

United States Code Annotated

Title 42. The Public Health and Welfare

Chapter 151. Child Protection and Safety

Subchapter I. Sex Offender Registration and Notification

Part A. Sex Offender Registration and Notification

42 U.S.C.A. § 16911

§ 16911. Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators

Effective: July 27, 2006

[Currentness](#)

In this subchapter the following definitions apply:

(1) Sex offender

The term “sex offender” means an individual who was convicted of a sex offense.

(2) Tier I sex offender

The term “tier I sex offender” means a sex offender other than a tier II or tier III sex offender.

(3) Tier II sex offender

The term “tier II sex offender” means a sex offender other than a tier III sex offender whose offense is punishable by imprisonment for more than 1 year and--

(A) is comparable to or more severe than the following offenses, when committed against a minor, or an attempt or conspiracy to commit such an offense against a minor:

(i) sex trafficking (as described in [section 1591 of Title 18](#));

(ii) coercion and enticement (as described in [section 2422\(b\) of Title 18](#));

(iii) transportation with intent to engage in criminal sexual activity (as described in section 2423(a))¹ of Title 18;

(iv) abusive sexual contact (as described in [section 2244 of Title 18](#));

(B) involves--

(i) use of a minor in a sexual performance;

(ii) solicitation of a minor to practice prostitution; or

(iii) production or distribution of child pornography; or

(C) occurs after the offender becomes a tier I sex offender.

(4) Tier III sex offender

The term “tier III sex offender” means a sex offender whose offense is punishable by imprisonment for more than 1 year and--

(A) is comparable to or more severe than the following offenses, or an attempt or conspiracy to commit such an offense:

(i) aggravated sexual abuse or sexual abuse (as described in [sections 2241 and 2242 of Title 18](#)); or

(ii) abusive sexual contact (as described in [section 2244 of Title 18](#)) against a minor who has not attained the age of 13 years;

(B) involves kidnapping of a minor (unless committed by a parent or guardian); or

(C) occurs after the offender becomes a tier II sex offender.

(5) Amie Zyla expansion of sex offense definition

(A) Generally

Except as limited by subparagraph (B) or (C), the term “sex offense” means--

(i) a criminal offense that has an element involving a sexual act or sexual contact with another;

(ii) a criminal offense that is a specified offense against a minor;

(iii) a Federal offense (including an offense prosecuted under [section 1152](#) or [1153 of Title 18](#)) under [section 1591](#), or chapter 109A, 110 (other than [section 2257](#), [2257A](#), or [2258](#)), or [117, of Title 18](#);

(iv) a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of [Public Law 105-119](#) ([10 U.S.C. 951](#) note); or

(v) an attempt or conspiracy to commit an offense described in clauses (i) through (iv).

(B) Foreign convictions

A foreign conviction is not a sex offense for the purposes of this subchapter if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established under [section 16912](#) of this title.

(C) Offenses involving consensual sexual conduct

An offense involving consensual sexual conduct is not a sex offense for the purposes of this subchapter if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

(6) Criminal offense

The term “criminal offense” means a State, local, tribal, foreign, or military offense (to the extent specified by the Secretary of Defense under section 115(a)(8)(C)(i) of [Public Law 105-119 \(10 U.S.C. 951 note\)](#)) or other criminal offense.

(7) Expansion of definition of “specified offense against a minor” to include all offenses by child predators

The term “specified offense against a minor” means an offense against a minor that involves any of the following:

- (A) An offense (unless committed by a parent or guardian) involving kidnapping.
- (B) An offense (unless committed by a parent or guardian) involving false imprisonment.
- (C) Solicitation to engage in sexual conduct.
- (D) Use in a sexual performance.
- (E) Solicitation to practice prostitution.
- (F) Video voyeurism as described in [section 1801 of Title 18](#).
- (G) Possession, production, or distribution of child pornography.
- (H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
- (I) Any conduct that by its nature is a sex offense against a minor.

(8) Convicted as including certain juvenile adjudications

The term “convicted” or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in [section 2241 of Title 18](#)), or was an

attempt or conspiracy to commit such an offense.

(9) Sex offender registry

The term “sex offender registry” means a registry of sex offenders, and a notification program, maintained by a jurisdiction.

(10) Jurisdiction

The term “jurisdiction” means any of the following:

(A) A State.

(B) The District of Columbia.

(C) The Commonwealth of Puerto Rico.

(D) Guam.

(E) American Samoa.

(F) The Northern Mariana Islands.

(G) The United States Virgin Islands.

(H) To the extent provided and subject to the requirements of [section 16927](#) of this title, a federally recognized Indian tribe.

(11) Student

The term “student” means an individual who enrolls in or attends an educational institution, including (whether public or

private) a secondary school, trade or professional school, and institution of higher education.

(12) Employee

The term “employee” includes an individual who is self-employed or works for any other entity, whether compensated or not.

(13) Resides

The term “resides” means, with respect to an individual, the location of the individual’s home or other place where the individual habitually lives.

(14) Minor

The term “minor” means an individual who has not attained the age of 18 years.

CREDIT(S)

(Pub.L. 109-248, Title I, § 111, July 27, 2006, 120 Stat. 591.)

Footnotes

¹

So in original. The second closing parenthesis probably should follow “18”.

42 U.S.C.A. § 16911, 42 USCA § 16911

Current through P.L. 114-254. Also includes P.L. 114-256 to 114-260 and 114-271.

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