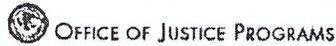


Nevada State Juvenile Justice Commission
Policy/Legislation Committee Report

Attachment C



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Juvenile Offenders and SORNA

This Implementation Document will cover the specific offenses for which a juvenile would be required to register under SORNA, as well as the discretion that jurisdictions may exercise to exempt juveniles from the jurisdiction's public sex offender website and other community notification requirements.

Juvenile Registration

Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA), requires that jurisdictions include juveniles adjudicated delinquent of certain sex offenses in their registries (see 42 U.S.C. § 16911(8)). The SORNA National Guidelines further defined and narrowed the specific types of offenses that would require registration under SORNA.

A common misconception is that SORNA requires jurisdictions to register all juveniles who are adjudicated delinquent for sex offenses. In fact, SORNA requires juvenile registration only if the juvenile was at least 14 years old at the time of the offense and was adjudicated delinquent for committing (or attempting or conspiring to commit) a sexual act with another by force, by the threat of serious violence, or by rendering unconscious or drugging the victim. However, juveniles prosecuted and convicted as adults (which is a decision left to the jurisdictions under SORNA) are subject to registration for any of those offenses as if they were adults.

Because of the severity of these offenses, these juvenile sex offenders are categorized as Tier III offenders under SORNA and are subject to applicable duration and in-person verification requirements. (See page 16 of the [SORNA National Guidelines](#) for additional guidance.)

While jurisdictions are free to adopt stricter requirements regarding the registration of juveniles adjudicated delinquent of sex offenses, and in doing so would need to refer to the remainder of the National Guidelines for guidance, they need not do anything more than what the National Guidelines require.

Although SORNA requires registration for juveniles adjudicated of certain sex offenses, SORNA does not require lifetime registration without qualification, but rather, allows registration to be terminated after 25 years for those maintaining a clean record.

SORNA does not require that registry officials treat their juvenile sex offenders as they would adult registrants. Jurisdictions have discretion to establish different procedures for juveniles that recognizes different needs of juvenile offenders. For example, a jurisdiction may adopt different locations or protocols for their in-person appearances, which are required for periodic verification and to report import changes in registration information.

Notification to the Public and Community

SORNA requires that jurisdictions make available "all information about each offender in the registry" (42 U.S.C. § 16918(a)). However, SORNA also permits jurisdictions the option to exempt from disclosure "any other information exempted from disclosure by the Attorney General" (42 U.S.C. § 16918(b)).

In January 2011, the Department of Justice published the Supplemental Guidelines for Sex Offender Registration and Notification, which specifically granted jurisdictions discretion in choosing whether to post persons adjudicated delinquent of a sex offense requiring registration under SORNA on the jurisdiction's public sex offender registry website. (See SORNA Supplemental Guidelines, 76 FR 1636-37) The Supplemental Guidelines also granted jurisdictions discretion in deciding whether such juveniles should be subjected to the full range of general community notification requirements as required by SORNA.

With the issuance of the Supplemental Guidelines, jurisdictions are no longer *required* to provide registration information concerning sex offenders who are registered on the basis of juvenile delinquency adjudications to schools, social service entities, child care agencies, or other organizations or members of the general public who request notification. However, jurisdictions may want to consider some form of notification to community agencies or individuals when a person adjudicated delinquent of a sex offense is in a community as a resident, student, or employee.

For example, a jurisdiction may consider establishing or preserving a notification process whereby registering agencies will notify secondary school officials when a juvenile sex offender enrolls in their school. In like manner, a jurisdiction may want to develop a policy so that the responsible law enforcement agency, student services department, or other appropriate office at an institution of higher education in the community is notified when a juvenile sex offender commences coursework or changes his or her registration information. In addition, protection of the public might necessitate a limited community notification process, whereby authorized child care agencies or concerned parents may proactively request or petition for disclosure of information about registered juvenile sex offenders.

The SMART Office will work with all jurisdictions to ensure that the public safety goals of SORNA are met. Jurisdictions are encouraged to develop effective and responsive policies and procedures tailored to meet the public's need to know about sex offenders who are present in their communities.

For complete information regarding the application of SORNA to juveniles adjudicated delinquent of sex offenses, please review Section IV.A of the SORNA National Guidelines.

To download all of the documents, click [here](#).

42 U.S.C. § 16911(8) provides that

The term "convicted" or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that 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 section 2241 of title 18, United States Code [18 USC § 2241]), or was an attempt or conspiracy to commit such an offense.

Generally speaking, 18 USC § 2241 prohibits

- a. knowingly caus[ing] another person to engage in a sexual act—
 1. by using force against that other person, or
 2. by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping, [or
- b. engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim; or
- c. engaging in a sexual act with a person under the age of 12]

Under the National Guidelines, the definition of "sexual act" that jurisdictions are minimally required to use to determine whether a criminal offense is "comparable to" 18 U.S.C. § 2241 is as follows:

- engaging in a sexual act with another by force or the threat of serious violence (see 18 U.S.C. 2241(a)), or
- engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim (see 18 U.S.C. 2241(b))

"Sexual act" for this purpose should be understood to include any degree of genital or anal penetration, and any oral-genital or oral-anal contact.

By definition, an adjudication of delinquency for an offense "comparable to" 18 U.S.C. § 2241 will result in a tier III registration classification. 42 U.S.C. § 16911(4) The National Guidelines make clear the criteria to be used in determining whether an offense for which a juvenile has been adjudicated delinquent qualifies for a tier III registration.