

CITY OF BALTIMORE

SHEILA DIXON, Mayor

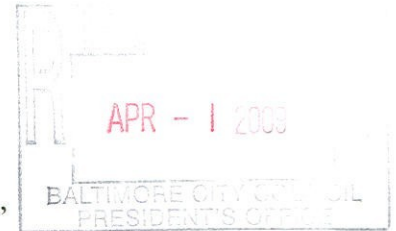


DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

April 1, 2009

The Honorable President and
Members of the Baltimore
City Council
c/o Karen Randle, Executive Secretary
409 City Hall
Baltimore, MD 21202



RE: City Council Bill 09-0291 – “Gun Offender Registration”

Dear President and Members

You have requested the advice of the Law Department regarding City Council Bill 09-0291. The Bill will amend Article 19, Subtitle 60 of the City Code, alternatively known as “Gun Offender Registration,” to: subject juveniles convicted as adults to the registration requirements; add two Baltimore City firearm offenses (specifically Article 19, § 59-1, Possession of a Long Gun and Article 19, § 59-2, Discharge of a Firearm) to the list of qualifying offenses; provide for notice to the offender of his/her duty to register at times other than the point of conviction, i.e. sentencing if it is delayed; clarify the registration requirements for offenders found not criminally responsible; clarify the change of address requirements for offenders who move into the City during the term of their registration; and clarify the verification timeframe for all offenders.

In September 2007, the City Council passed and the Mayor signed into law City Council Bill 07-0738, which established the Gun Offender Registry. That ordinance requires adults convicted of certain qualifying gun offenses to register with the Police Department upon release and verify their address every six months for a three year period. “Adult” is not a defined term in the Gun Offender Subtitle; however it is defined elsewhere in the City Code as a person over the age of 18. Bill 09-0291 amends the language to require “any person” convicted in the adult system to register. This would include persons as young as 14 years of age if they are convicted of certain qualifying offenses.

Pursuant to Courts and Judicial Proceedings § 3-8A-03 of the Maryland Code, persons 16 years of age and older, charged with possession and/or use of a handgun under the various sections of the Criminal Law article and possession of a regulated firearm under § 5-133 of the Public Safety Article are subject to the jurisdiction of the adult courts. Persons 14 years of age and older charged with a crime that carries a life sentence, such as murder or rape in the first degree and any lesser charges relating to the same incident, are also subject to the jurisdiction of the adult courts. If jurisdiction remains in the adult court, and the person is convicted in the adult



court, his/her record is a public record and is not subject to the confidentiality requirements of § 3-8A-27, which apply only to records associated with persons adjudicated in the Juvenile Court. Therefore, requiring all persons convicted of an enumerated gun offense in the adult courts to register regardless of age does not violate the confidentiality requirements attached to Juvenile Court cases. The other changes resolve ambiguity and are/or are non-substantive.

City Council Bill 09-0291 is consistent with the authority of the City Council. The Law Department, therefore, approves the City Council Bill 09-0291 for form and legal sufficiency.

Sincerely yours,



Elizabeth Embry
Assistant Solicitor

cc: Honorable James B. Kraft
Angela Gibson, City Council Liaison
George A. Nilson, City Solicitor
Elena DiPietro, Chief Solicitor
Hilary Ruley, Assistant City Solicitor
Deepa Bhattacharyya, Assistant City Solicitor
Ashlea Brown, Special Assistant City Solicitor
Avery Aisenstark, Legislative Reference