SPONSOR: Rep. Romer & Sen. Townsend & Rep. Morrison
Reps. Baumbach, Bolden, Griffith, Harris, Heffernan;
Sens. Gay, Hoffner, Lockman, Pinkney, Poore, Sturgeon

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 186
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO INDIVIDUALS REQUIRED TO REGISTER AS SEX OFFENDERS FOR ACTS COMMITTED WHEN THEY WERE CHILDREN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4123, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4123. Juveniles adjudicated delinquent of sex offenses.

(a) Notwithstanding any law, rule or regulation to the contrary, this section shall apply to any sex offender who was a juvenile on the date of the offense and adjudicated delinquent by the Family Court.

(b) Prior to sentencing any juvenile adjudicated delinquent of a sex offense, Family Court shall order and receive a comprehensive evaluation, risk assessment and treatment recommendations for said juvenile by a certified mental health professional who specializes in the evaluation and/or treatment of juvenile sex offenders. If said juvenile is already in treatment at the time of adjudication, the current treatment provider may provide the evaluation, risk assessment and treatment recommendations required above.

(c) Following receipt by Family Court and the parties of the comprehensive evaluation, risk assessment and treatment recommendations required by subsection (b) of this section, Family Court shall conduct a sentencing hearing in which the Court shall address appropriate treatment for the juvenile, and the registration and community notification requirements for the juvenile as follows:

(1) If the juvenile was at least 14 years old on the date of the sex offense, and was adjudicated delinquent of any of the offenses enumerated in ~~§ 770(a)(3)a. of this title where "without the victim's consent" has the definition specified in § 761(k) of this title, §§ 771-778, § 780, § 783 or § 783A of this title if the purpose of the crime was to violate or abuse the victim sexually, § 787(b)(3) and (4), or § 1100A of this title, or if the victim of the felony level offense was 5 years old or younger,~~ §§ 770(a)(3)a., 771, 772, 773, 776, or 778 of this title, or of conspiracy, under §§ 512 and 513 of this title, or attempt, under § 531 of this title, to commit any of those enumerated offenses, the juvenile shall be immediately registered as a sex offender as prescribed by § 4120 of this title, and the community shall be

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provided notification as prescribed by § 4121 of this title. ~~The Family Court shall have no discretion to modify these registration or community notification requirements.~~

(2) If the juvenile does not fit the criteria set forth in paragraph (c)(1) of this section above, the Family Court shall have the discretion to relieve the juvenile of registration and community notification requirements or to assign such juvenile to a lower tier than that prescribed by § 4121 of this title if the Court determines by a preponderance of the evidence that such juvenile is not likely to pose a threat to public safety if relieved of the requirements or assigned to a lower tier. In making this determination, the Family Court shall consider all relevant factors, including:

a. The risk the juvenile poses to the victim, the community and to other potential victims;

b. The nature and circumstances of the offense;

c. The impact on the victim, including the effects of registration and community notification;

d. The comprehensive evaluation, risk assessment and treatment recommendations or outcomes for the juvenile required by subsection (b) of this section;

e. The likelihood of successful rehabilitation, if known; and

f. The adverse impact of public registration on the juvenile and the rehabilitative process.

(d) ~~Any~~ A juvenile ~~who does not fit the criteria set forth in paragraph (c)(1) of this section above and has been registered as a sex offender,~~ may through his or her parent or guardian, or upon becoming an adult, petition Family Court for a registry review hearing. ~~hearing as set forth below. Provided, however, that the prohibition involving offenses where the victim was 5 years old or younger shall not apply to this section. The Family Court shall hold the hearing at either the conclusion of treatment or 2 years from date of adjudication, whichever comes first.~~ For offenses enumerated in paragraph (c)(1) of this section, a registry review petition may be filed no sooner than 5 years from the date of the adjudication. For all other offenses, a registry review petition may be filed no sooner than at the conclusion of treatment or 2 years from the date of the adjudication, whichever comes first. Following a hearing, Family Court may maintain the current tier designation for the adjudicated offense pursuant to § 4121 of this title, or where it appears by a preponderance of the evidence after consideration of the factors set forth in paragraph (c)(2) of this section above that modification will not pose a threat to public safety, the Court may relieve the person of all registration and notification requirements or assign the person to a lower tier. All such petitions shall be filed in the Family Court in the county in which such case was adjudicated. The provisions of this paragraph ~~shall be applicable whether the sex offender registration occurred prior to or after October 16, 2013, and in the case of adjudication occurring before October 16, 2011, the Family Court shall hold the review hearing as soon as practicable after receiving a petition.~~ apply to adjudications occurring both before and after [the effective date of this Act].

(e) ~~If a juvenile does not fit the criteria of paragraph (c)(1) of this section, the~~ The decision of the Family Court with regard to ~~registration~~ discretionary registration, modification, or removal may be appealed by the State or the juvenile.