Sex Offenders in Maryland and the Impact of the Federal Sex Offender Registration and Notification Act

Department of Legislative Services 2010
The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House
Members of the Maryland General Assembly

Ladies and Gentlemen:

This report, *Sex Offenders in Maryland and the Impact of the Federal Sex Offender Registration and Notification Act*, was prepared by the Department of Legislative Services, Office of Policy Analysis, in response to the continuing legislative interest in the issue. The report provides an overview of the State’s sex offender registry and penalties for sex crimes in the State and discusses the requirements of the Federal Sex Offender Registration and Notification Act.

This report was written by Guy Cherry with assistance from Yvette Smallwood and under the editorial direction of Shirleen Pilgrim.

I trust this information will be a useful resource for members of the General Assembly and their staff.

Sincerely,

Warren G. Deschenaux
Director

WGD/SMP/Ikj
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Sex Offenders in Maryland and the Impact of the Federal Sex Offender Registration and Notification Act

Sex Offenders in Maryland

Generally, a person convicted of a sex crime, kidnapping, or false imprisonment in Maryland is required to register with the State sex offender registry upon release from prison or release from court if the person did not receive a prison sentence. Offenders who are required to register in other states and who come to Maryland are required to register upon entering Maryland. Offenders from other states who may not be required to register in the home state are required to register in Maryland if the crime would have required registration in Maryland if committed in Maryland.

Juveniles who are adjudicated as adults and convicted for crimes that require registration are included in the registry. Juveniles who are adjudicated delinquent for an act that would constitute first or second degree rape or first or second degree sexual assault if committed by an adult are required to register at the time the juvenile court’s jurisdiction terminates for inclusion on the State’s sex offender registry if (1) the person was at least 13 years old at the time the qualifying delinquent act was committed; (2) the State’s Attorney or the Department of Juvenile Services requests that the person be required to register; (3) the court determines by clear and convincing evidence after a hearing (90 days prior to the time the juvenile court’s jurisdiction is terminated) that the person is at significant risk of committing a sexually violent offense or an offense for which registration as a child sexual offender is required; and (4) the person is at least 18 years old. Juveniles who are adjudicated delinquent through the juvenile court system for an act that does not constitute first or second degree rape or first or second degree sexual assault if committed by an adult are not included in the registry.

Maryland has four categories of persons convicted of sexual offenses: (1) an offender; (2) a child sexual offender; (3) a sexually violent offender; and (4) a sexually violent predator.

“Offender” means a person who is ordered by a court to register and who (1) has been convicted of child kidnapping; (2) kidnapping; (3) fourth degree sexual offense, if the victim is under 18; (4) false imprisonment, if the victim is under 18 and the person is not the victim’s parent; (5) a crime that involves soliciting a person under 18 to engage in sexual conduct; (6) production or distribution of child pornography; (7) prostitution or related criminal prohibitions if the intended prostitute or victim is under 18; (8) any crime that involves conduct that by its nature is a sexual offense against a person under 18; (9) an attempt to commit any of these offenses; or (10) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in Maryland, would constitute one of these crimes.
“Child sexual offender” means a person who (1) has been convicted of sexual abuse of a minor; (2) has been convicted of first or second degree rape or first, second, or third degree sexual offense involving a child under 15 years of age; (3) has been convicted of fourth degree sexual offense involving such a child and has been ordered by the court to register under these provisions; or (4) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of these crimes.

“Sexually violent offender” means a person who (1) has been convicted of a sexually violent offense; or (2) has been convicted of an attempt to commit a sexually violent offense.

“Sexually violent predator” means a person who (1) is convicted of a sexually violent offense; and (2) has been determined to be at risk of committing another sexually violent offense. Also included under this definition are persons who are or were required to register every 90 days for life under the laws of another state or a federal, military, or Native American tribal jurisdiction.

Sexual offenders are required to register, every three months or every six months, with the Crimes Against Children and Sexual Offender Registry for a term of either 10 years or life depending on the offense. Registration must include a photograph, which must be updated every six months. The registry is operated by the Sexual Offender Registry unit of the Department of Public Safety and Correctional Services. Under the State’s sexual offender registration laws, a State’s Attorney may request that a sexual offender be designated a sexually violent predator. Lifetime registration is required for (1) sexually violent predators; (2) persons convicted of a sexually violent offense; (3) persons convicted of child abuse for commission of a sexual act involving penetration of a child under 12 years old; and (4) recidivist sexual offenders.

**Federal Sex Offender Registration and Notification Act**

Over the past decade, far-reaching State and federal legislation has been enacted to more strongly punish and more closely monitor sex offenders. The federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109), calls for conformity by the states with various aspects of sex offender registration provisions, including registration by specified juvenile offenders, specific information to be collected from registrants, verification, duration of registration, access to and sharing of information, and penalties for failure to register.

The U.S. Attorney General is required by the Act to issue guidelines and regulations to interpret and implement the legislation. Proposed guidelines were published on May 30, 2007. The period for public comment on the proposed guidelines ended on August 1, 2007, and the final guidelines were issued on July 2, 2008. Under SORNA, July 27, 2010, is the deadline for
substantial implementation of SORNA’s requirements for all registration jurisdictions, although a request for a one-year extension may be submitted.

The federal law divides the classes of sex offenders into a three-tiered system. Under that system, registration is for 15 years, 25 years, or life, depending on whether the offense is classified as Tier I, Tier II, or Tier III, respectively. In addition, sex offenders will be required to provide the following information to the sex offender registry:

- names, including all aliases used by the sex offender;
- date of birth, including both actual date of birth and any false date(s) of birth used by the sex offender;
- all Internet identifiers and addresses, e.g., e-mail and instant messaging addresses;
- all telephone numbers including both land lines and cell phone numbers;
- social Security Numbers (SSN), including both valid governmentally assigned SSNs and any other SSNs used by the sex offender;
- residence address;
- other residence information (i.e. where the sex offender has a home or habitually lives) in relation to sex offenders who lack a residence address for any reason (e.g., homelessness, or living in a house in a rural or tribal area that has no street address);
- temporary lodging information about any place in which the sex offender is staying for seven or more days, including identifying the place and the period of time the sex offender is staying there;
- passport and immigration document information;
- employer’s name and address;
- other employment information concerning the places where the sex offender works, if the sex offender has no fixed place of employment, such as information about normal travel routes or the general area(s) in which the sex offender works;
- professional licenses;
• school name and address;
• vehicle information including description and license plate or registration number;
• physical description of the sex offender;
• text of the registration offense or offenses;
• criminal history and other criminal justice information;
• current photograph;
• fingerprints and palm prints;
• DNA information; and
• driver’s license or identification card.

Under SORNA’s provisions related to juvenile offenses, the juvenile must be 14 or older, adjudicated delinquent, and have committed an act comparable to 18 U.S.C. 2241 (Aggravated Sexual Abuse) or a forcible sex act or a sex act with a person who is unconscious or drugged. Violations against certain children under age 12 under 18 USC 2241(c) are being left to the discretion of the state. In addition, sealed records are still convictions and are subject to registration requirements.

Additional requirements under SORNA include the following\(^1\): (1) jurisdictions do not have to look behind the conviction to determine tier level as the face of the conviction is enough except to determine victim’s age; (2) states do not have to mirror federal tiers – these are minimum standards that must be met to be in substantial compliance; however it may be necessary to significantly revamp Maryland’s classification system to meet the minimum federal requirement\(^2\); (3) Tier I sex offenders do not have to be included on a registry unless the crime was against a minor; (4) the definition of “habitually lives” is up to interpretation by jurisdictions; and (5) in person changes to registry is only required for changes of name, residence, employment, or school attendance – other changes may be made in any manner the jurisdiction sees fit.

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\(^1\) See Appendix 2 for the SORNA substantial implementation checklist.

\(^2\) See Appendix 1 for a tabulation of Maryland sexual offenses and how they would be tiered under SORNA (not including the KIDS Act).
Although the SORNA provisions were made retroactive, jurisdictions do not have to seek out pre-SORNA convicted sex offenders and re-register them. This does not impact substantial compliance. If a person re-offends or re-enters the judicial system for any crime, the individual will need to register under SORNA guidelines. The Act applies to all sexual offenders, including those offenders convicted prior to the enactment of SORNA (July 27, 2006) or prior to a particular jurisdictions’ implementation of the SORNA requirements.

According to the National Conference of State Legislatures, in 2007, at least six states – Delaware, Florida, Louisiana, Mississippi, Nevada and Ohio – revised sex offender laws in an effort to comply with the Walsh Act. To date, Ohio is the only state to substantially implement SORNA.

Failure to comply with SORNA puts a state at risk to lose 10% of Byrne grants, which states use to pay for such things as drug task forces, anti-gang units, police overtime, and other law enforcement activities. Under the federal American Recovery and Reinvestment Act of 2009 (the federal “Stimulus Bill”), the Byrne formula grants program has been reauthorized from fiscal 2009 through 2011. Maryland will receive an estimated $26.6 million in fiscal 2010 and $18.5 million in fiscal 2011. No Byrne funds are at risk in fiscal 2010; however, Maryland could be at risk to lose about $1.9 million in Byrne funding in fiscal 2011.

Epilogue

On September 27, 2008, the U.S. Congress passed S 431 (Keeping the Internet Devoid of Sexual Predators Act of 2008 or the KIDS Act of 2008), which amends SORNA to require a convicted sex offender to provide for inclusion in the National Sex Offender Registry any electronic mail address or other designation the sex offender uses or will use for self-identification or routing in Internet communication or posting (online identifiers). The legislation grants the U.S. Attorney General authority to specify the time and manner for reporting of other changes in registration information, including additions or changes of online identifiers. Guidelines and regulations for this Act have not yet been developed.

The KIDS Act:

- amends the federal criminal code making it unlawful for any person who is required to register as a convicted sex offender to knowingly fail to provide online identifiers for inclusion in a sex offender registry. A violator is subject to a fine and/or prison term of up to 10 years;

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3 The case, Carr v. United States No. 08-1301, was granted review by the United States Supreme Court on September 30, 2009. The case challenges the rule which requires states to retroactively apply SORNA to criminal defendants who re-enter the criminal justice system for any offense, even when the prior offense predated the enactment of SORNA.
amends the Adam Walsh Child Protection and Safety Act of 2006 to expand the directive of the U.S. Sentencing Commission to promulgate sentencing guidelines for failure of a convicted sex offender to register in the national registry to include failure to provide online identifiers;

requires jurisdictions that maintain information about sex offenders to exempt from public disclosure any electronic mail address or designation used for self-identification or routing in Internet communication or posting;

requires the Attorney General to maintain a system available to social networking web sites that permits the automated comparison of online identifiers in such web sites to information contained in or derived from sex offender registries for the purpose of protecting the safety of users of such web sites. Allows the Attorney General to control the number of searches allowed to a social networking web site and to deny, suspend, or terminate the use of such system by a web site;

prohibits the Attorney General and social networking web sites from releasing online identifiers to the public;

exempts a commercial social networking web site from civil claims in federal or state court arising from (1) use of the national registry unless such web site engages in actual malice, intentional misconduct, or reckless disregard to a substantial risk of causing injury without legal justification; and (2) any decision not to compare its database with the online identifiers contained in the national registry;

imposes a fine and prison term of up to 20 years for intentional misrepresentation of age using the Internet or the mail for the purpose of coercing or enticing individuals, including minors, to engage in prostitution or other illicit sexual behavior;

defines "possess" with respect to crimes of child sexual exploitation and child pornography to include accessing by computer visual depictions of child pornography with the intent to view; and

expands the jurisdictional bases for prosecutions of child sexual exploitation and child pornography crimes to include activities occurring in, affecting, or using any means or facility of, interstate or foreign commerce.
## Sex Offender Registry Requirements under Maryland Statute and SORNA

<table>
<thead>
<tr>
<th>Statute</th>
<th>Offense</th>
<th>Definition</th>
<th>Penalty Upon Conviction of Adult</th>
<th>Sex Offender Registry Requirement</th>
<th>Federal Tier</th>
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</thead>
<tbody>
<tr>
<td>§ 3-303</td>
<td>Rape in the first degree. <em>Felony</em></td>
<td>Vaginal intercourse by force or threat, with use or display of weapon, with infliction or threat of serious physical injury or disfigurement while aided and abetted, or in connection with a burglary.</td>
<td>Up to life imprisonment – without possibility of parole if victim is child under 16 and is kidnapped or if prior conviction of rape in 1st degree or sexual offense in 1st degree and victim is child under 16 and is kidnapped. (Ch. 345 of 2008)</td>
<td>Child sexual offender if victim is child under 15 Sexually violent offender (or sexually violent predator, if so determined) if victim is 15 or older Registration for life</td>
<td>III</td>
</tr>
<tr>
<td>Statute</td>
<td>Offense</td>
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<tr>
<td>§ 3-304</td>
<td>Rape in the second degree</td>
<td>Vaginal intercourse by force or threat, if victim is mentally or physically incapacitated, or if victim is under 14 and offender is at least 4 years older than victim.</td>
<td>Up to 20 years imprisonment. Imprisonment from 5 to 20 years if offender is 18 or older and victim is child under 13.</td>
<td>Child sexual offender if victim is child under 15 Sexually violent offender (or sexually violent predator, if so determined) if victim is 15 or older Registration for life</td>
<td>III (except statutory rape where victim ≥ 12 = tier I)</td>
</tr>
<tr>
<td>§ 3-305</td>
<td>Sexual offense in the first degree</td>
<td>Sexual act by force or threat, with use or display of weapon, with infliction or threat of serious physical injury or disfigurement, while aided and abetted, or in connection with a burglary.</td>
<td>Up to life imprisonment – without possibility of parole if also convicted in same proceeding of child kidnapping and victim is child under 16 or if prior conviction of sexual offense in 1st degree or rape in 1st degree. Imprisonment from 25 years to life without possibility of parole if offender is 18 or older and victim is child under 13.</td>
<td>Child sexual offender if victim is child under 15 Sexually violent offender (or sexually violent predator, if so determined) if victim is 15 or older Registration for life</td>
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<tr>
<td>§ 3-306</td>
<td>Sexual offense in the second degree</td>
<td>Sexual act by force or threat, if victim is mentally or physically incapacitated, or if victim is under 14 and offender is at least 4 years older than victim.</td>
<td>Up to 20 years imprisonment. Imprisonment from 5 to 20 years if offender is 18 or older and victim is child under 13.</td>
<td>Child sexual offender if victim is child under 15</td>
<td>III (except statutory rape where victim ≥ 12 = tier I)</td>
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<td>Sexually violent offender (or sexually violent predator, if so determined) if victim is 15 or older</td>
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<tr>
<td>§ 3-307</td>
<td>Sexual offense in the third degree</td>
<td>Sexual contact with use or display of weapon, with infliction or threat of serious physical injury or disfigurement, while aided and abetted, if victim is mentally or physically incapacitated, if victim is under 14 and offender is at least 4 years older than victim. Sexual act if victim is 14 or 15 and offender is at least 21. Vaginal intercourse if victim is 14 or 15 and offender is at least 21.</td>
<td>Up to 10 years imprisonment</td>
<td>Child sexual offender if victim is child under 15</td>
<td>III if victim &lt; 13 (except statutory rape where victim ≥ 12 = tier I)</td>
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<td>Sexually violent offender (or sexually violent predator, if so determined) if victim is 15 or older</td>
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<td>Registration for life</td>
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<td>III if victim ≥ 13, except statutory rape where victim ≥ 12 = tier I</td>
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<tr>
<td>§ 3-308</td>
<td>Sexual offense in the fourth degree</td>
<td>Sexual contact without consent; sexual act if victim is 14 or 15 and offender is at least 4 years older than victim; vaginal intercourse if victim is 14 or 15 and offender is at least 4 years older than victim; sexual act, sexual contact, or vaginal intercourse by person in a position of authority with currently enrolled student.</td>
<td>Up to 1 year imprisonment and/or maximum fine of $1,000; Up to 3 years imprisonment and/or $1,000 if prior conviction of sexual offense</td>
<td>Child sexual offender if victim is child under 15 and court orders registration</td>
<td>III if victim &lt; 13, II if victim ≥ 13 statutory rape = I</td>
</tr>
<tr>
<td>§ 3-309</td>
<td>Attempted rape in the first degree</td>
<td></td>
<td>Up to life imprisonment</td>
<td>Sexually violent offender (or sexually violent predator, if so determined)</td>
<td>III</td>
</tr>
<tr>
<td>§ 3-310</td>
<td>Attempted rape in the second degree</td>
<td></td>
<td>Up to 20 years imprisonment</td>
<td>Sexually violent offender (or sexually violent predator, if so determined)</td>
<td>III (except statutory rape where victim ≥ 12 = tier I)</td>
</tr>
<tr>
<td>§ 3-311</td>
<td>Attempted sexual offense in the first degree</td>
<td></td>
<td>Up to life imprisonment</td>
<td>Sexually violent offender (or sexually violent predator, if</td>
<td>III</td>
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<tr>
<td>§ 3-312</td>
<td>Attempted sexual offense in the second degree</td>
<td>Felony</td>
<td>Up to 20 years imprisonment</td>
<td>Sexually violent offender (or sexually violent predator, if so determined)</td>
<td>III (except statutory rape where victim ≥ 12 = tier I)</td>
</tr>
<tr>
<td>§ 3-314</td>
<td>Sexual conduct between correctional or Department of Juvenile Justice employee and inmate or confined child</td>
<td>Misdemeanor</td>
<td>Correctional employee or correctional facility worker may not engage in sexual contact, vaginal intercourse, or sexual act with inmate; person may not engage in sexual contact, vaginal intercourse, or sexual act with individual confined in child care institution or juvenile facility.</td>
<td>Up to 3 years imprisonment and/or maximum fine of $3,000</td>
<td>Not specified*</td>
</tr>
<tr>
<td>§ 3-315</td>
<td>Continuing course of conduct with child</td>
<td>Felony</td>
<td>To commit 3 or more acts of rape in 1st or 2nd degree or sexual offenses in 1st, 2nd, or 3rd degree over period of 90 days or more with victim under 14.</td>
<td>Up to 30 years imprisonment</td>
<td>Not specified*</td>
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(Appendix 1. cont.)
<table>
<thead>
<tr>
<th>Statute</th>
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<tbody>
<tr>
<td>§ 3-321</td>
<td>Sodomy</td>
<td>Felony</td>
<td>Up to 10 years imprisonment</td>
<td>Not specified</td>
<td>Not specified</td>
</tr>
<tr>
<td>§ 3-322</td>
<td>Unnatural or perverted sexual practice</td>
<td>Misdemeanor</td>
<td>Up to 10 years imprisonment and/or a maximum fine of $1,000</td>
<td>Not specified</td>
<td>Not specified</td>
</tr>
<tr>
<td>§ 3-323</td>
<td>Incest</td>
<td>Felony</td>
<td>Imprisonment from 1 to 10 years</td>
<td>Not specified</td>
<td>I</td>
</tr>
<tr>
<td>§ 3-324</td>
<td>Sexual solicitation of a minor</td>
<td>Felony</td>
<td>Up to 10 years imprisonment and/or maximum fine of $25,000</td>
<td>Offender, if ordered by a court to register and victim is under 18</td>
<td>II</td>
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</tbody>
</table>

Registration for 10 years
<table>
<thead>
<tr>
<th>Statute</th>
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<tr>
<td>§ 3-502</td>
<td>Kidnapping</td>
<td>By force or fraud, to carry or cause a person to be carried in or outside the State with intent to have person carried or concealed in or outside the State.</td>
<td>Up to 30 years imprisonment</td>
<td>Offender, if ordered by a court to register and victim is under 18</td>
<td>III (if minor victim, otherwise I)</td>
</tr>
<tr>
<td>§ 3-503</td>
<td>Child kidnapping</td>
<td>(1) To forcibly abduct a child under 12, without consent of parent or guardian to entice child under 12 away from home or parent or guardian, or with intent to deprive parent or guardian of custody, care, and control of child, to knowingly secrete or harbor child under 12. (2) By force or fraud, to kidnap, steal, take,</td>
<td>(1) Up to 20 years imprisonment</td>
<td>Offender, if ordered by a court to register</td>
<td>III</td>
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<td>(2) Up to 30 years imprisonment</td>
<td>Registration for 10 years</td>
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<td>Up to life imprisonment without possibility of parole if person also convicted of rape or a first degree sexual offense in same proceeding</td>
<td>Registration for 10 years</td>
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<tr>
<td>§ 3-602</td>
<td>Sexual abuse of a minor</td>
<td>Parent, household member, family member, or other person who has care, custody, or supervision of a minor may not commit sexual molestation or exploitation of the minor, including incest, rape, sexual offense in any degree, sodomy, or unnatural or perverted sexual practices</td>
<td>Up to 25 years imprisonment</td>
<td>Child sexual offender Registration for 10 years (life if victim is under 12 and crime is sexual act involving penetration)</td>
<td>Depends on the nature of the act and the age of the child (special relationship no relevant under federal law)</td>
</tr>
<tr>
<td>§ 11-102</td>
<td>Adult sexual display – selling or offering to sell to minor</td>
<td>To sell or offer to sell to a minor pictures, images, or other visual representations that show the human body involved in sadomasochistic abuse, sexual conduct, or sexual excitement, books, other printed matter, or sound recordings that contain obscene or explicit material.</td>
<td>Up to 6 months imprisonment and/or a maximum fine of $1,000</td>
<td>Not specified</td>
<td>Not specified</td>
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<tr>
<td>§ 11-103</td>
<td>Adult sexual display – exhibition to minors</td>
<td>For money or other value, to knowingly exhibit or sell to a minor a motion picture or other presentation that displays sadomasochistic abuse, sexual conduct, or sexual excitement.</td>
<td>Up to 6 months imprisonment and/or a maximum fine of $1,000</td>
<td>Not specified*</td>
<td>Not specified</td>
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<td><em>Misdemeanor</em></td>
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<td>§ 11-104</td>
<td>Adult sexual display – allowing minors to enter or remain or premises</td>
<td>To operate or be employed by a retail establishment and to knowingly allow a minor without a parent or guardian to enter or remain on premises where sadomasochistic abuse, sexual conduct, sexual excitement, or obscene or explicit material is shown, displayed, or depicted.</td>
<td>Up to 6 months imprisonment and/or a maximum fine of $1,000</td>
<td>Not specified*</td>
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<td></td>
<td><em>Misdemeanor</em></td>
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<tr>
<td>§ 11-107</td>
<td>Indecent exposure</td>
<td>As defined in common law.</td>
<td>Up to 3 years imprisonment and/or a maximum fine of $1,000</td>
<td>Not specified*</td>
<td>Not specified</td>
</tr>
<tr>
<td></td>
<td><em>Misdemeanor</em></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>§ 11-203</td>
<td>Sale or display of obscene item to minor</td>
<td>To willfully or knowingly display, exhibit, sell, or distribute to minor</td>
<td>1st violation: Up to 1 year imprisonment and/or a maximum fine of $1,000</td>
<td>Not specified*</td>
<td>Not specified</td>
</tr>
</tbody>
</table>

*Appendix 1. cont.*
<table>
<thead>
<tr>
<th>Statute</th>
<th>Offense</th>
<th>Definition</th>
<th>Penalty Upon Conviction of Adult</th>
<th>Sex Offender Registry Requirement</th>
<th>Federal Tier</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 11-207</td>
<td>Child pornography</td>
<td>To cause, induce, solicit, or knowingly allow a minor to be the subject in the production of obscene matter that shows sadomasochistic abuse or sexual conduct through the use of photographs, film, or computers or to knowingly promote, distribute, or compile such material.</td>
<td>1st violation: Up to 10 years imprisonment and/or a maximum fine of $25,000 Each subsequent violation: Up to 20 years imprisonment and/or a maximum fine of $50,000</td>
<td>Offender, if ordered by a court to register Registration for 10 years</td>
<td>II</td>
</tr>
<tr>
<td>§ 11-208</td>
<td>Possession of visual representation of child under 16 engaged in certain sexual acts</td>
<td>To knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child under 16 as subject of sadomasochistic abuse, sexual conduct, or in state of excitement.</td>
<td>1st violation: Up to 2 years imprisonment and/or a maximum fine of $2,500 Each subsequent violation: Up to 5 years imprisonment and/or a maximum fine of $10,000</td>
<td>Not specified</td>
<td>Not specified</td>
</tr>
</tbody>
</table>

*Not specified*
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</tr>
</thead>
<tbody>
<tr>
<td>§ 11-209</td>
<td>Hiring minor for prohibited purpose</td>
<td>To hire, employ, or use an individual that the person knows or reasonably should know is a minor to engage in illicit sex or assist with illicit sex acts. (Misdemeanor)</td>
<td>1st violation: Up to 1 year imprisonment and/or a maximum fine of $1,000 Each subsequent violation: Up to 3 years imprisonment and/or a maximum fine of $5,000</td>
<td>Offender, if ordered by a court to register and victim is under 18</td>
<td>II</td>
</tr>
<tr>
<td>§ 11-303</td>
<td>Human Trafficking (Misdemeanor/Felony)</td>
<td>To take, place, threaten, unlawfully detain, or receive consideration for placement of another in a place for prostitution.</td>
<td>Up to 10 years imprisonment and/or a maximum fine of $5,000 (misdemeanor) Minor victim: Up to 25 years imprisonment and/or a maximum fine of $15,000 (felony)</td>
<td>Offender, if ordered by a court to register and victim is under 18</td>
<td>II</td>
</tr>
<tr>
<td>§ 11-305</td>
<td>Abduction of child under 16 (Misdemeanor)</td>
<td>To persuade, entice, or aid in such or knowingly secrete, harbor, or aid in such of an individual under 16 for prostitution or sexual crimes.</td>
<td>Up to 10 years imprisonment and/or a maximum fine of $5,000</td>
<td>Offender, if ordered by a court to register and victim is under 18</td>
<td>II</td>
</tr>
<tr>
<td>§ 11-306</td>
<td>House of prostitution (Misdemeanor)</td>
<td>To engage in or solicit for prostitution or keep, occupy, operate, or allow a building under</td>
<td>Up to 1 year imprisonment and/or a maximum fine of $500</td>
<td>Offender, if ordered by a court to register and victim/prostitute is under 18</td>
<td>Not specified</td>
</tr>
<tr>
<td>Statute</td>
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</tr>
<tr>
<td>Common Law</td>
<td>Common law false imprisonment</td>
<td>Victim under 18 and person is not victim’s parent.</td>
<td>Registration for 10 years</td>
<td>Offender, if ordered by a court to register and victim is under 18</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td><em>Misdemeanor</em></td>
<td></td>
<td>Registration for 10 years</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Under § 11-701 of the Criminal Procedure Article, the definition of offender includes a person who is ordered by a court to register and who “has been convicted of a crime that involves conduct that by its nature is a sexual offense against a person under the age of 18 years.” An offender is required to register for 10 years.

**NOTE:** All repeat offenders must register for life.

**DEFINITIONS:**

Criminal Law Article § 3–301(e) and (f)

(e) (1) “Sexual act” means any of the following acts, regardless of whether semen is emitted:

(i) analingus;
(ii) cunnilingus;
(iii) fellatio;
(iv) anal intercourse, including penetration, however slight, of the anus; or
(v) an act:

1. in which an object penetrates, however slightly, into another individual’s genital opening or anus; and
2. that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.
(2) “Sexual act” does not include:
   (i) vaginal intercourse; or
   (ii) an act in which an object penetrates an individual’s genital opening or anus for an accepted medical purpose.

(f) (1) “Sexual contact”, as used in §§ 3–307, 3–308, and 3–314 of this subtitle, means an intentional touching of the victim’s or actor’s genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party.
   (2) “Sexual contact” includes an act:
      (i) in which a part of an individual’s body, except the penis, mouth, or tongue, penetrates, however slightly, into another individual’s genital opening or anus; and
      (ii) that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party.
   (3) “Sexual contact” does not include:
      (i) a common expression of familial or friendly affection; or
      (ii) an act for an accepted medical purpose.

Source: Maryland Annotated Code; SORNA
SEX OFFENDER REGISTRATION AND NOTIFICATION ACT
SUBSTANTIAL IMPLEMENTATION CHECKLIST

This checklist is designed as a tool to assist registration jurisdictions as they seek to substantially implement SORNA. It is not a definitive guide to SORNA's full implementation requirements. Jurisdictions are advised to consult with the SMART Office throughout their implementation process to ensure that their laws, policies, procedures, and practices conform with the entirety of what SORNA requires.

I. IMMEDIATE TRANSFER OF INFORMATION

Whenever a sex offender initially registers or updates their registration information with a jurisdiction, that jurisdiction is required to immediately notify any other jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs. This includes notification to any relevant SORNA-registration jurisdiction, including states, territories, tribes, and the District of Columbia.

The jurisdiction is also required to immediately update the National Sex Offender Registry (NSOR) and their own public sex offender registry website.

- **Immediate**: ‘Immediate’ and ‘immediately’ are defined as ‘within 3 business days’

Any initial registration and/or updated information is:

- immediately sent to

- any required SORNA-registration jurisdiction, including:
  - States
  - D.C.
  - The five principal U.S. Territories; and
  - Any tribe operating as a SORNA registration jurisdiction

- NSOR

- The jurisdiction's public sex offender registry website

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II. TERMINOLOGY

The next issue to be addressed in determining substantial implementation is that of terminology. SORNA defines certain terms in very specific ways and a jurisdiction’s registration scheme must meet, and may exceed, these minimum standards.

____ Jurisdiction Refers to the 50 States, the District of Columbia, the five principal U.S. territories -- i.e., the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands -- and Indian tribes that elect to function as registration jurisdictions under 42 U.S.C. §16927.

Whenever SORNA or the Guidelines refer to a “jurisdiction”, this is the definition that should be used.

____ Sex Offense The term “sex offense” is not used to refer to any and all crimes of a sexual nature, but rather to those covered by the definition of “sex offense” appearing in 42 U.S.C. §16911(5).

III. OFFENSES THAT MUST BE INCLUDED IN THE REGISTRY

A jurisdiction must include certain sex offenders in their registration schemes. As defined by SORNA, sex offenders are individuals convicted of certain sex offenses.

____ Convicted

____ An adult sex offender is convicted for SORNA purposes if her or she has been subject to penal consequences based on the conviction, however it may be styled.

____ The following two classes of convictions are also included in the SORNA definition of convicted, and must be included in the jurisdiction’s registry:

____ convictions of juveniles who are prosecuted as adults

____ persons adjudicated delinquent as a juvenile for a sex 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 18 U.S.C. § 2241), or was an attempt or conspiracy to commit such an offense. (See SORNA’s Juvenile Fact Sheet for additional important information: http://www.ojp.usdoj.gov/smart/pdfs/factsheet_sorna_juvenile.pdf)

SORNA specifies the sex offenses which, if they already exist in a jurisdiction, must be included in any jurisdiction’s registration scheme, as well as those convictions from other
jurisdictions (including the federal government and foreign countries) which must be included. Jurisdictions are not required to enact any new substantive sex offense crimes in order to substantially implement SORNA.

Jurisdictions must register any sex offender convicted of any of the following offenses:

____ Attemps and Conspiracies Any attempt or conspiracy to commit any sex offense

____ Federal Offenses Convictions under the following federal statutes (including any offenses prosecuted under the Assimilative Crimes Act (18 U.S.C. §1152 or §1153)):

- 18 U.S.C. §1591 (Sex Trafficking of Children)
- 18 U.S.C. §1801 (Video Voyeurism of a Minor)
- 18 U.S.C. §2241 (Aggravated Sexual Abuse)
- 18 U.S.C. §2242 (Sexual Abuse)
- 18 U.S.C. §2243 (Sexual Abuse of a Minor or Ward)
- 18 U.S.C. §2244 (Abusive Sexual Contact)
- 18 U.S.C. §2245 (Offenses Resulting in Death)
- 18 U.S.C. §2251 (Sexual Exploitation of Children)
- 18 U.S.C. §2251A (Selling or Buying of Children)
- 18 U.S.C. §2252 (Material Involving the Sexual Exploitation of Minors)
- 18 U.S.C. §2252B (Misleading Domain Names on the Internet)
- 18 U.S.C. §2252C (Misleading Words or Digital Images on the Internet)
- 18 U.S.C. §2260 (Production of Sexually Explicit Depictions of a Minor for Import into the United States)
- 18 U.S.C. §2421 (Transportation of a Minor for Illegal Sexual Activity)
- 18 U.S.C. §2422 (Coercion and Enticement of a Minor for Illegal Sexual Activity)
- 18 U.S.C. §2423 (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places)
- 18 U.S.C. §2424 (Failure to File Factual Statement about an Alien Individual)
- 18 U.S.C. §2425 (Transmitting Information about a Minor to further Criminal Sexual Conduct)

____ Foreign Offenses Jurisdictions must also register certain sex offenders convicted of foreign sex offenses when such offenders are convicted either:

____ Under the laws of Canada, United Kingdom, Australia, and New Zealand; or

____ In any foreign country where the U.S. State Department, in its Country Reports
Military Offenses


State, Tribal, Territory and Foreign Offenses

Jurisdictions are required to register any person who has been convicted of a criminal offense in any state, tribe, territory, or the District of Columbia, and any foreign country (subject to the limitations described above) that involves:

Any conduct that by its nature is a sex offense against a minor

Any conduct similar to that prohibited by the following Federal Offenses:

- 18 U.S.C. §1591 (Sex Trafficking by Force, Fraud, or Coercion)
- 18 U.S.C. §1801 (Video Voyeurism of a Minor)
- 18 U.S.C. §2241 (Aggravated Sexual Abuse)
- 18 U.S.C. §2242 (Sexual Abuse)
- 18 U.S.C. §2244 (Abusive Sexual Contact)
- 18 U.S.C. §2422(b) (Coercing a Minor to Engage in Prostitution)
- 18 U.S.C. §2423(a) (Transporting a Minor to Engage in Illicit Conduct)

Any type or degree of genital, oral, or anal penetration

Any sexual touching of or contact with a person’s body, either directly or through the clothing

Criminal sexual conduct involving a minor (where the elements of the offense involve physical contact with the victim), or the use of the internet to facilitate or attempt such conduct

Including offenses whose elements involve using other persons in prostitution — such as provisions defining crimes of “pandering,” “procuring,” or “pimping” in cases where the victim was below 18 at the time of the offense
____ False imprisonment or a minor

____ Kidnapping of a minor

____ Possession, production, or distribution of child pornography

____ Solicitation of a minor to practice prostitution

____ Solicitation to engage a minor in sexual conduct (this should be understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct)

____ Use of a minor in a sexual performance

IV. TIERING OF OFFENSES

Once a jurisdiction determines which sex offenses will require registration, it will have to decide at what ‘level’ of registration those convicted of each particular offense must register. SORNA establishes a baseline or minimum standard by way of a 3-tier classification system.

For the purposes of tiering sex offenses:

- **Minor** is defined as an individual under the age of 18

- **Sexual contact** means offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing

- **Sexual act** means offenses involving
  
  - Any direct touching of the genitals of a person under 16; or
  
  - Oral, anal, or vaginal penetration of any kind which occurs:
    
    - when the victim is under 13
    - by force
    - by way of threat or intimidation
    - when the victim has been rendered unconscious
    - when the victim is incapable of appraising the nature of their conduct;
    - when the victim is physically incapable of communicating non-consent;
    - when a drug or intoxicant has been administered which substantially impairs the ability of the other person to appraise or control their conduct
Tier I Offenses

- Convictions that have an element involving a sexual act or sexual contact with another, that are not included in either Tier II or Tier III

- Convictions that involve:
  - False Imprisonment of a Minor
  - Video Voyeurism of a Minor
  - Possession or Receipt of Child Pornography

- The following Federal Offenses:
  - 18 U.S.C. §1801 (Video Voyeurism of a Minor)
  - 18 U.S.C. §2252 (Receipt or Possession of Child Pornography)
  - 18 U.S.C. §2252A (Receipt or Possession of Child Pornography)
  - 18 U.S.C. §2252B (Misleading Domain Name)
  - 18 U.S.C. §2252C (Misleading Words or Digital Images)
  - 18 U.S.C. §2422(a) (Coercion to Engage in Prostitution)
  - 18 U.S.C. §2423(b) (Travel with the Intent to Engage in Illicit Conduct)
  - 18 U.S.C. §2423(c) (Engaging in Illicit Conduct in Foreign Places)
  - 18 U.S.C. §2424 (Filing Factual Statement about Alien Individual)
  - 18 U.S.C. §2425 (Transmitting Information about a Minor to further Criminal Sexual Conduct)

- Any comparable 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)

Tier II Offenses

- Recidivist Offender A person previously convicted of a tier I offense whose current sex offense conviction is punishable by more than one year imprisonment

- Convictions that involve:
  - The use of minors in prostitution (to include solicitations)
  - Enticing a minor to engage in criminal sexual activity
  - A non-forcible Sexual Act with a minor 16 or 17 years old
  - Sexual contact with a minor 13 or older
  - The use of a minor in a sexual performance
  - The production or distribution of child pornography

- The following Federal Offenses:
Any comparable 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)

Tier III Offenses

Recidivist Offender A person previously convicted of a tier II offense whose current sex offense conviction is punishable by more than one year imprisonment

Convictions by that involve:

- Non-parental kidnapping of a minor
- Any Sexual Act with another (as defined on page 5)
- Sexual contact with a minor under 13

The following Federal Offenses:

- 18 U.S.C. §2241 (Aggravated Sexual Abuse)
- 18 U.S.C. §2242 (Sexual Abuse)
- 18 U.S.C. §2244 (Abusive Sexual Contact, victim under 13)

Any comparable 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)

IV. REQUIRED REGISTRATION INFORMATION

Once a jurisdiction determines which sex offense convictions will require what level of registration, the question turns to what information they are required to collect for their sex offender registry. These requirements are different from the more limited list of items that are required to be displayed via a jurisdiction's public sex offender registry website.

Digitized All information is to be available in digitized format. Jurisdictions will need
to maintain all required registration information in a digitized form that will enable it to be immediately accessed by or transmitted to various entities. The jurisdiction’s registry must be an electronic database, and descriptions of the required types of information should consistently be understood as referring to digitizable information rather than hard copies or physical objects.

However, when items and/or data might be stored in separate databases (such as DNA profiles in CODIS, fingerprints in IAFIS, or professional licensing information with a separate board or committee), it is sufficient if a jurisdiction provides an identification number or some other indicator of precisely where such registration information might be found, and in what database.

As specified below, the information required to be included on a jurisdiction’s registry fall into 20 primary headings:

1. Criminal History
2. Date of Birth
3. DNA Sample
4. Driver’s License or Identification Card
5. Employment Information
6. Fingerprints
7. Internet Identifiers
8. Name
9. Palm Prints
10. Passport and Immigration Documents
11. Phone Numbers
12. Photograph
13. Physical Description
14. Professional Licensing Information
15. Resident Address
16. School Information
17. Social Security Number
18. Temporary Lodging Information
19. Text of Registration Offense
20. Vehicle Information

SORNA minimum standards require jurisdictions to include the following specific information in their registry:

___ Criminal history

___ Date of all arrests
___ Date of all convictions
___ Status of parole, probation, or supervised release
Registration status
   Outstanding arrest warrants

Date of Birth
   Actual date of birth
   Purported date of birth

DNA sample
   A DNA sample must be taken, or must have been taken, from the sex offender for purposes of analysis and entry of the resulting DNA profile into the Combined DNA Index System (CODIS)
   Samples are being analyzed and submitted for entry to CODIS

Driver's License or ID Card
   A photocopy of a valid driver's license or identification card (to include a tribal identification card) issued to the sex offender by a jurisdiction

Employment Information
   Employer Name (Business Name)
   Employer Address
   Transient/day labor employment information collected

Fingerprints
   Fingerprints taken and submitted to IAFIS

Internet Identifiers
   Email addresses
   Instant Message addresses/identifiers
   Any other designations or monikers used for self-identification in Internet communications or postings
   All designations used by sex offenders for purposes of routing or self-identification in Internet communications or postings

Name
   Primary, given name
   Nicknames, aliases, pseudonyms generally, regardless of context in which it is used
   Ethnic or Tribal names by which they are commonly known
Palm Prints

Palm Prints taken and submitted to the FBI Central Database (Next Generation Identification Program)

Passports and Immigration Documents

- Digitized copies of passports
- Digitized copies of immigration documents

Phone Numbers

- Telephone numbers and any other designations used by sex offenders for purposes of routing or self-identification in telephonic communications
- Land line telephone numbers
- Cell phone telephone numbers

Photograph

- Updated digitized photograph collected unless appearance has not changed significantly, on the following schedule:
  - Tier I Offender: Once every Year
  - Tier II Offender: Once every 6 Months
  - Tier III Offender: Once every 90 Days

Physical Description

- Physical description of the sex offender
- General description of physical appearance or characteristics
- Any identifying marks, such as scars or tattoos, etc.

Professional Licensing Information

- Concerning all licensing of the registrant that authorizes the registrant to engage in an occupation or carry out a trade or business

Resident Address

- Address of each residence at which the sex offender resides or will reside
- If no permanent residence, location or description that identifies where the sex offender "habitually lives"

School Address

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School Name
School Address

Social Security Number
Valid social security number
Purported social security number(s)

Temporary lodging information
- when an offender will be absent from his or her residence for 7 days or more

Identifying information (location) of temporary location(s)
Dates of travel

Text of Registration Offense
The text of the provision of law defining the offense for which the sex offender is registered

Vehicle Information
License plate number; and
Registration number or identifier
Of all of the following vehicles owned or operated by the offender, whether for:
- Work or
- Personal use

Including:

- Land Vehicles
- Aircraft
- Watercraft

Description of all vehicles identified above
Permanent or frequent location where all vehicles are kept

V. WHERE REGISTRATION IS REQUIRED

Jurisdiction of Conviction Initial registration is required in the jurisdiction where the sex offender was convicted even if the sex offender will not be residing there
Jurisdiction of Incarceration
Initial registration is required in the jurisdiction where a sex offender is incarcerated when completing their sentence, regardless if it is the jurisdiction of conviction or will be the jurisdiction of residence, employment, or school attendance.

Jurisdiction of Residence
All sex offenders who reside in the jurisdiction are required to register.

Jurisdiction of Employment
All sex offenders who are employees in the jurisdiction are required to register.

- Employee: Includes an individual who is self-employed or works for any other entity, whether compensated or not.

Jurisdiction of School Attendance
All sex offenders who are students in the jurisdiction are required to register.

- Student: 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.

VI. INITIAL REGISTRATION: GENERALLY

Timing of Initial Registration

A sex offender is required to register at particular times, depending on whether he or she is incarcerated within the jurisdiction, sentenced within the jurisdiction, or arriving from another jurisdiction.

When a sex offender is incarcerated within the jurisdiction

Registration must occur before release from “imprisonment” for the registration offense.

- Imprisonment: Refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly rather than in a narrow technical sense, to include for example confinement in a state “prison” as well as in a local “jail”.

When a sex offender is sentenced within the jurisdiction, but not incarcerated

Registration must occur within three business days of sentencing for the
registration offense

___ When a sex offender relocates from another jurisdiction \textit{i.e.}, when an offender is convicted and/or sentenced in another state, territory, tribe, or country, or in a federal or military court, and chooses to reside, work, or attend school in a jurisdiction.

___ Registration must occur within three business days of the sex offender establishing residence, employment, or school attendance within the jurisdiction.

\textbf{Duties of a Jurisdiction When an Offender Initially Registers}

___ Inform the sex offender of his or her duties under SORNA
___ Explain the SORNA duties to sex offender
___ Require the sex offender to read and sign a form stating that the duty to register has been explained and that the sex offender understands the registration requirement
___ Ensure that the sex offender is registered

\textbf{VII. INITIAL REGISTRATION: RETROACTIVE CLASSES OF OFFENDERS}

SORNA, by its terms, applies to all sex offenders, regardless of when they were convicted. Jurisdictions are required to \textit{recapture} (\textit{i.e.}, appropriately classify and register) certain offenders, including those who previously may have not been required to register, but who would be required to register under the jurisdiction’s new SORNA-implementing legislation.

___ There must be a procedure in place to \textit{recapture} three categories of sex offenders, which are those sex offenders who are:

___ Currently incarcerated or under supervision, either for the predicate sex offense or for some other crime;
___ Already registered or subject to a pre-existing sex offender registration requirement under the jurisdiction’s law; and those sex offenders who
___ Reenter the jurisdiction’s criminal justice system because of a conviction for some other crime (whether or not it is a sex offense)

The initial registration of these \textit{recaptured} offenders must take place within a certain amount of time, depending on the tier classification of the sex offender:

___ Timing of Recapture (from date of implementation of SORNA in the jurisdiction)

___ Tier I Offenders: Within One Year
___ Tier II Offenders: Within 6 Months
___ Tier III Offenders: Within 3 Months
VIII. KEEPING THE REGISTRATION CURRENT

The duties of a sex offender to a registration jurisdiction will depend on whether the jurisdiction is the:

- Residence Jurisdiction (the jurisdiction in which the offender resides), the
- Employment Jurisdiction (the jurisdiction in which the offender is an employee), or the
- School Jurisdiction (the jurisdiction in which the offender is a student)

This section addresses the duties of a sex offender to each of the preceding types of jurisdictions regarding the sex offender’s duty to keep their registration current.

Residence Jurisdiction

When a sex offender resides in a jurisdiction, that sex offender must do the following to keep their registration current, in addition to making the required verification appearances described in part X, below:

____ Immediately appear in-person to update any of the following information:

   ____ Name
   ____ Residence
   ____ Employment
   ____ School Attendance
   ____ Termination of residence

____ Immediately update any changes to the following information (an in-person appearance is not required):

   ____ Email addresses
   ____ Instant Message addresses
   ____ Any other designations used in internet communications, postings, or telephone communications
   ____ Vehicle Information
   ____ Temporary Lodging Information
   ____ Upon receipt of this information, the jurisdiction must immediately notify the jurisdiction in which the offender will be temporarily staying

Duties of the Residence Jurisdiction When An Offender Intends to Relocate to Another Country

If the residence jurisdiction is notified that the offender intends to commence residence, school, or employment outside of the United States, in addition to any other community notification requirements, it must also:
Immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information

_____ Immediately notify the U.S. Marshals Service

_____ Immediately update NSOR Information

**Employer Jurisdiction**

When an offender is employed in a jurisdiction, but neither resides nor attends school there, that offender must do the following:

_____ Immediately appear in-person to update any of the following information:

_____ Employment-related information in that jurisdiction

_____ Termination of employment in that jurisdiction

**School Jurisdiction**

When an offender attends school in a jurisdiction, but neither resides nor works there, that offender must do the following:

_____ Immediately appear in-person to update any of the following information:

_____ School-related information in that jurisdiction

_____ Termination of school in that jurisdiction

**X. VERIFICATION/APPEARANCE REQUIREMENTS**

Sex offenders must register for a duration of time, and make in-person appearances at a frequency, that is driven by the tier of their sex offense.

_____ Tier I Offenders

_____ Once a year

_____ For 15 years

_____ Tier II Offenders

_____ Every 6 Months

_____ For 25 years

_____ Tier III Offenders

_____ Every 3 Months
For life

Requirements for In-Person Regular Appearances

At the sex offender’s regularly-scheduled in-person appearance, there are two things which must occur:

____ A current photograph must be allowed to be taken; and
____ The sex offender must review the existing registration information for accuracy

Reduction of Registration Periods

There are only two classes of sex offenders that SORNA permits to have a reduced registration period, provided certain requirements are met. The first is any Tier I offender, and the second is any Tier III offender who is required to register because of a juvenile adjudication.

Tier I Offender: An offender’s registration and notification requirement may be terminated if the following conditions are met:

____ The sex offender has had ten years with a “clean record”:

____ Not being convicted of any offense for which imprisonment for more than 1 year may be imposed;
____ Not being convicted of any sex offense;
____ Successful (without revocation) completion of any periods of supervised release, probation, and parole;

and

____ Successful completion of an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General. (42 USC §16915(b)(1))

Tier III Offender: An offender’s registration and notification requirement may be terminated if the following conditions are met:

____ The sex offender is required to register based on a delinquency adjudication for an offense which required Tier III registration

____ The sex offender has had twenty-five years with a “clean record”:

____ Not being convicted of any offense for which imprisonment for more than 1 year may be imposed;
____ Not being convicted of any sex offense;
____ Successful (without revocation) completion of any of supervised release, probation, and parole;

and
Successful completion of an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General. (42 USC §16915(b)(1))

XI. REGISTRY WEBSITE REQUIREMENTS

Every jurisdiction will need to maintain a public sex offender registry website, as specified below.

The jurisdiction must maintain a public sex offender registry website. This website must contain the information detailed below on each sex offender in the registry.

- Exception: Information about a tier I sex offender convicted of an offense other than a “specified offense against a minor” as defined in 42 U.S.C. §16911(7) may be excluded from a jurisdiction’s public sex offender registry website.

The jurisdiction’s public sex offender registry website must contain the following basic functions and materials:

The jurisdiction must participate fully in the National Sex Offender Public Website, including taking the necessary steps to enable all field search capabilities required by NSOPW, including but not limited to:

- Name;
- County, City or Town;
- Zip Code; and
- Geographic Radius

Links to sex offender safety and education resources

Instructions on how to seek correction of information that an individual contends is erroneous.

A warning that information on the site “should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported address...and that any such action could result in civil or criminal penalties.”

Search-field capability:

- Name.
- County, City and/or Town
- Zip Code
Geographic Radius

Ten Core Required Items on Public Registry Websites

1. Absconder
   - when the offender is in violation or cannot be located, the website must note this fact

2. Criminal History
   - any other sex offense for which the sex offender has been convicted

3. Current Offense
   - the sex offense for which the offender is registered

4. Employer address

5. Name
   - including all aliases

6. Photograph:
   - a current photograph of the offender

7. Physical description

8. Resident Address
   - including any information about where the offender “habitually lives”

9. School address

10. Vehicle(s) information, including:
    - license plate number(s); and
    - vehicle description(s)

Information That Is NOT Permitted to be Displayed on Public Websites

Criminal History: any arrests not resulting in conviction
Social Security Number
Special Issue: Witness Protection

Jurisdictions are permitted and encouraged to make provision in their laws and procedures to accommodate consideration of the security of such individuals and to honor requests from the United States Marshals Service and other agencies responsible for witness protection in order to ensure that their original identities are not compromised.

XII. COMMUNITY NOTIFICATION

Community Notification is a distinct requirement of SORNA, apart from the maintenance of a sex offender registry and a public sex offender registry website. In certain cases, jurisdictions will be required to disseminate information about sex offenders to agencies and individuals in the community, as indicated below.

Law Enforcement Community Notification

Whenever a sex offender:

- initially registers in a jurisdiction, or
- updates their registration information in a jurisdiction,

The following actions are required to be taken by a jurisdiction:

The jurisdiction must immediately notify the following agencies of the initial registration or the changes to an offender’s registration information, and make the updated information available to the following agencies:

- NSOR

Each jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs.

Law Enforcement and Supervision Agencies:

- Police Departments
- Sheriffs’ Offices
- Prosecutor’s Offices
- Probation Agencies
Any other agencies with criminal investigation, prosecution, or sex offender supervision functions

National Child Protection Act agencies:

Any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a)

**General Community Notification**

Whenever a sex offender:

- initially registers in a jurisdiction, or
- updates their registration information in a jurisdiction,

And a jurisdiction follows the procedures outlined below, it will be sufficient to comply with the general community notification portion of SORNA:

- An automated notification system is adopted by the jurisdiction that incorporates the following features:
  
  - Any initial registration, and any changes in a sex offender’s registration information, are posted to the jurisdiction’s public registry website within three business days
  
  - An email notification (including a sex offender’s identity) is made available to the general public whenever a sex offender commences
    
    - residence,
    - employment, or
    - school attendance
    - within a certain zip code or geographic radius

* Jurisdictions are not required to adopt an automated notification system in order to implement this general community notification portion of SORNA. If a jurisdiction chooses not to do so, however, it will still be held to SORNA’s baseline requirements. Please contact the SMART office for assistance in determining which alternate procedures would substantially implement this portion of SORNA.

**XIII. FAILURE TO REGISTER AS A SEX OFFENDER: STATE PENALTY**

- Each jurisdiction, other than a Federally recognized Indian tribe, shall provide a criminal
penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a sex offender to comply with the requirements of their registration and notification requirements in a jurisdiction.

XIV. WHEN SEX OFFENDER FAILS TO APPEAR FOR REGISTRATION

When a jurisdiction is notified that a sex offender intends to reside, be employed, or attend school in their jurisdiction, and that offender fails to appear for registration as required, the jurisdiction receiving that notice must do the following:

___ Inform the jurisdiction that provided the notification (that the offender was to commence employment, residence, and/or school in the new jurisdiction) that the sex offender failed to appear for registration

XV. WHEN A JURISDICTION HAS INFORMATION THAT A SEX OFFENDER MAY HAVE ABSCONDED

When a jurisdiction has information that a sex offender may have absconded, certain actions must be taken.

___ An effort must be made to determine whether the sex offender has actually absconded

___ If no determination can be made, then a law enforcement agency with jurisdiction to investigate the matter must be notified

___ If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the authorities that provided the notification must be informed that the sex offender has failed to appear and register

___ If an absconded sex offender cannot be located, then the jurisdiction must take the following steps:

___ The information in the registry must be revised to reflect that the sex offender is an absconder or unlocatable

___ A warrant must be sought for the sex offender’s arrest, if the legal requirements for doing so are satisfied

___ The United States Marshals Service, which is the lead federal agency for investigating sex offender registration violations, must be notified

___ The jurisdiction must update NSOR to reflect the sex offender’s status as an absconder or unlocatable

___ The jurisdiction must enter the sex offender into the National Crime Information Center Wanted Person File (assuming issuance of a warrant meeting the requirement for entry into that file)