

## SORNA: General FAQ's

1. **What does the term “SORNA” mean?**
2. **What is the Federal role in the administration of SORNA?**
3. **What is the SMART Office?**
4. **What are the final guidelines?**
5. **What jurisdictions are included under SORNA?**
6. **Who is required to register under SORNA’s standards?**
7. **What is considered a sex offense under SORNA?**
8. **What is a “conviction” under SORNA?**
9. **What are some key definitions under SORNA?**
10. **How does SORNA handle offenses that involve consensual sexual conduct?**

### **1. What does the term “SORNA” mean?**

SORNA refers to the Sex Offender Registration and Notification Act which is Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248). SORNA provides a comprehensive set of minimum standards for sex offender registration and notification in the United States. SORNA aims to close potential gaps and loopholes that existed under prior law and generally strengthens the nationwide network of sex offender registration and notification programs. SORNA:

- Extends the jurisdictions in which registration is required beyond the 50 states, the District of Columbia, and the principal U.S. territories, to include also federally recognized Indian tribes.
- Incorporates a more comprehensive group of sex offenders and sex offenses for which registration is required.
- Requires registered sex offenders to register and keep their registration current in each jurisdiction in which they reside, work, or go to school.
- Requires sex offenders to provide more extensive registration information.
- Requires sex offenders to make periodic in-person appearances to verify and update their registration information.
- Expands the amount of information available to the public regarding registered sex offenders.
- Makes changes in the required minimum duration of registration for sex offenders.

### **2. What is the Federal role in the administration of SORNA?**

The Federal Government is working to assist with the implementation of SORNA and protect the public from sexual abuse and exploitation through:

- Stepped-up federal investigation and prosecution efforts to assist jurisdictions in enforcing sex offender registration requirements;

- New statutory provisions for the National Sex Offender Registry and the Dru Sjodin National Sex Offender Public Website that compile information obtained from registration programs across the country and make it readily available to law enforcement or the public;
- Federal development of software tools, which jurisdictions will be able to use to facilitate the operation of their registration and notification programs in conformity with the SORNA standards; and
- Establishment of the SMART Office to administer the national standards for sex offender registration and notification and to assist jurisdictions in their implementation efforts.

### **3. What is the SMART Office?**

SORNA established the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office), a component of the Office of Justice Programs within the U.S. Department of Justice. The SMART Office is authorized by law to administer the standards for sex offender registration and notification that are set forth in SORNA. It is further authorized to cooperate with and provide assistance to states, local governments, tribal governments, and other public and private entities in relation to sex offender registration and notification and other measures for the protection of the public from sexual abuse or exploitation. The SMART Office is a key federal partner and resource for jurisdictions as they continue to develop and strengthen their sex offender registration and notification programs.

### **4. What are the Final Guidelines?**

The Guidelines provide all jurisdictions with guidance, explanation and advice regarding the administration and implementation of SORNA. The Attorney General has issued these Guidelines to promote and assist in the implementation of the SORNA standards.

### **5. What jurisdictions are included under SORNA?**

The 50 States, the District of Columbia, the five principal U.S. territories, and federally recognized Indian tribes that elect to function as registration jurisdictions are all defined as “jurisdictions” under SORNA. “Jurisdiction”, as used by SORNA, does not include counties, cities, towns, or other political subdivisions located within states, tribes or territories. However, this definition does not limit the ability of states, tribes or territories to carry out these functions through their political subdivisions or other entities within the jurisdiction.

See Parts II.A and III of the Final Guidelines for more detail.

### **6. Who is required to register under SORNA’s standards?**

SORNA refers to the persons required to register under its standards as “sex offenders,” and SORNA defines “sex offender” to mean “an individual who was convicted of a sex offense.”

## **7. What is considered a sex offense under SORNA?**

The convictions for which SORNA requires registration include convictions for sex offenses by any U.S. jurisdiction, including convictions for sex offenses under federal, military, state, territorial, tribal or local law. Foreign convictions are also covered if certain conditions are satisfied.

Generally speaking, the following are considered sex offenses under SORNA:

- **SEXUAL ACTS AND SEXUAL CONTACT OFFENSES.** These include criminal offenses that have an element involving a sexual act or sexual contact with another. The offenses covered include all sexual offenses whose elements involve: (i) any type or degree of genital, oral, or anal penetration, or (ii) any sexual touching of or contact with a person’s body, either directly or through the clothing.
- **SPECIFIED OFFENSES AGAINST MINORS.** A criminal offense against a minor that involves any of the following:
  - Non-Parental Kidnapping
  - Non-Parental false imprisonment
  - Solicitation to engage in sexual conduct
  - Use in a sexual performance
  - Solicitation to practice prostitution
  - Video voyeurism
  - Possession, production, or distribution of child pornography
  - Criminal sexual conduct involving a minor
  - Use of the internet to facilitate criminal sexual conduct involving a minor
  - Any conduct that by its nature is a sex offense against a minor
- **SPECIFIED FEDERAL OFFENSES.** These include the following specific offenses:
  - 18 U.S.C. §1591 (Sex Trafficking of Children)
  - 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. §2252A (Material Containing Child Pornography)

- 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 in to 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)
- **SPECIFIED MILITARY OFFENSES.** These include sex offenses under the Uniform Code of Military Justice, as specified by the Secretary of Defense. These offenses are primarily located at 28 C.F.R. §571.72(b).
  - **ATTEMPTS AND CONSPIRACIES.** These include attempts and conspiracies to commit offenses that are otherwise covered by the definition of “sex offenses.”

See Part IV.A-D of the Final Guidelines for more detail.

## **8. What is a “conviction” under SORNA?**

A sex offender is “convicted” for SORNA purposes if the sex offender has been subject to penal consequences based on the conviction, however it may be styled. Likewise, the sealing of a criminal record or other action that limits the publicity or availability of conviction information, but does not deprive the conviction of continuing legal validity, does not change its status as a “conviction” for purposes of SORNA.

“Convictions” for SORNA purposes include convictions of juveniles who are prosecuted as adults. It does not include juvenile delinquency adjudications, **except** under the circumstances specified in 42 U.S.C. §16911(8). For a detailed explanation of this requirement see FAQ #43.

See Part IV.A of the Final Guidelines for more detail.

## **9. What are some key definitions under SORNA?**

- a. **“Employee”:** An individual who is self-employed or works for any other entity, whether compensated or not.
- b. **“Habitually Lives”:** Includes places in which the sex offender lives with some regularity. A sex offender ‘habitually lives’ in the relevant

sense in any place in which the sex offender lives for at least 30 days. Jurisdictions may specify the manner of their choosing the application of the 30-day standard to sex offenders whose presence in the jurisdiction is intermittent but who live in the jurisdiction for 30 days in the aggregate over some longer period of time.

- c. **“Imprisonment”**: Refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence
- d. **“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 elected to function as jurisdictions under SORNA § 127.
- e. **“Resides”**: Refers to the location of the individual’s home or other place where the individual habitually lives.
- f. **“Student”**: An individual who enrolls in or attends an educational institution (whether public or private) including secondary schools, trade or professional schools, and institutions of higher education.
- g. **“This Title”**: References to “this title” in sections 124 and 125 function as a shorthand for Title 1, SORNA (Sex Offender Registration and Notification Act), not the entirety of the Adam Walsh Act.

#### **10. How does SORNA handle offenses that involve consensual sexual conduct?**

SORNA section 111(5)(C) addresses the minimum standards for requiring sex offender registration for consensual sexual conduct under the Adam Walsh Act. SORNA does **NOT** require registration in the following situations: 1) If both participants are adults, and neither is under the custodial authority of the other (e.g., inmate/prison guard) and the conduct was consensual, then this conduct does not constitute a registerable sex offense for purposes of the Adam Walsh Act. 2) With respect acts involving at least one minor (person under 18) who engages in consensual sexual conduct, the following minimum standards apply: Where both participants are at least 13 years old and neither participant is more than 4 years older than the other, a sex offense conviction based on consensual sexual conduct does not require registration under the Adam Walsh Act. In all situations, jurisdictions have discretion to exceed the minimum standards of SORNA and require registration upon convictions based on consensual sexual conduct.