higher education with the Guam Police Department.

(h) Registration Requirements; Verification, Method of Verification. A registrant shall verify the registrant's registered information as required by § 89.03(e) in the following manner:

(1) Parolee. A parolee shall personally present oneself to the parolee's parole officer and verify the registered information with the parole officer;
(2)*Probationer.* A probationer shall personally present oneself to the person's probation officer and verify the registered information with the probation officer;
(3) Dual Supervision. A person under dual supervision, that is, the person is supervised by both parole and probation, shall personally present oneself to that person's probation officer; *and*
(4) Others. All registrants, including persons who are no longer under supervised parole or probation, shall personally appear at the Guam Police Department, Records Section, and register with the Guam Police Department.

(i) Registration Requirement; Guam Residents Who are Employed, Carry on a Vocation, or are Students in Another State or Territory. A person who is required to register on Guam and who is employed, carries on a vocation, or is a student of another state or territory, shall also register in

that other state or territory pursuant to the registration requirements of that state or territory.

(j) Registration Requirement; Persons Who Move to Another State or Territory. When a person who is required to register on Guam anticipates moving to another state or territory, that registrant shall report the change of address to the Guam Police Department pursuant to the requirements of this Chapter, *and* comply with any registration requirement of the new state or territory of residence.

PUERTO RICO

P.R. LAWS ANN. TIT. 4, § 536A (2009). Creation.

A Registry of Persons Convicted of Sexual Crimes and Child Abuse is hereby created in the Criminal Justice Information System. The following shall be registered therein:

(a) Persons who are convicted for any of the following crimes or the attempt thereof: rape, seduction, sodomy, lewd or lascivious acts, procuring, ruffianism, or trade of persons when the victim is under eighteen (18) years of age and the offense is aggravated; crimes against the protection of children, incest, restraint of freedom when the victim is under sixteen (16) years and not his/her child, kidnapping when the victim is under eighteen (18) years of age and is not his/her child; child theft, child perversion when a child under eighteen (18) years of age is admitted or held in a house of prostitution or sodomy; aggravated abuse against a child and conjugal sexual aggression comprised in Articles 99, 101, 103, 105 110(a) and (c) and 111, 115 122, 131(c), 137A(a), 160 and 163(c) of Act No. 115 of July 22, 1974, as amended, and in §§ 632(g) and 635 of Title 8, and in the crime of child abuse established in §§ 477u and 447v of Title 8, respectively.

(b) Persons who have been or are convicted for crimes similar to those listed in this section by a federal, state or military court who transfer to Puerto Rico to establish their domicile, or that for reason of work or study are living in Puerto Rico, although their intention is not that of establishing their domicile in the Commonwealth.

(c) Persons who, at the time of the approval of this act, are imprisoned or participating in a diversion program of the Corrections Administration for committing any of the crimes listed in this section, and those persons whose parole has been revoked for failure to comply with any condition thereof.

(d) Those persons who, at the time of the approval of this act, had the obligation to register under Act No. 28 of July 1, 1997, shall be registered. Furthermore, those persons who, at the time of the approval of this act, have served the penalty imposed for the commission of any of the crimes listed in this section shall not have the obligation to register.

P.R. LAWS ANN. TIT. 29, § 454 (2009). Employment of minors - - Perjury of parent or guardian; inducing school absence.

Every parent, guardian, or other person who, with the intent to violate the provisions of §§ 431--443a and 446--456 of this title, makes a false statement concerning the age or school attendance of a minor under sixteen (16) years of age who is in his custody shall, upon conviction, be sentenced to a fine of not to exceed fifty dollars ($50). Any person who induces or attempts to induce any minor under sixteen (16) years of age to be absent unlawfully from school, or who knowingly employs or harbors, while school is in session, any minor unlawfully absent from school, shall, upon conviction, be punished by a fine of not to exceed fifty dollars ($50).

P.R. LAWS ANN. TIT. 33, § 4061 (2009). Rape.

Every person who has carnal intercourse with a female who is not his wife, in any of the following circumstances shall be punished by imprisonment, as provided hereinafter:

(a) If the female is under fourteen (14) years of age.

(b) If she is incapable, through illness or unsoundness of mind, whether temporary or permanent, to give legal consent.

(c) If she has been compelled to the act by the use of irresistible physical force or threats of grave and immediate bodily harm, accompanied by apparent power of execution; or by overcoming or diminishing her capacity to resist substantially, without her knowledge, by means of hypnosis, narcotics, depressant or stimulant drugs or similar substances or means.

(d) If at the time of committing the act, she was not aware of its nature and this circumstance is [was] known to the accused.

(e) If she submits in the belief that the accused is her husband, and this belief is induced by any artifice, pretense or concealment put into practice by the accused.

The penalty to be imposed for this crime, except in the case of the crime referred to in subsection (c) of this section, shall be imprisonment for a fixed term of fifteen (15) years. Should there be aggravating circumstances, the fixed penalty established may be increased to a maximum of twenty-five (25) years; if there should be extenuating circumstances, it may be reduced to a minimum of ten (10) years.

The penalty to be imposed for the crime referred to in subsection (c) of this section shall be imprisonment for a fixed term of thirty (30) years. Should there be aggravating circumstances, the fixed penalty established may be increased to a maximum of fifty (50) years; if there should be extenuating circumstances, it may be reduced to a minimum of twenty (20) years.

In case the crime described in subsection (c) of this section is committed while the author of the crime has entered the home of the victim, or the house or residential building where the victim is, or the yard, land or parking area thereof, the penalty for the crime shall be imprisonment for a fixed term of sixty (60) years.

Should there be aggravating circumstances, the fixed penalty established may be increased to a maximum of ninety-nine (99) years; should there be extenuating circumstances, it may be reduced to a minimum of forty (40) years.

The court may impose the penalty of restitution in addition to the penalty of imprisonment established in any of the aforementioned cases, or both penalties.

P.R. LAWS ANN. TIT. 33, § 4063 (2009). Seduction.

Every person who, under promise of marriage, seduces an unmarried woman of good moral character under the age of eighteen (18) years, and has sexual intercourse with her, shall be punished by imprisonment for a fixed term of three (3) years. Should there be aggravating circumstances, the fixed penalty established may be increased to a maximum of five (5) years; if there should be extenuating circumstances, it may be reduced to a minimum of two (2) years.

The court, in its discretion, may impose the fixed penalty of imprisonment established, a fine of no more than five thousand dollars ($5,000), the penalty of restitution, or any combination thereof.

P.R. LAWS ANN. TIT. 33, § 4065 (2009). Sodomy.

Any person who has sexual intercourse with a person of his same sex or commits the crime against nature with a human being shall be punished by imprisonment for a fixed term of ten (10) years. Should there be aggravating circumstances, the fixed penalty may be increased to a maximum of twelve (12) years; if there should be extenuating circumstances, it may be reduced to a minimum of six (6) years.

The penalty of imprisonment shall be for a fixed term of twelve (12) years when the act of sodomy is committed in any of the following circumstances:

(a) If the victim is under fourteen (14) years of age.

(b) If the victim has been compelled to the act by the use of irresistible force, or threat of grave and immediate bodily harm, accompanied by apparent power of execution; or by overcoming or diminishing his will to resist, substantially, without his knowledge, by means of hypnosis, narcotics, depressants or stimulants, or similar substances or means.

(c) If the victim, due to illness or temporary or permanent mental deficiency, is not capable of understanding the nature of the act at the moment it is committed.

In any of the three preceding circumstances [subsections (a)-(c) of this section], the fixed penalty established may be increased to a maximum of twenty (20) years should there be aggravating factors, or reduced to a minimum of eight (8) years should there be extenuating circumstances.

The court may impose the penalty of restitution in addition to the penalty of imprisonment established in any of the aforementioned circumstances, or both penalties.

P.R. LAWS ANN. TIT. 33, § 4067 (2009). Lewd and indecent acts.

Every person who, without intending to consummate sexual intercourse, commits any indecent or lewd act with another person shall be punished by imprisonment as provided hereinafter if any of the following circumstances occur:

(a) If the victim is under fourteen (14) years of age.

(b) If the victim has been compelled by the use of irresistible physical force or under threat of grave and immediate bodily injury, accompanied by apparent power of execution or by substantially overcoming or diminishing his capacity to resist through hypnotic means, narcotics, depressant drugs or stimulants or similar substances or means without his knowledge.

(c) If the victim is unable due to illness or unsoundness of mind, whether temporary or permanent, to give legal consent.

(d) If the victim was compelled to the act without knowledge by the use of deceptive means that substantially overcome or diminish his capacity to resist.

(e) If the victim is an ascendant or descendant in all degrees or a collateral by consanguinity up to the third degree of single or double bond, including the relationship as parent, male and female children or brothers or sisters by adoption.

The punishment of imprisonment to be imposed for this crime shall be of a fixed term of six (6) years, except when dealing with variants of the crime specified in the following paragraph of this section. In the event of aggravating circumstances, the established fixed penalty shall be increased to a maximum of eight (8) years; in the event of extenuating circumstances, it shall be reduced to a minimum of four (4) years.

When the crime is committed in any of the variants described in subsections (a) and (e) of this section or when the crime is committed after the perpetrator entered the home of the victim or a house or residential building where the victim is or its yard, premises or parking lot, the penalty of imprisonment shall be for a fixed term of eight (8) years. In the event of other aggravating

circumstances the established fixed term may be increased up to a maximum of ten (10) years; if extenuating circumstances intervene, it may be reduced to a minimum of six (6) years.

In addition to the penalty of imprisonment established in any of previously mentioned variants, the court may impose the penalty of restitution.

P.R. LAWS ANN. TIT. 33, § 4178A (2009). Aggravated Kidnapping.

Any person who commits the crime set out in § 4178 of this title when any of the following circumstances exists shall be sanctioned with imprisonment for a fixed term of sixty (60) years:

(a) When committed against a minor under eighteen (18) years of age.

(b) When the kidnapped person is raped, grave bodily injury has been inflicted on him, or he is mutilated.

(c) When it is committed against the Governor of Puerto Rico, a legislator or head of agency, a judge of the courts of justice of Puerto Rico or a prosecuting attorney of the Department of Justice of Puerto Rico, whether appointed by the Governor of Puerto Rico or designated as such by the Secretary of Justice.

(d) When committed for the purpose of demanding ransom, or when it is so demanded, or of demanding that an act against the law or the will of the kidnapped person be perpetrated, or to demand of the State the liberation of any prisoner serving a term of imprisonment, or the liberation of a person who is detained and under investigation in relation to the commission of a crime, or accused of committing a crime.

In any of the preceding circumstances, should there be aggravating circumstances, the fixed penalty established may be increased to a maximum of ninety-nine (99) years; if there should be extenuating circumstances, it may be reduced to a minimum of forty (40) years.

P.R. LAWS ANN. TIT. 33, § 4179 (2009). Kidnapping outside Puerto Rico.

Any person who abducts another person outside of the territorial jurisdiction of Puerto Rico, by force, intimidation, fraud or deceit, with intent to deprive him of his liberty, and brings or sends him to the Commonwealth of Puerto Rico, shall be punished by imprisonment for a fixed term of twenty-four (24) years. Should there be aggravating circumstances, the fixed penalty established may be increased to a maximum of forty (40) years; if there should be extenuating circumstances, it may be reduced to a minimum of sixteen (16) years.

P.R. LAWS ANN. TIT. 33, § 4241 (2009). Noncompliance with obligation to support.

Minors. Every father or mother who wilfully, without legal excuse, fails to comply with the obligation imposed by law of furnishing support to their minor children, shall be punishable by imprisonment not exceeding six (6) months or a fine not exceeding five hundred dollars ($500).

(b) Where the paternity is accepted by the accused before the court before the commencement of the trial, or when it is not in controversy, the trial shall be held and if the accused is found guilty of abandonment, the court shall fix, by decree, a reasonable sum for support, warning the accused that noncompliance with said decree, without legal excuse, shall be punished as a civil contempt.

(c) Where paternity is denied the court shall grant the accused a term of not more than ten (10)

days to answer the allegation to that effect and shall immediately hold a hearing in which the rules of evidence shall prevail. Five (5) days after the evidence is heard, the judge shall rule on the paternity and if found proved, he/she shall issue a certificate to that effect and enter the proper order fixing also the alimony to be granted to the child.

(d) After the preliminary proceedings provided in clauses (b) and (c) of subsection (1) of this section, the case shall continue to be heard on the basis of allegations of abandonment and the judgment shall be rendered on that particular. The court shall have discretion to stay the effects of the judgment if he/she deems it to be convenient to the welfare of the child. From an adverse judgment of paternity and abandonment, the accused may appeal in one proceeding. The hearings on these cases shall have priority in the calendars of the courts of appeal.

(e) The appeal from any judgment or order entered under this section shall not stay the effects of the order decreeing the payment of support; Provided, That in the case of appeal, the defendant shall be bound to deposit in the office of the secretary of the court to which the appeal was taken, the alimony fixed. At the request of the interested person, the court, after hearing the testimony of both parties, shall authorize the secretary of the court, to dispose of the amounts deposited in favor of the child, until judgment is rendered by the court. In the cases where judgment is rendered in favor of the accused, the child shall be bound to return the amounts that the accused had deposited in favor of the former. Provided, That in the cases where the judgment rendered affirms the judgment appealed from, but reduces the amount for support, the difference in said amount shall be credited to the accused in future payments which the latter must deposit for the benefit of the child. If the accused fails to comply with the deposit prescribed, a hearing shall be held, and if no justified reason exists therefor, the court shall dismiss the appeal.

(f) When the judgment shall become final and unappealable the court shall enter an order with a certified copy of the certificate accepting the paternity or of the ruling of paternity entered by the judge addressed to the Department of Vital Statistics, directing the registration of the minor as the child of the accused with all other details required for the birth certificate, for all purposes.

(g) In all actions for violation of this section, including at the hearings for noncompliance with the order for support, the public interest shall be represented by a district attorney, his assistant or any special prosecuting attorney designated by the Secretary of Justice, or his assistant.

(h) For the purpose of determining the paternity, the District Court has jurisdiction concurrent with the Court of First Instance of Puerto Rico.

(2) Elderly persons. Every spouse, descendant, or ascendant in degree of proximity, who willfully and without legal excuse, fails to comply with the obligation imposed by law to furnish support to their ascendants or descendants who are sixty-five (65) years of age or older, shall be punished by imprisonment that shall not exceed six (6) months, or a fine that shall not exceed five hundred dollars ($500).

P.R. LAWS ANN. TIT. 33, § 4242 (2009). Abandonment of minors and elderly persons.

(a) Minors. Any father or mother of any child under the age of twelve (12) years, or any person to whom said child has been entrusted for his/her support or education, who deserts him/her in any place with the intent to abandon him/her, shall be punished by imprisonment for a fixed term of three (3) years. If there were aggravating circumstances, the established fixed penalty may be increased to a maximum of five (5) years; if there were extenuating circumstances, it could be lowered to a minimum of two (2) years.

For the purposes of this section, leaving a newborn (under the age of one month) at a child shelter, be it a Commonwealth, municipal, community or religious institution, shall not be deemed to be abandonment of a minor. The directors, officials or employees of the child shelter

shall not require any information whatsoever from the mother or father of the minor thus delivered under this section, unless the minor has been subjected [to] or shows signs of abuse.

The patria potestas of all children thus delivered pursuant to the preceding paragraph shall correspond to the Commonwealth of Puerto Rico, and the provisional custody of the same to the institution that received him/her, until the Department of the Family provides otherwise.

(b) Elderly persons. Any spouse or descendant, in the closest degree of proximity, or any person to whom an elderly person, sixty-five (65) years of age or older, has been entrusted, who deserts him/her in any place with the intent to abandon him/her, shall be punished by imprisonment for a fixed term of three (3) years. If there were aggravating circumstances, the established fixed penalty may be increased to a maximum of five (5) years; if there were extenuating circumstances, it may be lowered to a minimum of two (2) years.

P.R. LAWS ANN. TIT. 33, § 4243 (2009). Child stealing.

Any person who maliciously, violently or fraudulently steals a child under twelve (12) years of age, with the purpose of retaining and concealing him/her from the parents, guardian or other person legally in charge of said minor, shall be punished by imprisonment for a fixed term of twenty-four (24) years. If there were aggravating circumstances, the fixed penalty thus established may be increased to a maximum of forty (40) years; if there were mitigating circumstances, it may be reduced to a minimum of sixteen (16) years.

Any person who commits this crime shall be punished by imprisonment for a fixed term of sixty (60) years, when it takes place in any of the following circumstances:

(a) In any public or private hospital institution;

(b) in any public or private elementary, intermediate or high school;

(c) in a house, building or inhabited structure;

(d) in a child care center, or

(e) in parks, recreational areas, or commercial centers.

In any of the above circumstances, if there were aggravating circumstances the fixed penalty thus established, may be increased to a maximum of ninety-nine (99) years; if there were extenuating circumstances, it may be reduced to a minimum of forty (40) years.

P.R. LAWS ANN. TIT. 33, § 4244 (2009). Unlawful deprivation of custody.

Any person who, without having a right thereto, deprives a parent or another person of the lawful custody of a minor, or a disabled person, shall be punished by imprisonment which shall not exceed six (6) months, or a fine that does not exceed five hundred dollars ($500), or both penalties, at the discretion of the court.

It shall be deemed to be felony with a penalty of imprisonment for a fixed term of three (3) years, when the minor is taken outside the jurisdiction of the Commonwealth of Puerto Rico, or when a parent not awarded legal custody who resides outside of Puerto Rico, keeps a child bound to return to the home of the parent or other person awarded legal custody, outside of the jurisdiction of Puerto Rico without authorization. Should there be aggravating circumstances, the fixed penalty established may be increased to a maximum of five (5) years; if there should be extenuating circumstances, it may be reduced to a minimum of one year.

P.R. LAWS ANN. TIT. 33, § 4246 (2009). Perversion of minors.

Imprisonment for a fixed term of three (3) years or a fine not exceeding five thousand dollars ($5,000) shall be imposed on:

(a) Every person who intoxicates, induces, advises, incites or helps to intoxicate a minor under eighteen (18) years of age; or

(b) every person who induces, advises, incites, intoxicates or helps to intoxicate any minor under eighteen (18) years of age with the mixture of toluene and acetone, commercially known as lacquer thinner; or

(c) every person who sells, distributes or delivers to any minor under eighteen (18) years of age the mixture of toluene and acetone, commercially known as "lacquer thinner," without an authorization or registration of the Administration of Mental Health and Addiction Services; or

(d) every proprietor, entrepreneur, administrator, management, director, clerk or employee of any public establishment or business who consents or tolerates the commission of any of the acts indicated in subsections (a)-(c) of this section in said establishment; or

(e) every proprietor, administrator, director or person in charge of a house of prostitution or sodomy who admits or retains any minor under eighteen (18) years of age therein, and every father, mother or guardian who admits, or retains said minor, tolerates his admission or retention in said house; or

(f) every proprietor, administrator, or person in charge of any establishment used in whole or in part as a bar or gambling place who permits any minor under eighteen (18) years of age to take part in gambling.

Should there be aggravating circumstances, the penalty of imprisonment imposed herein may increased to a maximum of four (4) years; should there be extenuating circumstances, it may be reduced to a minimum of two (2) years.

In those cases that the establishments or premises referred to in this section have been granted registrations or licenses, the cancellation or revocation thereof shall also be imposed as a penalty.

P.R. LAWS ANN. TIT. 33, § 4247 (2009). Public begging by minors.

Every person who authorizes, induces, permits or orders a minor under eighteen (18) years of age to the service of public begging shall be punishable by imprisonment not exceeding six (6) months or a fine not exceeding five hundred dollars ($500), or both, in the discretion of the court.

P.R. LAWS ANN. TIT. 33, § 4248 (2009). Inducing a minor to commit a crime.

Any person who has induced or convinced a minor under eighteen (18) years of age to assist or collaborate in the commission or attempt to commit a felony shall be guilty of a felony and upon its commission shall be sanctioned by imprisonment for a fixed term of four (4) years. If there were aggravating circumstances, the fixed penalty may be raised to six (6) years; if there were extenuating circumstances, it may be reduced to a minimum of two (2) years.

If the crime that was committed or attempted in which a minor under eighteen (18) years of age was induced or convinced to assist or collaborate is a misdemeanor, the person shall be guilty of a misdemeanor and sanctioned by imprisonment for a maximum of six (6) months or a fine that shall not exceed five hundred dollars ($500), or both penalties at the discretion of the court.

VIRGIN ISLANDS

V.I. CODE ANN. TIT. 14, § 481 (2010). Neglect of parental duty; causing delinquency of a minor; loitering on streets.

(a) Whoever commits any act or omits the performance of any duty, which act or omission causes a child under the age of 18 to become in need of the care and protection of the juvenile and domestic relations division of the Superior Court of the Virgin Islands, shall be fined not more than $500 or imprisoned not more than 1 year, or both. In addition, the parent or the person responsible for a child's care and/or custody whose child is found in violation of the provisions of subsection (b) of this section may be subject to community service of up to 100 hours for the first offense and for subsequent and repeated offenses may be subject to community service of up to 200 hours or a fine of not more than $500 or both. If the parent or the person responsible for the child's care and/or custody fails to exercise parental authority to prevent a curfew violation, during which a felony was committed, the Virgin Islands Police Department may cause the name or names of the parent or person responsible for the child's care and/or custody to be published in the official police blotter unless the parent or the person responsible for the child's care and/or custody has notified the Police Department that they are unable to exercise parental authority to prevent a curfew violation immediately upon such a violation occurring.

(b) Any child under the age of 16 years found upon or remaining upon the streets or highways after 10:00 p.m., unaccompanied by a person legally responsible for such child's behavior, except the child shows to the satisfaction of the police that he is in transit to or from his home to another place supervised by adults either with the express consent or under the direction of his parent or guardian, shall be taken into custody by the police and held until released to the parent or guardian, who shall be notified forthwith. In addition, the offending child may be subject to community service of up to 100 hours for the first offense; for subsequent and repeated offenses, the offending child may be subject to community service of up to 200 hours or a fine of not more than $500 or both. A child who commits a second or subsequent violation of the curfew herein while operating a motor vehicle may have their driver's license suspended for not more than six (6) months. The child shall be referred to the Department of Human Services for investigation and services.

V.I. CODE ANN. TIT. 14, § 483 (2010). Permitting children to beg.

Whoever--

(1) being a parent, relative, guardian, employer or otherwise, and having in his care, custody or control any child under the age of 12 years, sells, apprentices, gives away, lets out or otherwise disposes of any such child to any person under any name, title, or pretense for the vocation, use, occupation or service of begging in any public street or highway, or in any mendicant business whatsoever; or

(2) takes, receives, hires, employs, uses or has in custody any child for such purposes of any of them--

shall be fined not more than $500 or imprisoned not more than 1 year, or both.

V.I. CODE ANN. TIT. 14, § 486 (2010). Knowledge of sexual abuse of a minor.

Any parent or guardian of a minor under sixteen years of age who knows or reasonably should know that an adult residing in the same household has engaged in sexual intercourse or sodomy, or has had sexual contact with the minor under sixteen years of age and who does not report the offense to the Department of Justice, the U.S. Virgin Islands Police Department (V.I.P.D.), the Department of Health, or the Department of Human Services shall be imprisoned not more than 2 years, or fined not less than $2.000; Provided, however, That in lieu of or in addition to a term of imprisonment, a court may require the parent or guardian to seek family counseling under the direction and supervision of the Commissioner of Human Services in accordance with such terms and conditions as the Court may specify.

V.I. CODE ANN. TIT. 14, § 504 (2010). Child neglect.

Any person who is responsible for the safety or welfare of a child, including, but not limited to, a child's parent, stepparent, guardian, schoolteacher, or baby sitter, who neglects a child, or who knowingly, recklessly or negligently causes or allows a child to suffer physical, mental or emotional injury, or who knowingly, recklessly or negligently deprives a child of any of the basic necessities of life, shall be punished by a fine of not less than $500, or by imprisonment of not more than 15 years, or both.

V.I. CODE ANN. TIT. 14, § 505 (2010). Child abuse.

Any person who abuses a child, or who knowingly or recklessly causes a child to suffer physical, mental or emotional injury, or who knowingly or recklessly causes a child to be placed in a situation where it is reasonably foreseeable that a child may suffer physical, mental or emotional injury or be deprived of any of the basic necessities of life, shall be punished by a fine of not less than $500, or by imprisonment of not more than 20 years, or both.

V.I. CODE ANN. TIT. 14, § 506 (2010). Aggravated child abuse and neglect.

A person perpetrates an act of aggravated child abuse or neglect when:

(1) the child suffers serious physical injury; or

(2) the child suffers serious mental or emotional injury; or

(3) the child dies from such abuse or neglect. A person who is convicted of aggravated child abuse or neglect shall be punished by imprisonment of not less than 5 years but not more than 30 years.

V.I. CODE ANN. TIT. 14, § 1051 (2010). False imprisonment and kidnapping.

Whoever without lawful authority confines or imprisons another person within this Territory against his will, or confines or inveigles or kidnaps another person, with intent to cause him to be confined or imprisoned in this Territory against his will, or to cause him to be sent out of this Territory against his will; and whoever willfully and knowingly sells, or in any manner transfers, for any term, the services or labor of any other person who has been unlawfully seized, taken, inveigled or kidnapped from this Territory to any other state, territory or country, is guilty of kidnapping and shall be imprisoned for not less than one and not more than 20 years. This action shall not apply in any case when a parent abducts his own child.

V.I. CODE ANN. TIT. 14, § 1052 (2010). Kidnapping for ransom, extortion, robbery or rape.

(a) Any person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away any individual by any means whatsoever with intent to hold or detain, or who holds or detains, such individual for ransom, reward or to commit extortion or to exact from any person or entity any money or valuable thing, or any person who kidnaps or carries away any individual to commit robbery, or any person who aids or abets any such act, is guilty of kidnapping for ransom and shall be imprisoned for life.

(b) Whoever abducts, takes or carries away any person by force or threat with the intent to commit rape is guilty of kidnapping and shall be imprisoned for not less than 15 years and shall not be eligible for parole until he has served at least one-half of sentence imposed.

V.I. CODE ANN. TIT. 14, § 1700 (2010). Aggravated rape in the first degree.

(a) Whoever perpetrates an act of sexual intercourse or sodomy with a person not the perpetrator's spouse:

(1) Who is under the age of thirteen, or...

(2) who is under sixteen years of age residing in the same household as the perpetrator, and force, intimidation, or the perpetrator's position of authority over the victim is used to accomplish the sexual act; or

(b) Whoever causes personal injury to a victim as the result of an act of rape as set forth in section 1701 of this title; or

(c) Whoever uses a deadly weapon during the commission of an act of rape as set forth in section 1701--

is guilty of aggravated rape in the first degree and shall be imprisoned for life or for any term of years, but not less than 15 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and

407, Virgin Islands Code, or any other provisions of law, imposition or execution of the fifteen-year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

Whoever is convicted of a second or subsequent offense of aggravated rape in the first degree shall be punished by imprisonment for life or for any term of years, but not less than 25 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of the twenty-five year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

(d) Whoever is convicted of attempted aggravated rape in the first degree shall be punished by imprisonment for not more than 25 years, but not less than 7 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, or any other provision of law, imposition or execution of the seven-year period of incarceration shall not be suspended, nor shall probation, parole or another form of release be granted for this minimum period of incarceration.

(e) Whoever is found guilty of an offense in this section shall receive a psychiatric evaluation and participate in psychosocial counseling.

V.I. CODE ANN. TIT. 14, § 1700A (2010). Aggravated rape in the second degree.

(a) Whoever perpetrates an act of sexual intercourse or sodomy with a person who is under eighteen years but thirteen years or older and not the perpetrator's spouse, or by force, intimidation, or the perpetrator's position of authority over the victim is used to accomplish the sexual act, is guilty of aggravated rape in the second degree and shall be imprisoned for life or for any term in years, but not less than 10 years. "Position of authority" shall include, but not be exclusive to the following: an employer, youth leader, scout leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse, psychologist, guardian ad litem, baby sitter, or substantially similar position, and a police officer or probation officer other than when the officer is exercising custodial control over a minor.

(b) Whoever is convicted of a second or subsequent offense of aggravated rape in the second degree shall be punished by imprisonment for life or for any term of years, but not less than 20 years. Notwithstanding the provisions of title 5, chapters 313, 405 and 407 of this Code, or of any other law, imposition or execution of the twenty-year minimum period of incarceration shall not be suspended; nor shall probation, parole, or any other form of release be granted for the minimum period of incarceration prescribed in this section.

(c) Whoever is convicted of attempted aggravated rape in the second degree shall be punished by imprisonment for not more than 25 years, but not less than 5 years. Notwithstanding the provisions of title 5, chapters 313, 405 and 407, or any other provision of law, imposition or execution of the five-year minimum period of incarceration shall not be suspended, nor shall probation, parole or any other form of release be granted for this minimum period of incarceration.

(d) Whoever is convicted of an offense under this section shall receive a psychiatric evaluation and participate in psychosocial counseling.

V.I. CODE ANN. TIT. 14, § 1701 (2010). Rape in the first degree.

Whoever perpetrates an act of sexual intercourse or sodomy with a person--

(1) when through idiocy, imbecility or any unsoundness of mind, either temporary or permanent, the person is incapable of giving consent, or, by reason of mental or physical weakness or immaturity or any bodily ailment, the person does not offer resistance;

(2) when the person's resistance is forcibly overcome;

(3) when the person's resistance is prevented by fear of immediate and great bodily harm which the person has reasonable cause to believe will be inflicted upon the person;

(4) when the person's resistance is prevented by stupor or weakness of mind produced by an intoxicating, narcotic or anaesthetic agent, or when the person is known by the defendant to be in such state of stupor or weakness of mind from any cause; or

(5) when the person is, at the time, unconscious of the nature of the act and this is known to the defendant--

is guilty of rape in the first degree and shall be imprisoned not less than 10 years nor more than 30 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of this ten-year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

Whoever is convicted of a second or subsequent offense of rape in the first degree shall be punished by imprisonment for life or for any term of years, but not less than 10 years. Notwithstanding the provisions of Title 5, chapters 313, 405 and 407, Virgin Islands Code, or any other provision of law, imposition or execution of the ten-year minimum period of incarceration shall not be suspended; neither shall probation, parole, or any other form of release be granted for this minimum period of incarceration.

V.I. CODE ANN. TIT. 14, § 1702 (2010). Rape in the second degree.

(a) Any person over 18 years of age who perpetrates under circumstances not amounting to rape in the first degree, an act of sexual intercourse or sodomy with a person not the perpetrator's spouse who is at least 16 years but less than 18 years of age, and the perpetrator is 5 years or older than the victim, is guilty of rape in the second degree and shall be imprisoned not more than 10 years.

(b) Whoever is convicted of any offense under this section shall receive a psychiatric evaluation and participate in psychosocial counseling.

V.I. CODE ANN. TIT. 14, § 1703 (2010). Rape in the third degree.

Any person under 18 years of age but over 16 years of age who perpetrates an act of sexual intercourse or sodomy with a person not the perpetrator's spouse who is under 16 years of age but over 13 years of age, under circumstances not amounting to rape in the first degree, is guilty of rape in the third degree and shall be subject to the jurisdiction of the Family Division of the Superior Court pursuant to Title 4, Chapter 11, Virgin Islands Code. In lieu of a term of detention, the court, in its discretion, may recommend appropriate treatment, counseling or family planning.

V.I. CODE ANN. TIT. 14, § 1708 (2010). Unlawful sexual contact in the first degree.

A person who engages in sexual contact with a person not the perpetrator's spouse--

(1) when force or coercion is used to accomplish the sexual contact;

(2) when the other person is under thirteen years of age;

(3) when the other person is under sixteen years of age residing in the same household as the perpetrator, and force, intimidation or the perpetrator's position of authority over the victim is used to accomplish the sexual contact;

(4) when the other person is threatened or placed in fear of imminent and serious bodily injury;

(5) when the other person's ability to consent to or resist the contact has been substantially impaired by an intoxicating, narcotic or anesthetic agent; or

(6) when the other person is unconscious or physically helpless, or that person's mental defect or incapacity is known to the perpetrator--is guilty of unlawful sexual contact and shall be imprisoned not more than 15 years.

V.I. CODE ANN. TIT. 14, § 1709 (2010). Unlawful sexual contact in the second degree.

A person over eighteen years of age who engages in sexual contact with a person not the perpetrator's spouse who is over thirteen but under sixteen years of age is guilty of unlawful sexual contact in the second degree and shall be imprisoned not more than 1 year.

V.I. CODE ANN. TIT. 14, § 1722 (2010). Duty to register.

(a) A person convicted or found not guilty by reason of insanity on or after July 1, 1994 of a criminal offense against a minor or of a sexually violent offense shall register as provided in section 1724 of this chapter.

(b) A person who has been determined to be a sexually violent predator by a court of competent jurisdiction shall register as provided in section 1724 of this chapter.

(c) A person who has been convicted on or after the effective date of this subsection, of the criminal offense relating to the possession or distribution of child pornography shall register as provided in section 1724 of this chapter.

(d) For purposes of this section, a person convicted or found not guilty by reason of insanity in a federal, military or foreign court shall have the same duty to register as any other person under this section.

(e) A person who fails to register as required under this section shall be guilty of a crime.

V.I. CODE ANN. TIT. 14, § 1730 (2010). Penalty.

(a) Any person required to register under this chapter who knowingly fails to so register and keep such registration current shall be fined not less than $3,000 or more than $5,000, or imprisoned for not less than three months or more than two years, or both.

(b) Any person, business, agency, or department that fails to comply with section 1729 of this chapter shall be fined not more than $2,000 for a first conviction; not more than $5,000 for a second conviction for the same offense; and not more than $10,000 for a third conviction for the same offense. In addition, the subject child-care facility shall be closed for not less than seven (7) or more than twenty-one (21) working days after the second conviction, and not less than ninety (90) days after the third conviction.