

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.

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

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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 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