

CONSULTATION DRAFT

22 January, 2009

CAYMAN ISLANDS



Supplement No.
dated

published with Gazette No.
, 2009.

**A BILL FOR A LAW TO ESTABLISH A SEX OFFENDER REGISTRY;
TO MAKE PROVISION FOR THE REQUIREMENT TO REPORT BY
SEX OFFENDERS; AND TO MAKE PROVISION FOR MATTERS
CONNECTED THEREWITH**

THE SEX OFFENDER REGISTER BILL, 2009

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to establish a Sex Offender Registry which will manage and maintain a register of sex offenders to be known as the Sex Offender Register.

It provides for the requirement of notification by sex offenders of personal information upon registration, such as full name, date of birth, residence and place of employment; and thereafter the re-registration of the sex offender on the anniversary of the initial registration for the prescribed registration period. There is also a requirement to report and notify the Registry of any subsequent change to any of the personal information provided.

The Bill provides for the taking of photographs, fingerprints and DNA samples at registration.

Provision is made for the notification of the Registry of any intention to travel outside of the Islands. There is a requirement to notify the Registry where a sex offender intends to travel within the Islands but away from his usual place of abode or residence for any period in excess of twenty-four hours.

Provision is made for restricted access to the Register.

THE SEX OFFENDER REGISTER BILL, 2009

ARRANGEMENT OF CLAUSES

1. Short title
 2. Interpretation
 3. Establishment of Sex Offender Registry and Sex Offender Register
 4. Person required to register
 5. Particulars required at registration
 6. Subsequent obligation to report
 7. Requirement to report in the event of travel outside of the Islands
 8. Requirement to report in the event of travel within the Islands
 9. Registration period
 10. Acknowledgement of report
 11. Access to Register
 12. Regulations
 13. Transitional provisions
- Schedule – Sexual offences in respect of which registration is required

CAYMAN ISLANDS

**A BILL FOR A LAW TO ESTABLISH A SEX OFFENDER REGISTRY;
TO MAKE PROVISION FOR THE REQUIREMENT TO REPORT BY
SEX OFFENDERS; AND TO MAKE PROVISION FOR MATTERS
CONNECTED THEREWITH**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Sex Offender Register Law, 2009.

Short title

2. In this Law-

Interpretation

“approved authority” means any person or institution prescribed pursuant to section 11(3);

“Caymanian” has the same meaning as in the Immigration Law (2007 Revision);

(2007 Revision)

“Code” means the Penal Code (2007 Revision);

(2007 Revision)

“Register” means the Sex Offender Register established under section 3;

“Registry” means the Sex Offender Registry established under section 3;

“sex offender” means any person required to be registered pursuant to section 4;

The Sex Offender Register Bill, 2009

Schedule	“scheduled offence” means an offence specified in the Schedule; and
(2005 Revision)	“young person” has the same meaning as in the Youth Justice Law (2005 Revision).
Establishment of a Sex Offender Registry and Sex Offender Register	<p>3. (1) There is established a Sex Offender Registry and a Sex Offender Register.</p> <p>(2) The Registry shall be under the day to day management of the [Commissioner of Police][Department of Community Rehabilitation][Portfolio of Internal and External Affairs] and the Register shall be maintained thereby.</p> <p>(3) The Register may be maintained by electronic means and shall consist of such information as is required pursuant to section 5 and such other information as may be prescribed.</p>
Person required to register	<p>4. (1) Subject to subsection (2), a person who-</p> <ul style="list-style-type: none">(a) is convicted of a scheduled offence;(b) is found not guilty of or not criminally responsible for a scheduled offence on account of a mental disorder;(c) is released from custody pending the determination of an appeal in respect of a conviction for a scheduled offence; or(d) is cautioned pursuant to section 28 of the Youth Justice Law (2005 Revision) for a scheduled offence, <p>is a sex offender and shall, within twenty-four hours of that person’s conviction, finding, release or caution, report to the Registry to be registered.</p> <p>(2) Where the sex offender referred to in subsection (1) is a young person, the court before which he appears, may appoint an adult to report to the Registry and register that sex offender and that adult shall be liable for any re-registration or other reporting required under this Law for the registration period.</p> <p>(3) Any Caymanian or other person permanently residing in the Islands who, outside of the Islands-</p> <ul style="list-style-type: none">(a) has been convicted of an offence similar to a scheduled offence;(b) has been found not guilty of or not criminally responsible for an offence similar to a scheduled offence on account of a mental disorder;(c) has been released from custody pending the determination of an appeal in respect of a conviction for an offence similar to a scheduled offence; or(d) has been cautioned for an offence similar to a scheduled offence,
(2005 Revision)	

is a sex offender and shall upon his return to the Island report to the Registry to be registered.

(4) A sex offender who is required to register pursuant to this section and who fails to be registered commits an offence and is liable on summary conviction to imprisonment for a term of five years.

5. (1) Where, pursuant to section 4 a sex offender, reports to the Registry that sex offender shall provide the following particulars-

Particulars required at registration

- (a) his full name, including any other name used or alias prior to or at the time of registration;
- (b) his date of birth;
- (c) his place of abode or residence at the time of registration;
- (d) details of any property within the Island where he may regularly visit or has resided, prior to or at the time of registration; and
- (e) details of his employment, including type of work and location.

(2) Upon registration, the sex offender may have the following taken-

- (a) photographs of the face and any distinguishing features;
- (b) fingerprints; and
- (c) a buccal swab.

(3) A sex offender who at the time of registration provides particulars which he knows to be false commits an offence and is liable on summary conviction to imprisonment for a term of five years.

6. (1) A sex offender shall, after his initial registration at the Registry, subsequently report to the Registry-

Subsequent obligation to report

- (a) on the anniversary of that registration and thereafter on each anniversary until the expiration of his registration period as specified in section 9; and
- (b) within forty-eight hours of the change in any of the particulars provided pursuant to section 5,

to be re-registered.

(2) Where a sex offender intends to make a change to any of the particulars provided pursuant to section 5, he may no earlier than three days before the change is expected to take effect, report to the Registry and register that change.

(3) Where subsequent to a report made pursuant to subsection (2), the change is not effected, the sex offender shall within two days of the failure to

effect the change, report to the Registry to register that the change was not effected.

(4) A sex offender who fails to re-register or report a change pursuant to this section commits an offence and is liable on summary conviction to imprisonment for a term of five years.

Requirement to report in the event of travel outside of the Islands

7. (1) Subject to subsection (2), a sex offender shall not leave the Islands without reporting to the Registry no later than three days prior to his intended date of travel, his intention to leave and providing-

- (a) details of his itinerary, travel and destination, particularly the identity of any carrier he intends to use for the purposes of his departure from and return to the Islands;
- (b) details of his accommodation and telephone contact while overseas; and
- (c) details as to the purpose of travel.

(2) Where the purpose of travel is due to an emergency, the requirement to report to the Registry shall be within twenty-four hours of the intended date of travel and proof of the nature of the emergency shall be provided in addition to the requirements required under subsection (1)(a), (b) and (c).

(3) A sex offender who-

- (a) travels outside of the Islands without reporting pursuant to subsections (1) and (2); or
- (b) provides information pursuant to subsections (1) or (2) which he knows to be false in relation to his travel,

commits an offence and is liable on summary conviction to imprisonment for a term of five years.

Requirement to report in the event of travel within the Islands

8. (1) Where a sex offender intends to travel within the Islands but away from his usual place of abode or residence for any period in excess of twenty-four hours, he shall, no later than twenty-four hours prior to his intended date of travel, report to the Registry providing-

- (a) details of his intended destination;
- (b) the intended duration of his stay away from his usual place of abode or residence; and
- (c) details as to the purpose of travel.

(2) A sex offender who-

- (a) travels away from his usual place of abode or residence without reporting pursuant to subsection (1); or

- (b) provides information pursuant to subsection (1) which he knows to be false in relation to his travel,

commits an offence and is liable on summary conviction to imprisonment for a term of five years.

9. (1) The registration period for which a sex offender is required to report to the Registry shall be- Registration period

- (a) life-
 - (i) where that sex offender had been sentenced to imprisonment for a term in excess of thirty months; or
 - (ii) where that sex offender had been found not guilty or not criminally responsible on account of a mental disorder;
- (b) ten years where that sex offender had been sentenced to imprisonment for a term in excess of six months and less than thirty months;
- (c) seven years where that sex offender had been sentenced to imprisonment for a term of six months or less; or
- (d) five years where that sex offender had been sentenced to a non-custodial sentence.

(2) Where the sex offender is a young person, the registration period shall-

- (a) except in relation to paragraph (a) and unless otherwise specified by the court before which he appears, be one-half of that provided in subsection (1)(b), (c) and (d), as the case may be; or
- (b) where he was cautioned under the Youth Justice Law (2005 Revision), be two and one-half years. (2005 Revision)

10. Where a sex offender makes a report to the Registry, he shall receive an acknowledgement of that report in the manner prescribed from the person to whom the report is made. Acknowledgement of report

11. (1) Subject to subsection (2), access to the Register shall be restricted to the Registry. Access to Register

(2) The Registry may, where it is in the interest of the due administration of justice to do so, grant to an approved authority access to the Register.

(3) The Governor in Cabinet may by Order, prescribe a list of approved authorities for the purposes of this section.

- (4) A person who-
 - (a) grants access; or

(b) provides information contained in the Register,
to any person other than an approved authority commits an offence and is liable
on summary conviction to imprisonment for a term of five years.

Regulations

12. The Governor in Cabinet may make regulations prescribing-

- (a) [the location[s] of the Registry];
- (b) the procedure for entry of information into the Register;
- (c) the form and contents of the Register;
- (d) the appointment and duties of officers and staff of the Registry;
- (e) the use and release of information contained in the Register; and
- (f) any other matter necessary to give effect to the provisions of this Law.

Transitional provisions

13. (1) Where, at the commencement of this Law, a person-

- (a) has been convicted of a scheduled offence but has not been dealt with in respect of that offence;
- (b) has been found not guilty of or not criminally responsible for a scheduled offence on account of a mental disorder but has not been dealt with in respect of that offence; or
- (c) has been released from custody pending the determination of an appeal in respect of a conviction for a scheduled offence;

that person shall be required to report to the Registry and be registered as a sex offender and shall provide the particulars specified in section 5.

(2) Where, at the commencement of this Law, a person is serving a sentence of imprisonment or a non-custodial sentence in relation to a scheduled offence, that person shall on the completion of the sentence report to the Registry to be registered as a sex offender and shall provide the particulars specified in section 5.

SCHEDULE

(Sections 4 and 13)

Sexual Offences in respect of which registration is required

Section 127 of the Code - Rape

Section 130 of the Code - Taking away a woman against her will for purpose of marriage or carnal knowledge

Section 132 of the Code - Indecent assaults on females

Section 134 of the Code - Defilement of girls under sixteen years of age, etc.

Section 135 of the Code - Defilement of idiots or imbeciles

Section 137 of the Code - Administering drugs, etc., to a person

Section 144 of the Code - Unnatural offences

Section 145 of the Code - Indecent assault on a man

Section 146 of the Code - Incest by males

Section 147 of the Code - Incest by females

Passed by the Legislative Assembly the day of , 2009.

Speaker.

Clerk of the Legislative Assembly.