



April 2011¹

SORNA Substantial Implementation Review (Revised) State of Wyoming

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) would like to thank the State of Wyoming (Wyoming) for the extensive work that has gone into its effort to substantially implement Title I of the Adam Walsh Act, the Sex Offender Registration and Notification Act (SORNA). The SMART Office has completed its review of Wyoming's SORNA substantial implementation packet and has found that Wyoming has substantially implemented SORNA.

On April 13, 2009, the Wyoming Attorney General's Office, Division of Criminal Investigation, Sex Offender Registry, submitted a substantial implementation package that included legislation, the SORNA Checklist, a description of registration procedures, and other documents. In addition, email and phone correspondence with the Wyoming Attorney General's Office, Division of Criminal Investigation, Sex Offender Registry filled in gaps in information and procedure, which informed our review.

Our review of these materials follows the outline of the SMART Office Substantial Implementation Checklist-Revised, which contains 15 sections addressing the SORNA requirements. Under each section, we indicate whether Wyoming meets the SORNA requirements of that section or deviates from the requirements in some way. In instances of deviation, we specify where the departure(s) from a particular requirement does not substantially disserve the purposes of that requirement.

While Wyoming is encouraged to work toward rectifying deviations from requirements in order to achieve full implementation of SORNA, this is not required for substantial implementation purposes. This report is an exhaustive review and is intended to detail every area in which the state has not met SORNA standards.

We encourage you to review the information below, share it with relevant stakeholders in the state, and get back in touch with us to develop a strategy to address these remaining issues.

I. Immediate Transfer of Information

SORNA requires that when an offender initially registers or updates his information in a jurisdiction, that that registration information be immediately sent to other jurisdictions where the offender has to register, as well as to NCIC/NSOR and the jurisdiction's public sex offender registry website.

¹ This report has been revised to reflect the status of Wyoming's SORNA Implementation efforts as of April, 2011, the period when Wyoming was initially notified of the SMART Office's determination of substantial implementation.

Wyoming meets all of the SORNA requirements in this section.

II. Offenses the Must Be Included in the Registry

SORNA requires that certain federal, military, and foreign offenses are included in a jurisdiction's registration scheme. In addition, SORNA requires that the jurisdiction capture certain sex offenses, both offenses from its jurisdiction and from other SORNA registration jurisdictions, in its registration scheme. SORNA also requires that certain adjudications of delinquency are included in a jurisdiction's registration scheme.

A. Definition of 'Conviction'

Regarding the definition of what qualifies as a 'conviction', Wyoming has a procedure in Wyo. Stat. § 7-13-301 via which a person either pleads guilty or no contest and can petition to have their case continued on certain terms and conditions. They are also placed on probation. Upon successful completion of those terms and the period of probation, the person can have their case dismissed. This is a procedure that can be used on most felony and misdemeanor offenses subject to registration, and persons subject to this procedure, because they have not been "convicted" under Wyoming law, are not subject to registration—even though they are subjected to "penal consequences" as contemplated by the Guidelines.

B. Juvenile Adjudications

Any juvenile adjudicated delinquent of a tier III offense and sentenced after July 1, 2011 is required to register as a sex offender.

C. Included Offenses

Wyoming's statute requires registration for any offender convicted of a qualifying sex offense in Wyoming's courts or "any other jurisdiction [where the offense contains] the same or similar elements, or arising out of the same or similar facts or circumstances." This will capture comparable offenses in the courts of other States, territories, foreign nations, the federal government, the U.S. Military, federally-recognized Tribes and the District of Columbia.

There are some offenses required to be registered under SORNA which Wyoming does not register.

1. Wyoming Convictions. There are two Wyoming criminal offenses for which SORNA requires registration in addition to those already captured:
 - a. Wyo. Stat. § 6-2-313 Sexual Battery; is a Tier I offense under SORNA.
 - b. Wyo. Stat. § 6-4-201(a)(iii) Public Indecency; is a Tier I offense under SORNA (when the victim is an adult).

2. Military Convictions. SORNA requires that sex offenders convicted of certain military offenses be subject to registration. While Wyoming did include military court convictions in many of its provisions, the language used is insufficient to capture all of the required military offenses.

Wyoming has included military convictions by way of cross-references found in §§ 7-19-301(a)(viii). The language in this code section, however, only embraces offenses containing the “same or similar elements, or arising out of the same or similar facts or circumstances, as criminal offenses requiring registration under Wyoming’s laws.” There are some Military offenses which do not have equivalent counterparts under Wyoming’s code, and offenders convicted of those crimes would not be included in Wyoming’s registration scheme.

The SMART Office has considered these deviations from SORNA’s requirement, and has determined that they do not substantially disserve the purposes of this requirement.

III. Tiering of Offenses

SORNA requires that offenses be classified based on the nature of the offense of conviction. The SMART Office has reviewed all statutes identified in the substantial implementation submission package and has identified Wyoming’s placement of these statutes within the SORNA three tier levels.

Wyoming classifies its sex offenders into three tiers. All adult offenders in Wyoming are initially required to register for life. A person convicted of an offense listed in § 7-19-302(g) is subject to annual in-person verifications and may petition for removal from the registry after ten years. A person convicted of an offense listed in § 7-19-302(h) is subject to semi-annual in-person verifications and may petition for removal from the registry after 25 years. A person convicted of an offense listed in § 7-19-302(j) is subject to quarterly in-person verifications and is not eligible for any reduction in the duration of their registration obligation.

For ease of reference in this report, the SMART Office will refer to § 7-19-302(g) offenses as “Tier I”, § 7-19-302(h) offenses as “Tier II”, and § 7-19-302(j) as “Tier III”.

Wyoming correctly places its statutes within at least the minimum appropriate SORNA tiers, with the following exceptions (see the Appendix, “Wyoming State Statutes” for information about Wyoming’s classification of its offenders and associated registration requirements):

- **§6-2-314(a)(ii-iii) Sexual Abuse of a Minor in the First Degree (victim 13-15)**

Wyoming classifies this offense as a tier II offense, and it requires a tier III classification under SORNA because it will involve a “sexual act” with a victim between 13 and 15 years of age.

- **§6-2-315(a)(i) Sexual Abuse of a Minor in the Second Degree (victim<16)**

Wyoming classifies this offense as a tier II offense, and it requires a tier III classification under SORNA because it will involve a “sexual act” with a victim under 16 years of age.

- **§6-2-316(a)(i) Sexual Abuse of a Minor in the Third Degree (victim 13-15)**

Wyoming classifies this offense as a tier I offense, and it requires a tier II classification under SORNA because it will involve “sexual contact” with a victim between 13 and 15 years of age.

The SMART Office has considered these deviations from SORNA’s requirement, and has determined that they do not substantially disserve the purposes of this requirement.

IV. Required Registration Information

SORNA requires that the jurisdiction collect certain pieces of information from and for each offender that it registers, and requires that the jurisdiction keep that registration information, in a digitized form, in its registry.² Wyoming collects all of the required information except for:

- **Text of the Registration Offense:** Wyoming does link to the text of all Wyoming offenses. They will still need to develop the capacity to list the text of non-Wyoming offenses.

The SMART Office has considered these deviations from SORNA’s requirement, and has determined that they do not substantially disserve the purposes of this requirement.

V. Where Registration is Required

SORNA requires that the jurisdiction register an offender if the jurisdiction is the one in which he is convicted or incarcerated. In addition, SORNA requires that the jurisdiction register offenders who reside, work, or attend school in the jurisdiction.

Wyoming meets all of the SORNA requirements in this section.

VI. Initial Registration: Generally

SORNA requires that when an offender is incarcerated within the jurisdiction, registration must occur before release from imprisonment for the registration offense. Similarly, when an offender is sentenced within the jurisdiction, but not incarcerated, SORNA requires that registration occur within three business days of sentencing. Finally, when an offender has been

² Although this report is based in part on legislation passed in January of 2011, Wyoming does properly require twenty-one days’ notice of international travel as required by the SORNA Supplemental Guidelines (issued in January 2011).

convicted, sentenced, or incarcerated in another jurisdiction (including federal or military court), the jurisdiction must register the offender within three business days of the offender establishing residence, employment, or school attendance within the jurisdiction. SORNA also requires that, during the initial registration process, the jurisdiction inform the offender of his registration duties and require the offender to acknowledge in writing that he understands those duties.

Wyoming meets all of the SORNA requirements in this section.

VII. Initial Registration: Retroactive Classes of Offenders

SORNA requires that each registration jurisdiction have a procedure in place to recapture three categories of sex offenders: those who are currently incarcerated or under supervision, either for the predicate sex offense or for some other crime; those who are already registered or subject to a pre-existing sex offender registration requirement under the jurisdiction's law; and those who reenter the jurisdiction's criminal justice system because of a conviction for some other felony crime (whether or not it is a sex offense).

Prior to the passage of its 2007 law, Wyoming sent letters to the last known addresses for the 2500+ registrants maintained in its current and legacy records. This notification included the new statute and the direction for the offender to check on their (possible) new duty to register.

Wyoming currently registers offenders convicted as an adult on or after January 1, 1985. Persons will be required to register based on a juvenile adjudication (or any offense newly listed as requiring registration in the 2011 legislation) if they were sentenced after July 1, 2011.

The SMART Office has considered these deviations from SORNA's requirement, and has determined that they do not substantially disserve the purposes of this requirement.

VIII. Keeping the Registration Current

SORNA requires that when a sex offender resides in a jurisdiction, that the offender immediately appear in-person to update his or her name, residence, employment, school attendance, and termination of residence. When an offender works in a jurisdiction, but does not reside or attend school there, SORNA requires that the offender immediately appear in-person to update employment-related information. When an offender attends school in a jurisdiction, but does not reside or work there, SORNA requires that the offender immediately appear in-person to update school-related information.

SORNA also requires that when an offender resides in a jurisdiction, that the sex offender immediately update any changes to his or her email addresses, internet identifiers, telephone communications, vehicle information, and temporary lodging information.

In addition, SORNA requires that when an offender notifies the jurisdiction of his intent to relocate to another country to live, work or attend school, or of his intent to travel to another country, that the jurisdiction do three things: immediately notify any other jurisdiction where the

offender is either registered, or is required to register, of that updated information; immediately notify the United States Marshals Service, and immediately update NCIC/NSOR.

Wyoming meets all of the SORNA requirements in this section.

IX. Verification/Appearance Requirements

SORNA requires that offenders register for a duration of time, and make in-person appearances at the registering agency, based on the tier of the offense of conviction.

A. Frequency of Registration

SORNA requires that offenders make in-person appearances at the registering agency based on the tier of the offense of conviction. Specifically, SORNA requires that SORNA Tier I offenders appear once a year, that SORNA Tier II offenders appear every six months, and that SORNA Tier III offenders appear every three months.

Wyoming meets all of the SORNA requirements in this section.

B. Duration of Registration

SORNA requires that offenders register for a duration of time based on the tier of the offense of conviction. Specifically, SORNA requires that SORNA Tier I offenders register for 15 years, SORNA Tier II offenders register for 25 years, and that SORNA Tier III offenders register for life.

All adult offenders in Wyoming are required to register for life, subject to the reduction periods described below. Persons required to register based on a juvenile adjudication must appear in-person every three months and may petition for termination of registration after ten years.

Wyoming meets all of the SORNA requirements in this section.

C. Reduction of Registration Periods

Wyoming permits tier I and tier II offenders to petition for termination of their duty to register if they maintain a clean record for a certain period of time. Tier I offenders may petition after ten years from release from incarceration, and tier II offenders may petition after 25 years from their release from incarceration. In addition, persons required to register based on an adjudication of delinquency may petition for removal ten years from their release from incarceration.

Wyoming's definition of clean record mirrors SORNA's requirements.

The SMART Office has considered this deviation from SORNA's requirement, and has determined that it does not substantially disserve the purposes of this requirement.

X. Registry Website Requirements

SORNA requires that each jurisdiction maintain a public sex offender registry website and publish certain registration information on that website. SORNA also requires that certain information not be displayed on a jurisdiction's public registry website.

Wyoming does not display links to sex offender safety and information resources on its public registry website.

The SMART Office has considered this deviation from SORNA's requirement, and has determined that it does not substantially disserve the purposes of this requirement.

XI. Community Notification

SORNA requires that each jurisdiction disseminate certain initial and updated registration information to particular agencies within the jurisdiction. In addition, SORNA requires that each jurisdiction also disseminate certain initial and updated registration information to the community.

Wyoming has established an email notification system which persons can subscribe to and receive a notification whenever an offender changes their residence to or from a particular zip code, or to track an individual offender.

Wyoming meets all of the SORNA requirements in this section.

XII. Failure to Register as a Sex Offender: State Penalty

SORNA requires that each jurisdiction, other than a federally recognized Indian tribe, provide a criminal penalty that includes a maximum term of imprisonment that is greater than one year for the failure of a sex offender to comply with their registration requirements.

Wyoming meets all of the SORNA requirements in this section.

XIII. When a Sex Offender Fails to Appear for Registration

SORNA requires that when a jurisdiction is notified that a sex offender intends to reside, be employed, or attend school in its jurisdiction, and that offender fails to appear for registration as required, that the jurisdiction receiving that notice inform the originating jurisdiction (the jurisdiction that provided the initial notification) that the sex offender failed to appear for registration.

Wyoming meets all of the SORNA requirements in this section.

XIV. When a Jurisdiction has Information that a Sex Offender may have Absconded

SORNA requires that when a jurisdiction has information that a sex offender may have absconded, that the jurisdiction take certain actions in terms of investigating the absconder and notifying various law enforcement agencies.

Wyoming implements many of the required pieces of SORNA with regards to absconded sex offenders. Where Wyoming's procedures fall short of SORNA's full implementation standards is noted, below:

1. Warrant: Wyoming vests the final discretion for securing a warrant with the local prosecutor's office, rather than mandating its pursuit; and
2. U.S. Marshals' Notice: Wyoming advises that it regularly notifies the USMS of absconders, but that such notice is not required to be made within three business days.

The SMART Office has considered these deviations from SORNA's requirement, and has determined that they do not substantially disserve the purposes of this requirement.

XV. Tribal Considerations

Wyoming has two federally-recognized tribes which have opted to become SORNA registration jurisdictions: the Northern Arapahoe Tribe and the Eastern Shoshone Tribe, both of the Wind River Reservation. The SMART Office is working closely with both tribes and the State to navigate this portion of SORNA implementation (and any possible MOU's or MOA's) through the existing primary State contact, Diana Fisher, who is the Program Manager of the Wyoming Sex Offender Registry.

The contact office for these tribes regarding SORNA implementation is the Wyoming Office of the Attorney General, Division of Criminal Investigation, Sex Offender Registry. That office's contact information is:

316 W 22nd Street
Cheyenne, WY 82002
307 777-7809
WYSORS@dci.wyo.gov

Conclusion

Wyoming put forth exceptional work and effort in adopting SORNA and enhancing its sex offender registration and notification system.

Appendix: Wyoming Statutes

The SMART Office has reviewed all of Wyoming's statutes identified in its substantial implementation submission package and has identified Wyoming's placement of these statutes within the tiering structure created in Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA). Unless indicated in the notes herein, the SMART office has not reviewed any statutes (or subsections) that were not included in the legislation provided by Wyoming.

In reviewing Wyoming's statutes, the SMART Office understands that Wyoming has three categories of registrants for purposes of its duration of registration and frequency of registration requirements:

- A person convicted of an offense listed in § 7-19-302(g) is subject to annual in-person verifications and may petition for removal from the registry after ten years;
- A person convicted of an offense listed in § 7-19-302(h) is subject to semi-annual in-person verifications and may petition for removal from the registry after 25 years; and
- A person convicted of an offense listed in § 7-19-302(j) is subject to quarterly in-person verifications and is not eligible for any reduction in the duration of their registration obligation.

In addition, persons required to register based on a juvenile adjudication must appear in-person every three months and may petition for termination of registration after ten years.

SORNA Tier I Offenses

SORNA requires that Tier I offenders register for a minimum of 15 years and annually verify registration information. The following offenses listed in Wyoming's statutes would require, at a minimum, Tier I registration requirements under SORNA.

§ 6-2-202	Felonious Restraint (minor victim)
§ 6-2-203	False Imprisonment (minor victim)
§ 6-2-303(b)	Sexual Assault in the Second Degree (adult victim)
§ 6-2-313	Sexual Battery
§ 6-4-201(a)(3)	Public Indecency
§ 6-4-303(iv)	Possession of Child Pornography
§ 6-4-304(b)	Voyeurism

SORNA Tier II Offenses

SORNA requires that Tier II offenders register for a minimum of 25 years and semi-annually verify registration information. The following offenses listed in Wyoming's statutes would require, at a minimum, Tier II registration requirements under SORNA.

§ 6-2-303(a)(vii)	Sexual Assault in the Second Degree (victim 16 or 17)
§ 6-2-303(b)	Sexual Assault in the Second Degree (victim 13-18)
§ 6-2-304(a)(iii)	Sexual Assault in the Third Degree (victim 13-18)
§ 6-2-314(a)(ii)	Sexual Abuse of a Minor in the First Degree (victim 16 or 17)
§ 6-2-315(a)(iii)	Sexual Abuse of a Minor in the Second Degree (victim 13-18)
§ 6-2-315(a)(iv)	Sexual Abuse of a Minor in the Second Degree (victim 13-16)
§ 6-2-316(a)(i-ii, iv)	Sexual Abuse of a Minor in the Third Degree
§ 6-2-317(a)(ii)	Sexual Abuse of a Minor in the Fourth Degree
§ 6-2-318	Soliciting to Engage in Illicit Sexual Relations
§ 6-4-102	Soliciting an Act of Prostitution, where the person solicited is a minor
§ 6-4-103	Promoting Prostitution, if the person enticed or compelled was a minor
§ 6-4-302(a)(i)	Promoting Obscenity, if the offense involves the use of a minor in a sexual performance
§ 6-4-303(b)(i-iii)	Sexual Exploitation of Children
§ 6-4-402	Incest (sexual act, victim 16 or 17; or sexual contact, victim 13-18)

SORNA Tier III Offenses

SORNA requires that Tier III offenders register for life and quarterly verify registration information. The following offenses listed in Wyoming's statutes would require, at a minimum, Tier III registration requirements under SORNA.

§ 6-2-201	Kidnapping (minor victim)
§ 6-2-302	Sexual Assault in the First Degree

§ 6-2-303	Sexual Assault in the Second Degree (except as noted above)
§ 6-2-304(a)(iii)	Sexual Assault in the Third Degree (victim under 13)
§ 6-2-314(a)(i)	Sexual Abuse of a Minor in the First Degree
§ 6-2-314(a)(ii)	Sexual Abuse of a Minor in the First Degree (victim under 16)
§ 6-2-314(a)(iii)	Sexual Abuse of a Minor in the First Degree
§ 6-2-315(a)(i-ii)	Sexual Abuse of a Minor in the Second Degree
§ 6-2-315(a)(iii-iv)	Sexual Abuse of a Minor in the Second Degree (victim under 13)
§ 6-2-316(a)(iii)	Sexual Abuse of a Minor in the Third Degree
§ 6-4-402	Incest (sexual act, victim under 16; or sexual contact, victim under 13)

Further Review

The SMART Office notes that Wyoming also registers the following offenses; however, those offenses, without the commission of (or the attempt or conspiracy to commit) a sexual offense, do not require registration under SORNA:

§6-2-317(a)(1)	Sexual Abuse of a Minor in the Fourth Degree
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