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JUVENILE SEX OFFENDER REGISTRATION

11 DEL. C. § 4123

- ⦿ Discretion at the time of sentencing as to whether or not the juvenile must register
- ⦿ Discretion to removal the juvenile from the registry
- ⦿ Effective date 10/16/13

SENTENCING

- ⦿ Prior to any sentencing, the Family Court must order a:
 - ⦿ comprehensive evaluation
 - ⦿ risk assessment, and
 - ⦿ treatment recommendations

SENTENCING

- ⦿ Must be completed by a certified mental health professional who specializes in juvenile sex offenders
 - SOMB certification?
- ⦿ If juvenile is already in treatment, current provider may provide the evaluation, risk assessment and treatment recommendations.

MANDATORY REGISTRATION

- ⦿ Juvenile is at least 14 at time of offense
- ⦿ AND
- ⦿ Juvenile commits certain enumerated offenses:

MANDATORY OFFENSES

- ⦿ Rape IV if committed without consent
- ⦿ Rape III
- ⦿ Rape II
- ⦿ Rape I
- ⦿ Sexual Extortion
- ⦿ Bestiality
- ⦿ Continuous Sexual Abuse of a Child
- ⦿ Sex Offender Unlawful Sexual Conduct
- ⦿ Sexual Abuse of Child by Person in Trust

MANDATORY OFFENSES

- Female Genital Mutilation
- Kidnap II if purpose was to violate or abuse the victim sexually
- Kidnap I if purpose was to violate or abuse the victim sexually
- Trafficking persons/Sexual Servitude
- Dealing in Children

MANDATORY OFFENSES

- ⦿ Any felony offense if victim is 5 or under
- ⦿ Includes attempt and conspiracy
- ⦿ No discretion and Court must register at the designated Tier level

DISCRETIONARY REGISTRATION

- ⦿ Any juvenile under age 14
- ⦿ OR
- ⦿ Juveniles aged 14-17, if offense does not require mandatory registration

DISCRETIONARY OFFENSES

- ⦿ Unlawful Sexual Contact III
- ⦿ Unlawful Sexual Contact II
- ⦿ Unlawful Sexual Contact I
- ⦿ Indecent Exposure
- ⦿ Incest
- ⦿ Sexual Exploitation

DISCRETIONARY OFFENSES

- ◉ Dealing in Child Pornography
- ◉ Possession of Child Pornography
- ◉ Sexual Solicitation of a Child
- ◉ Violation of Privacy
- ◉ Promoting Prostitution II
- ◉ Promoting Prostitution I
- ◉ Obscenity

COURT'S AUTHORITY

- ⦿ Relieve juvenile from registration after a hearing
- ⦿ OR
- ⦿ Assign juvenile to a lower tier
- ⦿ IF
- ⦿ Court finds by a preponderance that the juvenile does not pose a threat to public safety

RELEVANT FACTORS

- ① The risk the juvenile poses to the victim, the community and to other potential victims;
- ② The nature and circumstances of the offense;
- ③ The impact on the victim, including the effects of registration and community notification;

RELEVANT FACTORS

- ① The comprehensive evaluation, risk assessment and treatment recommendations or outcomes for the juvenile;
- ① The likelihood of successful rehabilitation, if known; and
- ① The adverse impact of public registration on the juvenile and the rehabilitative process.

REMOVAL

- ① Any juvenile who fits the discretionary category (even if victim was under 5) may petition for removal after:
- ① Two years have passed since date of adjudication
- ① OR
- ① Completion of Treatment
- ① **WHICHEVER IS EARLIER**

RETROACTIVITY

- ⦿ Retroactive provision for juveniles placed on registry prior to effective date
- ⦿ When requested, the Court shall schedule review hearings for juveniles registered prior to October 16, 2011 as soon as practicable

FUTURE CASES

- Going forward, even if placed on the registry after a hearing, juveniles who fall into the discretionary category may petition for removal after two years or completion of treatment
- Offenses designated as mandatory are never subject to removal (except for otherwise discretionary felony against a child 5 and under)

WHAT'S NEXT?

- Need to identify juveniles who are eligible
- PDO database
- Referrals from YRS
- Need records from YRS, PBH and treatment providers
- Need risk assessments

POTENTIAL PROBLEMS

- ⦿ Finding attorneys to handle removals
- ⦿ Finding old records
- ⦿ Funding for evaluations and risk assessments
- ⦿ Adults who were placed on the registry as juveniles
- ⦿ Pro se filings
- ⦿ Data miners/Private websites/Other state registries
- ⦿ Not the same as an expungement

QUESTIONS

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