

*Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 58,
No. 14, 4th February, 2019*
No. 2 of 2019

Fourth Session Eleventh Parliament Republic of
Trinidad and Tobago

SENATE

BILL

AN ACT to amend the Sexual Offences Act,
Chap. 11:28

THE SEXUAL OFFENCES (AMENDMENT) BILL, 2019

Explanatory Notes

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of this Bill is to amend the Sexual Offences Act, Chap. 11:28.

Pursuant to section 13 of the Constitution, this Bill would require to be passed by a special majority of three-fifths of all the members of each House of Parliament. The Bill would further provide for the Act for which this is the Bill to have effect even though inconsistent with sections 4 and 5 of the Constitution.

The Bill contains 11 clauses.

Clause 1 would set out the short title of the Bill.

Clause 2 would provide for the Bill to come into operation on Proclamation.

Clause 3 would provide for the Act to have effect even though inconsistent with sections 4 and 5 of the Constitution.

Clause 4 would provide for the interpretation of the words “the Act” to mean the Sexual Offences Act, Chap. 11:28.

Clause 5 would provide for the amendment to section 2 of the Act to insert the definitions of certain words and phrases and for the deletion of the definition of “minor”.

Clause 6 would provide for the deletion of the word “minor” and the substitution of the word “child” throughout the Act and for an amendment to section 27 to delete the word “minor’s” and substitute the word “child’s”.

Clause 7 would provide for the amendment to section 2A of the Act to expressly state that the Act would bind the State.

Clause 8 would provide for section 26 of the Act to be amended to insert a reference to specified sections of the Trafficking in Persons Act, Chap. 12:10, to harmonise the age of liability for the commission of a sexual offence under this Act, the Children Act, Chap. 46:01 and the Trafficking in Persons Act, Chap. 12:10.

Clause 9 would provide for the amendment to section 31 of the Act to expand the number of offences for which specified persons are to report suspected abuse of a minor.

Clause 10 would provide for the repeal and substitution of Part III of the Act to allow for the reestablishment of the National Sex Offender Register and the amendment of the notification requirements for registered sex offenders, the insertion of a new Part IV and Schedules.

Clause 11 would provide for consequential amendments to be made to certain Acts.

THE SEXUAL OFFENCES (AMENDMENT) BILL, 2019

Arrangement of Clauses

Clause

1. Short title
2. Commencement
3. Act inconsistent with Constitution
4. Interpretation
5. Section 2 amended
6. Amendment of references to "minors"
7. Section 2A inserted
8. Section 26 amended
9. Section 31 amended
10. Section 35 inserted, Part III repealed and substituted and Part IV and Schedules inserted
11. Consequential amendments

SCHEDULE

BILL

AN ACT to amend the Sexual Offences Act,
Chap. 11:28

[, 2019]

WHEREAS it is enacted by section 13(1) of the ^{Preamble} Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

- | | |
|--|--|
| Enactment | ENACTED by the Parliament of Trinidad and Tobago as follows: |
| Short title | 1. This Act may be cited as the Sexual Offences (Amendment) Act, 2019. |
| Commencement | 2. This Act comes into operation on such date as is fixed by the President by Proclamation. |
| Act inconsistent with Constitution Chap. 1:01 | 3. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution. |
| Interpretation Chap.11:28 | 4. In this Act, “the Act” means the Sexual Offences Act. |
| Section 2 amended | 5. The Act is amended in section 2 by— |
| | (a) inserting the following definitions in the appropriate alphabetical sequence: |
| Chap. 18:01 | ““Chief Immigration Officer” has the meaning assigned to it under section 2 of the Immigration Act; |
| | “child” means a person under the age of eighteen years; |
| | “Commissioner of Police” means the person holding or acting in the office of Commissioner of Police; |

- “Commissioner of Prisons” means the person holding or acting in the office of Commissioner of Prisons;
- “designated officer” means a police officer of or above the rank of sergeant;
- “health care facility” has the meaning assigned to it under section 2 of the Regional Health Authorities Chap. 29:05 Act;
- “main address”, in relation to a registered sex offender, means the place in Trinidad and Tobago where the registered sex offender resides permanently or habitually;
- “mental disorder” has the meaning assigned to it under section 2 of the Mental Health Act; Chap. 28:02
- “Minister” means the Minister to whom responsibility for national security is assigned;
- “non-intimate sample” has the meaning assigned to it under section 4 of the Administration of Justice (Deoxyribonucleic Acid) Chap. 5:34 Act;
- “police officer” has the meaning assigned to it under section 3 of the Police Service Act; Chap. 15:01
- “prison” has the meaning assigned to it under section 2 of the Prisons Chap. 13:01 Act;
- “psychiatric hospital” has the meaning assigned to it under section 2 of the Mental Health Act;

“Psychiatric Hospital Director” has the meaning assigned to it under section 2 of the Mental Health Act;

“registrable offence” means an offence listed in Schedule 1;

“registered sex offender” means a sex offender who is registered under section 45 and in relation to whom an order has not been made under section 52;

“Register” means the National Sex Offender Register established under section 39(1);

“Registrar” means the person holding or acting in the office of Registrar and Marshal of the Supreme Court listed in the Second Schedule of the Judicial and Legal Service Act;

“resident” has the meaning assigned to it under section 2 of the Immigration Act;

“secondary address”, in relation to a registered sex offender, means the place where a registered sex offender who does not ordinarily reside in Trinidad and Tobago, resides during his stay in Trinidad and Tobago;

“sex offender” means a person who is convicted of a registrable offence and who at the time of the commission of the registrable offence was eighteen years of age or over; and

(b) deleting the definition “minor”.

6. The Act is amended—

Amendment of
references to
“minors”

(a) by deleting the word “minor” wherever it occurs and substituting the word “child”; and

(b) in section 27, deleting the word “minor’s” and substituting the word “child’s”.

7. The Act is amended by inserting after section 2, the following:

Section 2A inserted

“Act binds
the State

2A. This Act binds the State.”.

8. Section 26 is amended by deleting all the words after the word “offence” and substituting the following:

Section 26 amended

“under—

(a) this Act;

(b) Parts IV to VI and VIII of the Children Act; and

(c) sections 16, 17, 18, 19 and 23 of the Trafficking in Persons Act.”.

9. The Act is amended in section 31(1) by—

Section 31 amended

(a) deleting the word “sexual” and substituting the word “registrable”; and

(b) deleting the words “under this Act or section 9, 10, 18 or 19 of the Children Act,”.

10. The Act is amended by repealing Part III and inserting after section 34, the following section, Parts and Schedules:

Section 35 inserted,
Part III repealed and
substituted and
Part IV and
Schedules inserted

“Mandatory
medical
examination
of person
charged with
registrable
offence

35. (1) Where a person is charged with a registrable offence, the Court shall make an order requiring that the person be medically examined for the purpose of determining whether the person is suffering from a sexually transmitted infection.

(2) Where a person who is required to be medically examined pursuant to subsection (1) does not consent to the medical exam, he may be medically examined without his consent.

(3) Where an examination conducted in accordance with subsection (1) or (2) reveals that the person examined is found to be suffering from a sexually transmitted infection, information to that effect shall be immediately communicated to—

- (a) the person examined;
- (b) the virtual complainant; and
- (c) a representative, where the virtual complainant has died.

(4) The virtual complainant of a registrable offence may be medically examined for the purpose of determining whether the person is suffering from a sexually transmitted infection.

(5) Subject to subsection (3), the results of any examination conducted in accordance with subsections (1), (2) or (4) shall be confidential.

(6) Where an examination conducted in accordance with subsection (4) reveals that the virtual complainant is found to be suffering from a sexually transmitted infection which the virtual complainant may reasonably have contracted from the person examined under subsection (1) or (2), the High Court may, upon—

- (a) application by—
 - (i) the virtual complainant;
or
 - (ii) a representative, where the virtual complainant has died; and

(b) being satisfied on a balance of probabilities that the virtual complainant contracted the infection as a result of the commission of the offence for which the person examined pursuant to subsection (1) has been convicted,

order the person convicted of the offence to pay compensation to the virtual complainant or his representative.

(7) For the purposes of this section, “representative” means—

(a) in relation to an adult virtual complainant—

(i) a spouse or former spouse who was being maintained by the virtual complainant at the time of the virtual complainant’s death;

(ii) a person who was living in a cohabitational relationship with the virtual complainant before his death;

(iii) a child of the virtual complainant under the age of eighteen years; or

(iv) a person who at the time of the virtual complainant’s death was financially dependent on him;

(b) in relation to an adult virtual complainant with a mental disorder, the person with responsibility for him; or

(c) in relation to a child virtual complainant, his parent, guardian or person with responsibility for the child.

Further compensation 36. (1) Notwithstanding any other law to the contrary, where a person is convicted of a registrable offence, the virtual complainant may also apply to the Court for compensation, and the Court shall order that the convicted person pay compensation to the virtual complainant.

(2) A virtual complainant of a registrable offence is also eligible for relief under section 29 of the Criminal Injuries Compensation Act.

(3) Where an order for compensation to the virtual complainant is made in a Court and the virtual complainant seeks further compensation in another Court, the Court that awards further compensation shall take into account the amount of compensation already ordered where the Court makes a further order.

PART III

NATIONAL SEX OFFENDER REGISTER

Application of Part 37. This Part applies to a sex offender who is a national of Trinidad and Tobago or a resident and who—

(a) was convicted of a registrable offence by a court within or outside Trinidad and Tobago on or after 25th September, 2000 and who—

(i) completed his sentence before the commencement of this Part; or

(ii) has not completed his sentence before the commencement of this Part;
or

(b) is convicted of a registrable offence by a court within or outside Trinidad and Tobago on or after the commencement of this Part.

Non-applica-
tion of Part 38. This Part shall not apply to a person who was a child at the time of the commission of a registrable offence.

Establish-
ment of
National Sex
Offender
Register 39. (1) There shall be a Register to be known as “the National Sex Offender Register”.

(2) The Register shall, in relation to each registered sex offender, contain the information listed in Schedule 2, which, subject to section 40(1), shall not be accessible to the public.

(3) The Commissioner of Police shall have control and custody of the Register and shall be responsible for—

- (a) maintaining the Register;
- (b) ensuring that information is entered into the Register in accordance with this Act and any other written law; and
- (c) ensuring that the information entered in the Register is accurate.

Public access
to informa-
tion on
registered sex
offender 40. (1) Subject to subsection (4), the Commissioner of Police shall ensure that the following information in relation to

each registered sex offender is made accessible to the public via a website designated for that purpose:

- (a) name, former names and aliases;
- (b) date of birth;
- (c) photograph;
- (d) main address or secondary address; and
- (e) convictions of registrable offences committed by the sex offender, including the date of each conviction.

(2) The Commissioner of Police shall ensure that the information referred to in subsection (1) in relation to a registered sex offender is displayed in a conspicuous place in the police station where the registered sex offender was registered.

(3) Where a registered sex offender has completed his reporting requirement pursuant to this Part, his information shall be removed from the website referred to in subsection (1).

(4) Information in relation to a sex offender referred to in section 37(a)(i) shall not be published on the website referred to in subsection (1).

Court to
order sex
offender to
comply with
Part

41. (1) Where a person is convicted of a registrable offence, on or after the commencement of this Part, the Court shall make an order requiring the person to report to a police station for the purposes of registering as a registered sex offender upon the completion of his sentence and to comply with the provisions of this Part.

(2) Where a person referred to in subsection (1) is convicted of a registrable offence, the Registrar shall, in writing, inform the Commissioner of Police of the conviction and the sentence imposed on the person.

(3) Where a person referred to in subsection (1) is convicted of a registrable offence against a child, the Registrar shall, in writing, inform the Chief Immigration Officer of the conviction and the sentence imposed on the person.

National and resident to comply with Part 42. (1) Where a national of Trinidad and Tobago or a resident does an act in a country outside Trinidad and Tobago which, if it were done in Trinidad and Tobago, would constitute a registrable offence under this Act, he shall be required to comply with the provisions of this Part on entry into Trinidad and Tobago.

(2) The Chief Immigration Officer shall inform the Commissioner of Police of the name and secondary address of any sex offender referred to in subsection (1), within forty-eight hours of the entry of the sex offender into Trinidad and Tobago.

Police to be notified of discharge of sex offender 43. Not later than four months before the discharge of a sex offender from—

(a) a prison, the Commissioner of Prisons; or

(b) a psychiatric hospital where the sex offender is admitted to the psychiatric hospital under section 13(4)(b) of the Mental Health Act, the Psychiatric Hospital Director,

shall notify the Commissioner of Police, in writing, of the date of discharge of the sex offender from the prison or psychiatric hospital.

Police to
collect infor-
mation from
sex offender
before
discharge

44. (1) The Commissioner of Police shall, not later than two months before the discharge of a sex offender referred to in section 43, cause a designated officer to attend the prison or psychiatric hospital to—

- (a) interview the sex offender;
- (b) collect the following information:
 - (i) name, former names and aliases;
 - (ii) date of birth;
 - (iii) photograph;
 - (iv) the address of the place in Trinidad and Tobago that the sex offender intends to reside permanently or habitually after his discharge; and
 - (v) convictions of registrable offences committed by the sex offender; and
- (c) inform the sex offender of his duty to report to the police station nearest to the address given pursuant to paragraph (b)(iv), within seven calendar days of his discharge from the prison or psychiatric hospital.

(2) A designated officer shall, within three days of collecting the information under subsection (1), forward the

information to the designated officer of the police station nearest to the address referred to in subsection (1)(c)(iv).

Initial report
of a sex
offender

45. (1) A sex offender shall report to the police station nearest to his main or secondary address—

- (a) within seven calendar days of his discharge from prison or a psychiatric hospital, where he is convicted by a Court in Trinidad and Tobago;
- (b) within seven calendar days of his discharge from prison, where he is transferred to Trinidad and Tobago pursuant to the Transfer of Prisoners Act to complete his sentence;
- (c) within seven calendar days of his entry into Trinidad and Tobago, where he is deported to Trinidad and Tobago;
- (d) within forty-eight hours of his entry into Trinidad and Tobago, where he is convicted by a court outside Trinidad and Tobago and is in Trinidad and Tobago for more than two calendar days; or
- (e) within six months of the commencement of this Part, where he is a sex offender referred to in section 37(a)(i).

(2) A sex offender shall, within the applicable period prescribed in subsection (1), report to the police station nearest to his main or secondary address in person and where he is a registered sex

offender with a mental disorder, he may be accompanied by a representative of his own choice.

(3) Where a sex offender reports to a police station pursuant to subsection (1) and (2), a designated officer shall interview the sex offender and request that he provides the information referred to in Schedule 3 and such documentary evidence as the designated officer may require.

Schedule 3

(4) A sex offender shall comply with the request of a designated officer made under subsection (3).

(5) The designated officer shall record the information provided by the sex offender pursuant to subsection (4) and—

- (a) take a photograph of the sex offender;
- (b) take the fingerprints of the sex offender;
- (c) take a non-intimate sample from the sex offender;
- (d) where the sex offender is convicted of a registrable offence against a child—
 - (i) notify the Chief Immigration Officer, in writing, of the registration of the sex offender; and
 - (ii) direct the sex offender, in writing, where he holds a valid Trinidad and Tobago passport or other travel document issued by the Chief Immigration

Officer, to report to the Immigration Department within seven days and inform him that failure to do so will constitute an offence under subsection (10).

(6) Where a sex offender refuses to allow a designated officer to take his photograph, his fingerprints or a non-intimate sample pursuant to subsection (5)(a), (b) or (c), the designated officer shall take—

- (a) the photograph without his consent pursuant to section 50 of the Police Service Act;
- (b) the fingerprints without his consent pursuant to section 50A of the Police Service Act; or
- (c) the sample without his consent pursuant to section 13(1)(a) of the Administration of Justice (Deoxyribonucleic Acid) Act,

and shall record that the items listed at paragraphs (a) to (c) were taken without the consent of the sex offender.

(7) A designated officer shall give a sex offender a written acknowledgement that—

- (a) the sex offender has reported to a police station for the purpose of registering as a registered sex offender;
- (b) the designated officer has complied with the requirements of subsection (5) and (6), as the case may be; and

(c) the designated officer has informed the sex offender, where he holds a Trinidad and Tobago passport or other travel document issued by the Chief Immigration Officer, of his obligation to report to the Immigration Department within seven days pursuant to sub-section (5)(d)(ii).

(8) An acknowledgement referred to in subsection (7) shall bear—

- (a) the date that the sex offender reported to the police station;
- (b) the police station to which the sex offender reported; and
- (c) the name, the signature and the service number of the designated officer who recorded the information provided by the sex offender in accordance with sub-section (3).

(9) Within seven days of recording the information of a sex offender provided pursuant to sub-section (4), a designated officer shall—

- (a) verify that the information he recorded is correct before he enters it into the Register;
- (b) register the sex offender as a registered sex offender; and
- (c) notify the registered sex offender, in writing, that he has been registered as a registered sex offender.

(10) A sex offender who, without reasonable excuse, fails to—

- (a) report to a police station pursuant to subsection (1);
- (b) comply with a request made by a designated officer under this section; or
- (c) report to the Immigration Department pursuant to subsection (5)(d)(ii),

commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and to imprisonment for fifteen years.

Frequency of reporting

46. (1) Subject to section 49, a registered sex offender shall report to the police station nearest to his main or secondary address upon the expiration of every six months from the date on which he first reported to the police station pursuant to section 45, for the duration of his reporting period as determined in accordance with section 47 and provide any information as the designated officer may require.

(2) A registered sex offender who fails to report to the police station nearest to his main or secondary address upon the expiration of every six months from the date on which he first reported to the police station pursuant to section 45, commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars and to imprisonment for ten years.

(3) This section shall not apply to a registered sex offender referred to in section 37(a)(i).

Duration of reporting period
Schedule 4

47. (1) The reporting period of a registered sex offender on whom a sentence specified in the First Column of Schedule 4 was imposed upon conviction for a registrable offence, shall be the corresponding period specified in the Second Column of that Schedule.

(2) Where a registered sex offender is sentenced in respect of two or more registrable offences to consecutive terms of imprisonment or to terms of imprisonment which are partly concurrent, subsection (1) shall apply in respect of each of the offences to a term of imprisonment which—

- (a) in the case of consecutive terms, is equal to the aggregate of those terms; or
- (b) in the case of concurrent terms, is equal to the aggregate of those terms after making such deduction as may be necessary to secure that no period of time is counted more than once.

(3) The reporting period of a registered sex offender shall commence on the date on which he reported to the police station pursuant to section 45.

Registered sex offender to inform of change information

48. (1) Where there is a change in any of the information provided by a registered sex offender under sections 45 and 46, he shall report to the police station nearest to his main or secondary address and provide a designated officer with information on the change within fourteen calendar days after the occurrence of the change and shall provide documentary evidence of the change.

(2) Where a registered sex offender wishes to correct information contained in the Register in relation to him, he shall report to the police station nearest to his main or secondary address and provide a designated officer with information on the correction and shall provide documentary evidence of the correction.

(3) The designated officer shall—

(a) record the change in or correction to the information provided by a registered sex offender in accordance with subsection (1) or (2);

(b) give the registered sex offender a written acknowledgement of the notification of the change or correction that bears—

(i) the date that the registered sex offender reported to the police station;

(ii) the police station to which the sex offender reported; and

(iii) the name, the signature and the service number of the designated officer who recorded the change or correction; and

(c) verify that the information provided by the registered sex offender is correct before he enters it into the Register.

(4) Where the designated officer after investigations, verifies that the

information provided by the registered sex offender under subsection (1) is correct, he shall—

- (a) record the change in the Register; and
- (b) forward the information to the Commissioner of Police within three days of recording the change.

(5) Notwithstanding section 47(1), a registered sex offender shall continue to comply with this section after the expiration of his reporting period until such time as his information is expunged from the Register under section 53.

(6) A registered sex offender who fails to inform a designated officer of the change in any of the information provided by the registered sex offender under sections 45 and 46 commits an offence and is liable on summary conviction to a fine of thirty thousand dollars and to imprisonment for five years.

Suspension
from
reporting

49. (1) A registered sex offender shall not be required to report to a police station during any period in which he is—

- (a) detained at a police station;
- (b) remanded in or committed to custody by an order of a Court;
- (c) serving a sentence of imprisonment;
- (d) warded at a health care facility;
or
- (e) outside Trinidad and Tobago in accordance with information provided by him under section 50.

(2) Where a registered sex offender to whom subsection (1) applies—

(a) is discharged from detention or imprisonment;

(b) is discharged from a health care facility; or

(c) re-enters Trinidad and Tobago,

he shall report to the police station nearest to his main or secondary address within forty-eight hours of his release, discharge or re-entry and provide reasons for not reporting.

(3) Nothing in subsection (2) shall affect the duty of a registered sex offender to report to a police station in accordance with section 46.

(4) A registered sex offender who, without reasonable excuse, fails to report to the police station nearest to his main or secondary address within forty-eight hours of his release, discharge or re-entry in accordance with subsection (2), commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for three years.

(5) The period that a registered sex offender is not required to report pursuant to subsection (1) shall not be computed as part of his total reporting period.

Offender to
inform of
intention to
travel outside
jurisdiction

50. (1) Where a registered sex offender who resides in Trinidad and Tobago intends to travel outside Trinidad and Tobago, he shall, at least seven calendar days before his departure, report to the police station nearest to his main or

secondary address and provide a designated officer with the following information:

- (a) the date of his intended departure;
- (b) the countries of his intended stay;
- (c) any country through which he may transit;
- (d) the addresses of the places of his intended stay;
- (e) the duration of his stay in each country;
- (f) the duration of his stay abroad;
- (g) the date of his intended return; and
- (h) any other relevant information as the designated officer may require.

(2) Where, due to exceptional circumstances, a registered sex offender who resides in Trinidad and Tobago intends to travel outside Trinidad and Tobago in less than seven calendar days, he shall report to the police station nearest to his main or secondary address and provide a designated officer with the information referred to in subsection (1) not less than twenty-four hours before his intended time of departure and shall state his reasons for failing to comply with the period specified in subsection (1).

(3) For the purposes of subsection (2), “exceptional circumstances” includes circumstances in relation to—

- (a) death or serious illness of a relative or friend;

(b) business or family affairs of an urgent nature; or

(c) obtaining employment, medical treatment or other assistance.

(4) Where, as a result of a change in his travel plans, a registered sex offender no longer intends to leave, or does not leave, Trinidad and Tobago on the date referred to in subsection (1)(a), he shall report to the police station nearest to his main or secondary address before the expiration of two calendar days after that date, and inform the designated officer of the change.

(5) Where a registered sex offender becomes aware of any change in the information provided under subsection (1)(b) to (h) before he travels outside Trinidad and Tobago, he shall report to the police station nearest to his main or secondary address, within two calendar days of his becoming aware of the change, and inform a designated officer of the change.

(6) Notwithstanding section 47(1), a registered sex offender shall continue to comply with this section after the expiration of his reporting period until such time as his information is expunged from the Register under section 53.

(7) A registered sex offender who, without reasonable excuse, fails to provide a designated officer with any information required pursuant to this section commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for three years.

Persons to
accompany
offender with
mental
disorder

51. Where a registered sex offender with a mental disorder is required to report to a police station or the Immigration Department, pursuant to this Part, he may be accompanied by a representative of his own choice.

Application to
Court for
cessation of
reporting
period

52. (1) A registered sex offender may apply to the Court for the cessation of his reporting period where—

- (a) he was not subject to a requirement to report for twenty-five years;
- (b) he has served three-quarter of his reporting period; and
- (c) he has not been charged with or convicted of any other registrable offence during his reporting period.

(2) The Court shall inform the Commissioner of Police of an application made under subsection (1) and the Commissioner shall, within seven days, inform the public on the website referred to in section 40(1), of the application of the registered sex offender to cease his reporting period.

(3) The Court may,—

- (a) after considering an application made under subsection (1) and any other relevant information; and
- (b) one month after the expiration of the period referred to in subsection (2),

make an order for the cessation of the reporting period of the registered sex offender.

Information
to be
expunged
from Register

53. (1) A registered sex offender may,—
- (a) on the completion of his reporting period; or
 - (b) on the basis of any compelling reasons,

apply to the Court to have the information contained in the Register in relation to him expunged.

(2) The Commissioner of Police shall designate an officer to expunge the information contained in the Register in relation to a registered sex offender where the Court makes an order pursuant to subsection (1).

(3) The officer designated by the Commissioner to expunge information contained in the Register pursuant to subsection (1), shall, in the form set out in Schedule 5, certify the removal of the record of the registered sex offender from the Register.

(4) The Commissioner of Police shall ensure that a record is kept of—

- (a) the information expunged from the Register;
- (b) the reason for expunging the information; and
- (c) the certificates issued under subsection (2).

(5) The Commissioner of Police shall, before 31st March in each year, submit a report to the Minister, of the information expunged from the Register including—

- (a) the names of the persons expunged from the Register;

(b) the registrable offences for which the persons expunged from the Register were convicted; and

(c) the reason for expunging the information.

Offence of
providing
false
information

54. A registered sex offender who provides a designated officer with any information required to be provided pursuant to this Part which the offender knows or ought reasonably to have known to be false, commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years.

Confidentiality

55. (1) A person involved in the administration of this Part shall keep all facts, information and records obtained or furnished under this Act confidential, except in so far as this Act or any other written law permits the person to disclose them or report or take official action in relation to them.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars and to imprisonment for ten years.

PART IV MISCELLANEOUS

Minister to
amend
Schedules 1
to 3 and 5

56. (1) The Minister may, by order subject to affirmative resolution of Parliament, amend Schedule 1.

(2) The Minister may, by order subject to negative resolution of Parliament, amend Schedules 2, 3 and 5.

Regulations 57. The Minister may make Regulations to give effect to the provisions of Part III.

SCHEDULE 1

(Section 2)

REGISTRABLE OFFENCES

An offence under—

- (a) the Sexual Offences Act, Chap. 11:28;
- (b) sections 16, 17, 18, 19 and 23 of the Trafficking in Persons Act, Chap. 12:10; and
- (c) Parts IV to VI and VIII of the Children Act, Chap. 46:01.

SCHEDULE 2

[Section 39(2)]

INFORMATION TO BE CONTAINED IN THE NATIONAL
SEX OFFENDER REGISTER

1. Name, former name and aliases
2. Date of birth
3. Sex
4. Main address or secondary address
5. Address of any other place he visits regularly
6. Name of educational institution attending
7. Address of educational institution attending
8. Place of employment
9. Address of place of employment
10. National identification card number
11. Passport number and dates of issue and expiry of passport
12. Driver's permit number
13. Telephone number or an alternate telephone number at which the offender may be regularly contacted
14. Height, weight and a physical description of the offender, including any distinguishing or identifying marks
15. Offences committed, including dates offences committed

16. Convictions, including dates of convictions and penalties imposed
17. Acquittals or pardons
18. Number of the licence plate of the vehicle for which the offender has regular control or use, or which he owns or operates
19. Names and ages of children residing in the same dwelling house in which the offender is residing
20. Name, address and contact information for the offender's next of kin
21. Name, address and contact information of any club or organization whose membership includes children and with which the offender is affiliated
22. Details of travel information provided by the offender pursuant to section 47
23. Fingerprints
24. DNA profile compiled from sample taken from the offender
25. Medical history including information on any communicable diseases contracted by the offender
26. Photograph
27. Information on the IP address of any device regularly used by the offender
28. Email address

For the purposes of this Schedule, "device" means any electronic programmable device used, whether by itself or as a part of a computer network, an electronic communications network or any other device or equipment, or any part thereof, to perform pre-determined arithmetic, logical, routing or storage operations and includes—

- (a) an input device;
- (b) an output device;
- (c) a processing device;
- (d) a computer data storage medium;
- (e) a program; or
- (f) equipment,

that is related to, connected with or used with such a device or any part thereof.

SCHEDULE 3

[Section 45(3)]

INFORMATION TO BE PROVIDED BY REGISTERED SEX OFFENDER

1. Name, former name and aliases
2. Date of birth
3. Sex
4. Main address or secondary address
5. Address of any other place he visits regularly
6. Name of educational institution attending
7. Address of educational institution attending
8. Place of employment
9. Address of place of employment
10. National identification card number
11. Passport number and dates of issue and expiry of passport
12. Driver's permit number
13. Telephone number or an alternate telephone number at which the offender may be regularly contacted
14. Height, weight and a physical description of the offender, including any distinguishing or identifying marks
15. Offences committed, including dates offences committed
16. Convictions, including dates of convictions and penalties imposed
17. Acquittals or pardons
18. Number of the licence plate of the vehicle for which the offender has regular control or use, or which he owns or operates
19. Names and ages of children residing in the same dwelling house in which the offender is residing
20. Name, address and contact information for the offender's next of kin
21. Name, address and contact information of any club or organisation whose membership includes children and with which the offender is affiliated
22. Details of travel information provided by the offender pursuant to section 47

- 23. Medical history including information on any communicable diseases contracted by the offender
- 24. Email address

SCHEDULE 4

[Section 47(1)]

DURATION OF REPORTING PERIOD

| First Column <i>Sentence</i> | Second Column <i>Reporting period</i> |
|---|--|
| No sentence | 1 year |
| Non-custodial | 2 years |
| Imprisonment for 5 years or less | 5 years |
| Imprisonment for 5 to 10 years | 10 years |
| Imprisonment for 10 to 15 years | 15 years |
| Imprisonment for more than 15 years, not including imprisonment for life | 25 years |

SCHEDULE 5

[Section 53(3)]

CERTIFICATE OF REMOVAL OF RECORD FROM REGISTER

I.....
do certify that the record of
.....
was removed from the National Sex Offender Register on the
..... day of, ..”.

Consequential amendments

11. The written laws listed in the First Column of the Schedule are amended to the extent specified in the Second Column of that Schedule.

SCHEDULE

(Section 11)

CONSEQUENTIAL AMENDMENTS

| First Column | Second Column |
|--|--|
| <p>The Criminal Injuries Compensation Act, Chap. 5:31</p> | <p>In the First Schedule,—</p> <p>(a) in paragraph (i), by deleting the fullstop; and</p> <p>(b) by inserting after paragraph (i), the following new paragraph:</p> <p style="padding-left: 40px;">“(j) Offences under the Children Act.”.</p> |
| <p>The Administration of Justice (Deoxyribonucleic Acid) Act, Chap. 5:34</p> | <p>A. In section 4 by inserting the following definition in the appropriate alphabetical sequence:</p> <p style="padding-left: 40px;">““registered sex offender” has the meaning assigned to it under section 2 of the Sexual Offences Act;”.</p> <p>B. In section 13(1)(a) by deleting the words “or accused” and substituting the words “, accused or a registered sex offender”.</p> |
| <p>The Immigration Act, Chap. 18:01</p> | <p>A. In section 44—</p> <p>(a) in subsection (1), by inserting the following paragraph after paragraph (c):</p> <p style="padding-left: 40px;">“(ca) the recording of persons who are registered sex offenders”; and</p> <p>(b) by inserting the following subsection after subsection (2):</p> <p style="padding-left: 40px;">“(3) For the purposes of this section, “registered sex offender” has the meaning assigned to it under section 2 of the Sexual Offences Act.”.</p> <p>B. In the Immigration Regulations,—</p> <p>(a) in regulation 24 by deleting the marginal note and substituting the following marginal note:</p> <p style="padding-left: 40px;">“Record of residency on passport”;</p> |

SCHEDULE—CONTINUED

(Section 11)

CONSEQUENTIAL AMENDMENTS

- (b) by inserting the following regulation after regulation 24:

“Record of registered sex offender on passport 24A. (1) There shall be recorded in a conspicuous place on any passport or travel document issued to or held by a registered sex offender who is convicted of a registrable offence against a child, a statement to the effect that such person is a registered sex offender.

(2) For the purposes of this regulation, “registrable offence” and “registered sex offender” have the meanings respectively assigned to them in section 2 of the Sexual Offences Act.”; and

- (c) in the Schedule, in Form 10, by inserting after the words “Signature of passenger”, the words, “A sex offender referred to in section 37 of the Sexual Offences Act, Chap. 11:28 is required to report to the police station nearest to the address at which he will be residing while in Trinidad and Tobago, within forty-eight hours of his entry into Trinidad and Tobago, in accordance with section 45(1)(d) of the Sexual Offences Act, Chap. 11:28. A person who fails to report to the police station pursuant to section 45(1) of the Sexual Offences Act, Chap. 11:28, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for two years.”.

The Police Service Act, Chap. 15:01

- A. In section section 3 by inserting the following definition in the appropriate alphabetical sequence:

SCHEDULE—CONTINUED

(Section 11)

CONSEQUENTIAL AMENDMENTS

““registered sex offender” has the meaning assigned to it under section 2 of the Sexual Offences Act;”.

Chap. 11:28

- B. In section 50(1) by deleting the words “or an accused” and substituting the words “, an accused or a registered sex offender”.
- C. In section 50A(1)(a) by deleting the words “or an accused” and substituting the words “, an accused or a registered sex offender”.

The Family and
Children Division
Act, 2016

Insert after section 38, the following new section:

“Assignment
of Children’s
Probation
Officer and
welfare
officer
(probation)
for
registrable
offence

38A. (1) Where a person who was a child at the time of the commission of a registrable offence is convicted of the registrable offence, the Children Court shall assign a Children’s Probation Officer to the child to monitor the child’s compliance with the sentence, sanction or any other requirement imposed by the Court.

(2) Notwithstanding subsection (1), the Court may make an order that the child referred to in that subsection shall report to a Children’s Probation Officer for a period specified by the Court.

(3) Where a person was a child at the time of the commission of a registrable offence and was convicted of the offence, attains the age of eighteen years while serving the sentence, sanction or any other requirement imposed by the Court pursuant to subsections (1) and (2), the Court may place the person under the supervision of a welfare officer (probation) to whom the person shall report for a period specified by the Court.

(4) For the purposes of this section, “registrable offence” means an offence listed in Schedule 1 of the Sexual Offences Act.

Chap. 11:28

Passed in the Senate this day of ,
2019.

Clerk of the Senate (Ag.)

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of Senators.

Clerk of the Senate (Ag.)

I confirm the above.

President of the Senate

Passed in the House of Representatives this day
of , 2019.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all

the members of the House, that is to say, by the votes
of members of the House.

Clerk of the House

I confirm the above.

Speaker

No. 2 of 2019

FOURTH SESSION
ELEVENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Sexual Offences
Act, Chap. 11:28

Received and read the

First time

Second time

Third time