

Court Services and Offender Supervision Agency

§ 812.2

(c) First degree sexual abuse of a patient or client.

(d) Second degree sexual abuse of a patient or client.

3. Class B also includes offenders who are not included in Class A and have been convicted or found not guilty by reason of insanity under the law of another jurisdiction of offenses that involved conduct that is the same as or substantially similar to that above.

CLASS C OFFENDERS—"TEN YEAR" REGISTRANTS

(Other Offenses Against Adult Victims)

*(D.C. Official Code Secs. 22-4001(8), 4002(a),
4011(b)(2)(C))*

1. Class C includes offenders who are not included in Class A or Class B and have committed any of the following crimes against an adult (that is, a person 18 years of age or older):

- (a) Third degree sexual abuse;
- (b) Fourth degree sexual abuse;
- (c) First or second degree burglary with intent to commit sex offense;
- (d) Kidnapping with intent to commit sex offense;
- (e) Threatening to commit a sexual offense (felony);
- (f) Assault with intent to commit any of the foregoing offenses;
- (g) Attempting to commit any of the foregoing offenses;
- (h) Conspiring to commit any of the foregoing offenses, or;
- (i) Any offense for which the offender agreed in a plea agreement to be subject to sex offender registration requirements.

2. Class C also includes offenders who are not included in Class A or Class B and have been convicted or found not guilty by reason of insanity under the law of another jurisdiction of offenses that involved conduct that is the same as or substantially similar to that above.

EXCEPTIONS (D.C. OFFICIAL CODE SEC. 22- 4016(b))

The following do not constitute registration offenses:

1. Any sexual offense between consenting adults or an attempt, conspiracy or solicitation to commit such an offense, except for offenses to which consent is not a defense as provided in Section 218 of the Anti-Sexual Abuse Act of 1994 (D.C. Official Code §22-3017).
2. Any misdemeanor offense that involved a person's sexual touching or attempted or solicited sexual touching of an undercover law enforcement officer where the person believed that the officer was an adult.
3. Any misdemeanor offense committed against an adult, except where the offender

agrees in a plea agreement to be subject to sex offender registration requirements.

PART 812—COLLECTION AND USE OF DNA INFORMATION

Sec.

812.1 Purpose.

812.2 Individuals subject to DNA collection.

812.3 Coordination with the Federal Bureau of Prisons.

812.4 Collection procedures.

APPENDIX A TO PART 812—QUALIFYING DISTRICT OF COLUMBIA CODE OFFENSES

AUTHORITY: 5 U.S.C. 301; Pub. L. 106-546 (114 Stat. 2726).

SOURCE: 67 FR 54100, Aug. 21, 2002, unless otherwise noted.

§ 812.1 Purpose.

The Court Services and Offender Supervision Agency for the District of Columbia ("CSOSA") cooperates with other federal agencies to ensure that DNA samples from offenders are appropriately furnished to the Federal Bureau of Investigation ("FBI") for DNA analysis. The results of the DNA analyses are to be included in the Combined DNA Index System ("CODIS").

§ 812.2 Individuals subject to DNA collection.

CSOSA is responsible for collecting a DNA sample from each individual under its supervision who is, or has been, convicted of a qualifying District of Columbia Code offense. Qualifying District of Columbia Code offenses were designated by the Council of the District of Columbia in the "DNA Sample Collection Act of 2001." CSOSA provides a listing of these offenses in the Appendix to this part. The list is presented for informational purposes only. Any future revision to the District of Columbia Code sections designating the qualifying offenses will be effective notwithstanding the timing of a conforming revision of the Appendix by CSOSA. CSOSA may choose not to collect a sample from an individual if it determines that CODIS already contains a DNA analysis for the individual.

§ 812.3

§ 812.3 Coordination with the Federal Bureau of Prisons.

(a) CSOSA will coordinate with the Federal Bureau of Prisons in order to obtain documentation regarding the collection of a DNA sample when the Federal Bureau of Prisons releases an inmate to CSOSA's supervision or as requested by CSOSA.

(b) CSOSA shall provide the Federal Bureau of Prisons with documentation regarding the collection of a DNA sample from a District of Columbia Code offender when CSOSA returns the District of Columbia Code offender to the custody of the Federal Bureau of Prisons or as requested by the Federal Bureau of Prisons.

§ 812.4 Collection procedures.

(a) DNA samples will be collected, handled, preserved, and submitted to the FBI in accordance with FBI guidelines.

(b) CSOSA has the authority to use such means as are reasonably necessary to collect a sample from an individual who refuses to cooperate in the collection of the sample. Unless CSOSA determines that there are mitigating circumstances, CSOSA will consider that an individual is refusing to cooperate if:

(1) The individual is being ordered or transferred to CSOSA's supervision, but fails to report to CSOSA for collection of the sample within 15 business days of being sentenced to probation or being discharged from a correctional institution; or

(2) The individual is already under CSOSA supervision and has been notified by his or her Community Supervision Officer of the time to report for collection of the sample, but fails to report for collection of the sample; or

(3) The individual has reported to CSOSA for collection of the sample, but fails to provide the sample after being given a minimum of one hour to do so; or

(4) The individual specifically states that he or she will not cooperate.

(c) When an individual has refused to cooperate in the collection of the sample, CSOSA deems the following to be reasonably necessary means for obtaining the sample:

(1) Impose administrative sanctions;

(2) Request a revocation hearing by the releasing authority; and/or

(3) Refer the individual who refuses to cooperate for criminal prosecution for a class A misdemeanor pursuant to section 4(a)(5) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135b(a)(5)).

[67 FR 54100, Aug. 21, 2002, as amended at 68 FR 19742, Apr. 22, 2003]

APPENDIX A TO PART 812—QUALIFYING DISTRICT OF COLUMBIA CODE OFFENSES

As enacted by the Council of the District of Columbia, the DNA Sample Collection Act of 2001 identifies the criminal offenses listed in Table 1 of this appendix as "qualifying District of Columbia offenses" for the purposes of the DNA Analysis Backlog Elimination Act of 2000 (Pub. L. 106-546, 114 Stat. 2726). Table 2 of this Appendix lists these same offenses in numerical order under the D.C. Code, 1981 Edition. Table 3 of this Appendix lists these same offenses in numerical order under the D.C. Official Code, 2001 Edition. The tables follow:

TABLE 1. OFFENSE LISTING

(1) Section 820 of An Act To establish a code of law for the District of Columbia (arson);

(2) Section 821 of An Act To establish a code of law for the District of Columbia (burning of one's own property with intent to defraud or injure another);

(3) Section 848 of An Act To establish a code of law for the District of Columbia (malicious burning, destruction, or injury of another's property);

(4) Section 803 of An Act To establish a code of law for the District of Columbia (assault with intent to kill, rob, or poison, or to commit first degree sexual abuse, second degree sexual abuse or child sexual abuse);

(5) Section 804 of An Act To establish a code of law for the District of Columbia, (assault with intent to commit mayhem or with dangerous weapon);

(6) Section 806a of An Act To establish a code of law for the District of Columbia (aggravated assault);

(7) Section 432(b) of the Revised Statutes, relating to the District of Columbia (assault on member of police force, campus or university special police, or fire department using a deadly or dangerous weapon);

(8) Section 807 of An Act To establish a code of law for the District of Columbia (mayhem or maliciously disfiguring);

(9) Section 3 of An Act for the protection of children in the District of Columbia and for other purposes (cruelty to children);

(10) Section 9 of An Act for the preservation of the public peace and the protection of

property within the District of Columbia (lewd, indecent, or obscene acts (knowingly in the presence of a child under the age of 16 years));

(11) Section 823 of An Act To establish a code of law for the District of Columbia (burglary);

(12) Section 875 of An Act To establish a code of law for the District of Columbia (incest);

(13) Section 872 of An Act To establish a code of law for the District of Columbia (certain obscene activities involving minors);

(14) Section 3 of the District of Columbia Protection of Minors Act of 1982 (sexual performances using minors);

(15) Section 812 of An Act To establish a code of law for the District of Columbia (kidnapping);

(16) Section 798 of An Act To establish a code of law for the District of Columbia (murder in the first degree);

(17) Section 799 of An Act To establish a code of law for the District of Columbia (murder in the first degree—obstructing railroad);

(18) Section 800 of An Act To establish a code of law for the District of Columbia (murder in the second degree);

(19) Section 802 of An Act To establish a code of law for the District of Columbia (voluntary manslaughter only);

(20) Section 802a of An Act To establish a code of law for the District of Columbia (murder of a law enforcement officer);

(21) Section 813 of An Act To establish a code of law for the District of Columbia (abducting, enticing, or harboring a child for prostitution);

(22) Section 1 of An Act In relation to pandering, to define and prohibit the same and to provide for the punishment thereof (pandering; inducing or compelling an individual to engage in prostitution);

(23) Section 2 of An Act In relation to pandering, to define and prohibit the same and to provide for the punishment thereof (compelling an individual to live life of prostitution against his or her will);

(24) Section 4 of An Act In relation to pandering, to define and prohibit the same and to provide for the punishment thereof (causing spouse to live in prostitution);

(25) Section 5 of An Act In relation to pandering, to define and prohibit the same and to provide for the punishment thereof (detaining an individual in disorderly house for debt there contracted);

(26) Forcible rape, carnal knowledge or statutory rape as these offenses were proscribed until May 23, 1995 by section 808 of An Act To establish a code of law for the District of Columbia;

(27) Section 810 of An Act To establish a code of law for the District of Columbia (robbery);

(28) Section 811 of An Act To establish a code of law for the District of Columbia (attempted robbery);

(29) Section 811a of An Act To establish a code of law for the District of Columbia (carjacking);

(30) Indecent acts with children as this offense was proscribed until May 23, 1995 by section 103(a) of An Act To provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes;

(31) Enticing a child as this offense was proscribed until May 23, 1995 by section 103(b) of An Act To provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes;

(32) Sodomy as this offense was proscribed until May 23, 1995 by section 104(a) of An Act To provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes where the offense was forcible or committed against a minor;

(33) Section 201 of the Anti-Sexual Abuse Act of 1994 (first degree sexual abuse);

(34) Section 202 of the Anti-Sexual Abuse Act of 1994 (second degree sexual abuse);

(35) Section 203 of the Anti-Sexual Abuse Act of 1994 (third degree sexual abuse);

(36) Section 204 of the Anti-Sexual Abuse Act of 1994 (fourth degree sexual abuse);

(37) Section 205 of the Anti-Sexual Abuse Act of 1994 (misdemeanor sexual abuse);

(38) Section 207 of the Anti-Sexual Abuse Act of 1994 (first degree child sexual abuse);

(39) Section 208 of the Anti-Sexual Abuse Act of 1994 (second degree child sexual abuse);

(40) Section 209 of the Anti-Sexual Abuse Act of 1994 (enticing a child);

(41) Section 212 of the Anti-Sexual Abuse Act of 1994 (first degree sexual abuse of a ward);

(42) Section 213 of the Anti-Sexual Abuse Act of 1994 (second degree sexual abuse of a ward);

(43) Section 214 of the Anti-Sexual Abuse Act of 1994 (first degree sexual abuse of a patient or client);

(44) Section 215 of the Anti-Sexual Abuse Act of 1994 (second degree sexual abuse of a patient or client);

(45) Section 217 of the Anti-Sexual Abuse Act of 1994 (attempts to commit sexual offenses); and

(46) Attempt or conspiracy to commit any of the offenses listed in items (1) through (45) of this table.

TABLE 2. OFFENSE LISTING (D.C. OFFICIAL CODE, 1981 EDITION)

- (1) D.C. Code section 22-401—arson;
- (2) D.C. Code section 22-402—burning of one's own property with intent to defraud or injure another;
- (3) D.C. Code section 22-403—malicious burning, destruction or injury of another's property;

Pt. 812, App. A

28 CFR Ch. VIII (7-1-23 Edition)

- (4) D.C. Code section 22-501—assault with intent to kill, rob, or poison, or to commit first degree sexual abuse, second degree sexual abuse or child sexual abuse;
- (5) D.C. Code section 22-502—assault with intent to commit mayhem or with dangerous weapon;
- (6) D.C. Code section 22-504.1—aggravated assault;
- (7) D.C. Code section 22-505(b)—assault on member of police force, campus or university special police, or fire department using a deadly or dangerous weapon;
- (8) D.C. Code section 22-506—mayhem or maliciously disfiguring;
- (9) D.C. Code section 22-901—cruelty to children;
- (10) D.C. Code section 22-1112(b)—lewd, indecent or obscene acts (knowingly in the presence of a child under the age of 16 years);
- (11) D.C. Code section 22-1801—burglary;
- (12) D.C. Code section 22-1901—incest;
- (13) D.C. Code section 22-2001—certain obscene activities involving a minor;
- (14) D.C. Code section 22-2012—sexual performances using minors;
- (15) D.C. Code section 22-2101—kidnapping;
- (16) D.C. Code section 22-2401—murder in the first degree;
- (17) D.C. Code section 22-2402—murder in the first degree (obstructing railroad);
- (18) D.C. Code section 22-2403—murder in the second degree;
- (19) D.C. Code section 22-2405—voluntary manslaughter only;
- (20) D.C. Code section 22-2406—murder of a law enforcement officer;
- (21) D.C. Code section 22-2704—abducting, enticing, or harboring a child for prostitution;
- (22) D.C. Code section 22-2705—pandering; inducing or compelling an individual to engage in prostitution;
- (23) D.C. Code section 22-2706—compelling an individual to live life of prostitution against his or her will;
- (24) D.C. Code section 22-2708—causing spouse to live in prostitution;
- (25) D.C. Code section 22-2709—detaining an individual in disorderly house for debt there contracted;
- (26) D.C. Code section 22-2801 [repealed May 23, 1995]—forcible rape, carnal knowledge or statutory rape;
- (27) D.C. Code section 22-2901—robbery;
- (28) D.C. Code section 22-2902—attempted robbery;
- (29) D.C. Code section 22-2903—carjacking;
- (30) D.C. Code section 22-3501(a) [repealed May 23, 1995]—indecent acts with children;
- (31) D.C. Code section 22-3501(b) [repealed May 23, 1995]—enticing a child;
- (32) D.C. Code section 22-3502(a) [repealed May 23, 1995]—sodomy where the offense was forcible or committed against a minor;
- (33) D.C. Code section 22-4102—first degree sexual abuse;

- (34) D.C. Code section 22-4103—second degree sexual abuse;
- (35) D.C. Code section 22-4104—third degree sexual abuse;
- (36) D.C. Code section 22-4105—fourth degree sexual abuse;
- (37) D.C. Code section 22-4106—misdemeanor sexual abuse;
- (38) D.C. Code section 22-4108—first degree child sexual abuse;
- (39) D.C. Code section 22-4109—second degree child sexual abuse;
- (40) D.C. Code section 22-4110—enticing a child;
- (41) D.C. Code section 22-4113—first degree sexual abuse of a ward;
- (42) D.C. Code section 22-4114—second degree sexual abuse of a ward;
- (43) D.C. Code section 22-4115—first degree sexual abuse of a patient or client;
- (44) D.C. Code section 22-4116—second degree sexual abuse of a patient or client;
- (45) D.C. Code section 22-4118—attempts to commit sexual offenses;
- (46) Attempt or conspiracy to commit any of the offenses listed in items (1) through (45) of this table.

TABLE 3. OFFENSE LISTING (D.C. OFFICIAL CODE, 2001 EDITION)

- (1) D.C. Code section 22-301—arson;
- (2) D.C. Code section 22-302—burning of one's own property with intent to defraud or injure another;
- (3) D.C. Code section 22-303—malicious burning, destruction, or injury of another's property;
- (4) D.C. Code section 22-401—assault with intent to kill, rob, or poison, or to commit first degree sexual abuse, second degree sexual abuse or child sexual abuse;
- (5) D.C. Code section 22-402—assault with intent to commit mayhem or with dangerous weapon;
- (6) D.C. Code section 22-404.01—aggravated assault;
- (7) D.C. Code section 22-405(b)—assault on member of police force, campus or university special police, or fire department using a deadly or dangerous weapon;
- (8) D.C. Code section 22-406—mayhem or maliciously disfiguring;
- (9) D.C. Code section 22-801—burglary;
- (10) D.C. Code section 22-1101—cruelty to children;
- (11) D.C. Code section 22-1312(b)—lewd, indecent, or obscene acts (knowingly in the presence of a child under the age of 16 years);
- (12) D.C. Code section 22-1901—incest;
- (13) D.C. Code section 22-2001—kidnapping;
- (14) D.C. Code section 22-2101—murder in the first degree;
- (15) D.C. Code section 22-2102—murder in the first degree—obstructing railroad;
- (16) D.C. Code section 22-2103—murder in the second degree;

Court Services and Offender Supervision Agency

§813.1

(17) D.C. Code section 22-2105—voluntary manslaughter only;

(18) D.C. Code section 22-2106—murder of a law enforcement officer;

(19) D.C. Code section 22-2201—certain obscene activities involving minors;

(20) D.C. Code section 22-2704—abducting, enticing, or harboring a child for prostitution;

(21) D.C. Code section 22-2705—pandering; inducing or compelling an individual to engage in prostitution;

(22) D.C. Code section 22-2706—compelling an individual to live life of prostitution against his or her will;

(23) D.C. Code section 22-2708—causing spouse to live in prostitution;

(24) D.C. Code section 22-2709—detaining an individual in disorderly house for debt there contracted;

(25) D.C. Code section 22-2801—robbery;

(26) D.C. Code section 22-2802—attempted robbery;

(27) D.C. Code section 22-2803—carjacking;

(28) D.C. Code section 22-3002—first degree sexual abuse;

(29) D.C. Code section 22-3003—second degree sexual abuse;

(30) D.C. Code section 22-3004—third degree sexual abuse;

(31) D.C. Code section 22-3005—fourth degree sexual abuse;

(32) D.C. Code section 22-3006—misdemeanor sexual abuse;

(33) D.C. Code section 22-3008—first degree child sexual abuse;

(34) D.C. Code section 22-3009—second degree child sexual abuse;

(35) D.C. Code section 22-3010—enticing a child;

(36) D.C. Code section 22-3013—first degree sexual abuse of a ward;

(37) D.C. Code section 22-3014—second degree sexual abuse of a ward;

(38) D.C. Code section 22-3015—first degree sexual abuse of a patient or client;

(39) D.C. Code section 22-3016—second degree sexual abuse of a patient or client;

(40) D.C. Code section 22-3018—attempts to commit sexual offenses;

(41) D.C. Code section 22-3102—sexual performances using minors;

(42) D.C. Code section 22-3801(a) [repealed May 23, 1995]—indecent acts with children;

(43) D.C. Code section 22-3801(b) [repealed May 23, 1995]—enticing a child;

(44) D.C. Code section 22-3802(a) [repealed May 23, 1995]—sodomy where the offense was forcible or committed against a minor;

(45) D.C. Code section 22-4801 [repealed May 23, 1995]—forcible rape, carnal knowledge or statutory rape;

(46) D.C. Code section 22-1803 or section 22-1805a—attempt or conspiracy to commit any

of the offenses listed in items (1) through (45) of this table.

[67 FR 54100, Aug. 21, 2002, as amended at 68 FR 19742, Apr. 22, 2003]

PART 813—GUIDANCE DEVELOPMENT PROCEDURES

Sec.

813.1 Overview of guidance development process.

813.2 Guidance management process for CSOSA.

813.3 Requirements for clearance of CSOSA guidance documents.

813.4 Guidance development process for Pretrial Services Agency (PSA).

813.5 Required elements of guidance documents.

813.6 Public access to and notification of effective guidance documents.

813.7 Definition of “significant guidance documents”.

813.8 Significant guidance documents.

813.9 Petitions for withdrawal or modification of guidance.

AUTHORITY: 5 U.S.C. 301; E.O. 13891, 84 FR 55235.

SOURCE: 85 FR 29865, May 19, 2020, unless otherwise noted.

§813.1 Overview of guidance development process.

(a) This part governs all Court Services and Offender Supervision Agency for the District of Columbia (CSOSA) and Pretrial Services Agency (PSA) employees and contractors involved with all phases of implementing CSOSA guidance documents.

(b) The procedures set forth in this part apply to all guidance documents, issued by all components of CSOSA and PSA.

(c) For purposes of this part, “guidance document” means an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of statute or regulation. Guidance documents do not have the force and effect of law and are not meant to bind the public in any way. A guidance document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.