



December 2021

SORNA Substantial Implementation Review State of Arizona — Revised

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) recognizes the State of Arizona's efforts to substantially implement Title I of the Adam Walsh Act, the Sex Offender Registration and Notification Act (SORNA). The SMART Office has completed its revised review of Arizona's SORNA substantial implementation materials and has determined Arizona has not substantially implemented SORNA.

In November 2015, the SMART Office provided a substantial implementation review to Arizona, which found that the state had not substantially implemented SORNA. In March 2021, Arizona submitted updated materials that included revised statutes, risk assessment screening guidelines, and a revised substantial implementation checklist. In addition, email and phone correspondence with the Criminal Justice Services Bureau, Arizona Department of Public Safety informed our review.

This review is exhaustive and details each area in which Arizona has not met SORNA standards. This review follows the outline of the SMART Office Substantial Implementation Checklist—Revised, and contains 11 sections addressing the SORNA requirements. Each section indicates whether Arizona meets or does not meet the SORNA requirements of that section, or deviates from the SORNA requirements in a way that does not substantially disserve SORNA's requirements.

I. Immediate Notification and Exchange of Information

SORNA requires that when an offender initially registers and/or updates their information in a jurisdiction, that the initial registration information or updated information be immediately sent to each jurisdiction where the offender has to register — where the offender lives, works or goes to school — through the SORNA Exchange Portal or other means, as well as sent to the National Crime Information Center's National Sex Offender Registry (NCIC/NSOR). Notification must also be provided to appropriate law enforcement agencies, supervision agencies and any agency responsible for conducting employment-related background checks under 34 U.S.C. § 40102(a) in each jurisdiction where the offender is registered.

Arizona updates NCIC/NSOR within the time frame established by SORNA. The Arizona Department of Public Safety submits initial and/or updated information to NCIC/NSOR within 72 hours (excluding weekends and holidays) after receipt from the county sheriffs, which serve as the local registering agencies.

County sheriffs notify local law enforcement agencies in other jurisdictions when an offender

provides notice of a change of residence within 72 hours (excluding weekends and holidays).

Arizona meets all of the SORNA requirements of this section.

II. Offenses That Must Be Included in the Registry

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

A. Arizona Offenses

Arizona includes some state offenses in its registration scheme for which SORNA requires registration. However, Arizona only requires offense-based registration for statutorily enumerated offenses; registration is discretionary for certain other sex offenses.¹ Upon conviction, a sentencing judge may require registration for the following offenses:

Ariz. Rev. Stat. § 13-1404	Sexual abuse (if the victim is 18 or older) ²
Ariz. Rev. Stat. § 13-1409	Unlawful sexual conduct (adult probation and juvenile court employees)
Ariz. Rev. Stat. § 13-1418	Sexual misconduct (behavioral health professionals)
Ariz. Rev. Stat. § 13-1419	Unlawful sexual conduct (correctional facilities)
Ariz. Rev. Stat. § 13-1424	Voyeurism
Ariz. Rev. Stat. § 13-1425	Unlawful distribution of images

¹ A sentencing judge may require registration for any offense listed in Chapter 14 (Sex Offenses) and Chapter 35.1 (Sexual Exploitation of Children) of Title 13 of Arizona’s Criminal Code. This does not capture the sex offenses listed in Chapter 13 (Kidnapping and Related Offenses) and Chapter 32 (Prostitution), which include registerable offenses under SORNA. In addition, a sentencing judge may require registration for any non-sex offense if there was a finding of “sexual motivation” pursuant to Ariz. Rev. Stat. § 13-118.

² Arizona statutorily requires registration for sexual abuse (Ariz. Rev. Stat. § 13-1404) only if the victim is under 18 years old. A sentencing judge has discretion to require registration if the victim is 18 or older.

SORNA requires registration for the following prostitution-related offenses if the victim is under the age of 18. However, Arizona does not include these offenses in its registration scheme.³

Ariz. Rev. Stat. § 13-3201	Enticement of persons for purposes of prostitution
Ariz. Rev. Stat. § 13-3202	Procurement by false pretenses of person for purposes of prostitution
Ariz. Rev. Stat. § 13-3203	Procuring or placing persons in house of prostitution
Ariz. Rev. Stat. § 13-3204	Receiving earnings of prostitute
Ariz. Rev. Stat. § 13-3205	Causing spouse to become prostitute
Ariz. Rev. Stat. § 13-3209	Pandering
Ariz. Rev. Stat. § 13-3210	Transporting persons for purpose of prostitution or other immoral purpose

The following trafficking offenses are also required by SORNA to be included in the state's registration scheme but are not covered in Arizona's registration laws:

Ariz. Rev. Stat. § 13-1307	Sex trafficking ⁴
Ariz. Rev. Stat. § 13-3212(B)(3)	Child sex trafficking ⁵

B. Offenses of Other SORNA Registration Jurisdictions

Arizona deviates from SORNA in that the state requires registration for an offense committed in another jurisdiction if 1) the offense is equivalent to an Arizona registerable offense or 2) the convicting or adjudicating jurisdiction requires registration. Because Arizona does not register all SORNA-required state offenses (see subsection A. Arizona Offenses), if the jurisdiction of conviction or adjudication does not require registration for the same SORNA-required offenses, these offenses may also not require registration in Arizona.

³ Arizona statutorily requires registration for Child Sex Trafficking (Ariz. Rev. Stat. § 13-3212) subsections a and b, paragraphs 1 and 2, which cover nearly all of the same conduct addressed by the offenses listed here but specifies the victim is under 18 years old. None of the prostitution-related offenses have the age of the victim as an element of the crime.

⁴ This offense prohibits sex trafficking of victims 18 years of age or older. Arizona child sex trafficking offenses all require registration except for a single subsection discussed in footnote 5.

⁵ This subsection prohibits a person 18 or older from engaging in prostitution with a minor who is 15, 16, or 17, without requiring that the offender knew or should have known the victim's age. Arizona requires registration for the same conduct in a comparable subsection with the additional element of knowledge of the victim's age.

The decision on whether to require registration for offenses from other jurisdictions is ultimately left to the sheriff in the county where the offender resides.

C. Federal Offenses

Arizona includes federal offenses in its registration scheme by capturing offenses equivalent to registerable Arizona offenses.⁶ However, the following federal offenses require registration under SORNA but do not appear to have equivalent registerable Arizona offenses and, therefore, may not require registration under Arizona's existing scheme:

- 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. § 2424 Filing factual statement about alien individual
- 18 U.S.C. § 2425 Use of interstate facilities to transmit information about a minor

Additionally, if a federal sentencing court orders registration upon conviction, Arizona may register the federal offense. Nonetheless, the decision of whether to require registration for federal offenses is ultimately left to the sheriff in the county where the offender resides.

D. Military Offenses

Arizona deviates from SORNA requirements in that Arizona includes military offense convictions in its registration scheme only if the offense is equivalent to a registerable Arizona offense. Therefore, there are some military offenses (such as conduct unbecoming) that do not appear to have an equivalent offense under Arizona law and, thus, may not require registration under Arizona's existing scheme. The decision on whether to require registration for military offenses is ultimately left to the sheriff in the county where the offender resides.

E. Foreign Offenses

Arizona deviates from SORNA requirements in that Arizona includes foreign convictions in its registration scheme only if the offense is equivalent to a registerable Arizona offense. Therefore, there are some foreign offenses that do not appear to have an equivalent offense under Arizona law and, thus, may not require registration under Arizona's existing scheme. The decision on whether to require registration for foreign offenses is ultimately left to the sheriff in the county where the offender resides.

⁶ Equivalency alone may not trigger a registration requirement for the federal voyeurism of a minor offense. 18 U.S.C. § 1801 (video voyeurism of a minor) is equivalent to Ariz. Rev. Stat. § 13-1424 (voyeurism) but since registration of § 13-1424 is only discretionary in Arizona, the same is true of § 1801.

F. Juveniles

Arizona handles juveniles charged with sex offenses in multiple ways.

1. Policies and practices to prosecute as adults juveniles who commit serious sex offenses

Arizona statutorily mandates the county attorney to prosecute a juvenile as an adult if the juvenile was at least 15 years old at the time of the offense and is charged with certain violent felonies, including forcible sexual assault in violation of Ariz. Rev. Stat. § 13-1406 or any felony offense if the juvenile is a “chronic felony offender.”⁷ Ariz. Rev. Stat. § 13-1406 includes conduct that is equivalent to aggravated sexual abuse as described in 18 U.S.C. § 2241 (a) and (b).

If the juvenile is at least 14 years old at the time of the offense, the county attorney has discretion to prosecute a juvenile as an adult if the juvenile is charged with certain classes of felonies, including serious sex offenses, or any felony if the juvenile is a “chronic felony offender.”

A juvenile convicted as an adult of a registerable sex offense is subject to the same registration requirements as an adult.

2. Policies and practices to register juveniles adjudicated delinquent for serious sex offenses

All juveniles adjudicated delinquent for a registerable sex offense are eligible for registration, which may be ordered at the adjudicating court’s discretion. The scope of offenses that trigger a juvenile adjudicated delinquent’s eligibility for registration go beyond the most serious sex offenses and include all sex offenses that trigger adult registration in Arizona. The juvenile court has broad discretion to determine whether a juvenile adjudicated delinquent should be required to register as a sex offender. There are no statutorily prescribed factors that a court must consider. So long as a court does not base its decision on an “illegal reason,” state appellate courts have upheld a court’s decision. Registration based on a juvenile adjudication terminates when an offender turns 25 or earlier if a petition for early removal is granted by the court (see section VIII, subsection D. Reduction of Registration Periods).

⁷ Ariz. Rev. Stat. § 13-501 defines “chronic felony offender” as a juvenile who has had two prior and separate adjudications and dispositions for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult. If “chronic felony offender” is the basis for prosecuting a juvenile as an adult, the juvenile is entitled to a hearing in adult court on the question of whether they qualify. If the county attorney fails to establish by a preponderance of the evidence that the child is a “chronic felony offender,” the court must transfer the child to juvenile court.

3. Policies and practices to identify, track, monitor or manage juveniles adjudicated delinquent for serious sex offenses who are in the community

A juvenile adjudicated delinquent for a sex offense may be placed in a sex offender treatment program if committed to the Department of Juvenile Corrections or under the supervision of a probation department. The juvenile court has discretion to require placement in a treatment program as a condition of probation.

If a juvenile is adjudicated delinquent or convicted of a dangerous offense⁸ or certain serious sex offenses, including § 13-1405 (Sexual conduct with a minor), § 13-1406 (Sexual assault), § 13-1410 (Molestation of a child), or § 13-1417 (Continuous sexual abuse of a child), and is placed on probation and is also attending school, the court must notify the school district where the juvenile resides that the juvenile is adjudicated delinquent or convicted and is on probation. The school district must then notify the school the juvenile attends. The school the juvenile attends may request the criminal history of the juvenile and make the information available to teachers, parents, guardians or custodians upon request.

The juvenile court may also order that the same community notification requirements that are automatically applied to adult registered sex offenders are applied to a juvenile adjudicated delinquent ordered to register.

These deviations do not substantially disserve the purposes of the SORNA requirements in this section.

III. Required Registration Information

SORNA requires the jurisdiction collect certain information from, and for, each offender that it registers, and requires that the jurisdiction keep that registration information in its registry, in a digitized form.

Arizona deviates from SORNA requirements in that the following information is not included in its registry:

- Palm prints
- Passports and immigration documents
- Professional licensing information

These deviations do not substantially disserve the purposes of the SORNA requirements in this section.

⁸ Ariz. Rev. Stat. § 13-105 defines “dangerous offense” as an offense involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another person.

IV. Where Registration Is Required

SORNA requires the jurisdiction register an offender if the offender was convicted or incarcerated in that jurisdiction. In addition, SORNA requires that the jurisdiction register offenders who live, work or go to school in the jurisdiction.

Arizona deviates from SORNA requirements in that non-resident sex offenders who are employed or attend school in Arizona are only required to register if they are required to register in their state of residence or the offense of conviction is equivalent to a registerable offense in Arizona. Additionally, an offender convicted in Arizona, who is not incarcerated after conviction and does not intend to live, work or attend school in Arizona, is not subject to any registration requirements in Arizona.

Because Arizona does not register nonincarcerated offenders convicted in Arizona who do not intend to live, work or attend school in Arizona and does not provide notice to the out-of-state receiving jurisdiction of their registerable sex offense conviction, Arizona does not meet the SORNA requirements in this section.

V. Initial Registration: Generally

SORNA requires registration of an offender who is incarcerated within the jurisdiction before release from imprisonment for the registration offense. Similarly, when an offender is sentenced in the jurisdiction, but not incarcerated, SORNA requires registration within three business days of sentencing. Additionally, when an offender has been 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. Finally, SORNA requires that, during the initial registration process, the jurisdiction inform the offender of their registration duties and require the offender acknowledge in writing that they understand those duties.

Arizona deviates from SORNA requirements in that nonincarcerated offenders are required to register with the local county sheriff in the county where the offender resides within 10 days of conviction. However, offenders moving to Arizona or between counties within the state must register with the county sheriff within 72 hours (excluding weekends and holidays) after entering and remaining for at least 72 hours in any county in the state. Incarcerated offenders are registered by the Department of Corrections prior to their release from incarceration, which forwards registration information to the Department of Public Safety and the sheriff of the county where the registered person intends to reside within three days of an offender's release.

Because Arizona allows nonincarcerated offenders up to 10 days after conviction to register, Arizona does not meet the SORNA requirements in this section.

VI. Initial Registration: Retroactive Classes of Offenders

SORNA applies to sex offenders convicted prior to the enactment of SORNA or its implementation in the jurisdiction, if they are prisoners, supervisees or registrants at the time of implementation, or if they reenter the system because of subsequent criminal convictions.

Arizona meets all of the SORNA requirements in this section.

VII. Keeping the Registration Current

SORNA requires registered sex offenders immediately appear in person to the registering agency in their jurisdiction of residence to update their name, residence, employment, school attendance and termination of residence. SORNA also requires sex offenders immediately update the registering agency in their jurisdiction of residence about any changes to their email addresses, internet identifiers, telephone communications, vehicle information and temporary lodging information.

When an offender works in a jurisdiction, but does not reside or attend school there, SORNA requires 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 the offender immediately appear in person to update school-related information.

SORNA also requires that, when an offender intends to travel outside the United States, the offender notify the registering agency in their jurisdiction of residence at least 21 days in advance of such travel.

In addition, SORNA requires that, when an offender notifies the jurisdiction of intent to relocate to another country to live, work or attend school, or intent to travel to another country, the jurisdiction must do three things: 1) immediately notify any other jurisdiction where the offender is either registered or is required to register of that updated information; 2) immediately notify the United States Marshals Service; and 3) immediately update NCIC/NSOR.

Arizona requires offenders to immediately provide notice both in person and in writing within 72 hours (excluding weekends and holidays) of any changes to their name, residence or address.⁹ Offenders are required to specify whether their new residence or residences are temporary or permanent. Immediate in-person or electronic notice must be made within 72 hours (excluding weekends and holidays) of any changes to an offender's vehicle information or internet identifiers.¹⁰

Arizona deviates from SORNA requirements in that it does not require school or employment-related information to be updated between annual in-person appearances, unless the offender is enrolled or employed at a postsecondary institution. If a person is enrolled or employed at a

⁹ Ariz. Rev. Stat. § 13-3822 defines address as "all locations at which the person receives mail."

¹⁰ This includes any email address information or instant message, chat, social networking or other similar internet communication name.

postsecondary institution, they must notify the county sheriff with jurisdiction over that institution of any changes in their enrollment or employment status but in-person notice is not statutorily required.

Arizona does not statutorily require offenders to provide notice of international travel and there is no statewide directive or policy and procedure for county sheriffs to collect and submit information to the U.S. Marshals Service. However, county sheriffs request that offenders provide this information, and the Arizona Department of Public Safety updated its sex offender registration forms to include international travel notice requirements. If an offender provides notice of international travel, the county sheriff may notify the U.S. Marshals Service and make the related jurisdiction notifications, as well as update NCIC/NSOR.

Because Arizona does not require employment-related information to be immediately updated and does not consistently require notice of international travel, Arizona does not meet the SORNA requirements in this section.

VIII. Offense Tiering/Verification/Appearance Requirements

SORNA requires offenses be classified into three tiers based on the nature and seriousness of the offense, the age of the victim, and the extent of the offender's recidivism and that the tier of the conviction offense determines the duration of registration and frequency of in-person appearances.

Arizona does not specifically tier its offenses. All adult offenders are required to register for life, except for offenders convicted of unlawful imprisonment or kidnapping of a minor, who are required to register for 10 years.

A. Offense Tiering

The SMART Office has reviewed all relevant Arizona statutes and has identified Arizona's classification of these statutes within the tiering policy structure created by SORNA (see the appendix for information about Arizona's classification of its offenders and associated registration requirements). Arizona tiers its statutes in accordance with SORNA as all adult offenders are required to register for life, with the following exceptions:

- Ariz. Rev. Stat. § 13-1303 Unlawful imprisonment
- Ariz. Rev. Stat. § 13-1304 Kidnapping of a minor

Arizona requires registration for 10 years for both unlawful imprisonment and kidnapping of a minor. Under SORNA, unlawful imprisonment requires tier I classification (15-year registration) and kidnapping of a minor requires tier III classification (lifetime).

B. Duration of Registration

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

Arizona requires offenders to register for life, except for those convicted of kidnapping of a minor or unlawful imprisonment, who are required to register for 10 years. Kidnapping of a minor is a tier III offense and should be registered for life pursuant to SORNA's standards. Unlawful imprisonment is a tier I offense and should be registered for 15 years pursuant to SORNA's standards.

C. Frequency of Registration

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

Arizona requires offenders to update their registration information in person with the county sheriff where the offender is registered during their birth month annually, except for transient offenders who are required to update their registration in person with the sheriff in the county where the offender is physically present every 90 days.¹¹ All offenders are also required to secure a special "nonoperating identification license or driver license" from the Arizona Motor Vehicle Division and must renew the license in person on an annual basis. When an offender appears at the Arizona Motor Vehicle Division to renew their license, their address and photograph are updated and provided to the Arizona Department of Public Safety.

D. Reduction of Registration Periods

SORNA allows jurisdictions to reduce registration periods for eligible offenders who meet certain requirements.

Arizona deviates from SORNA requirements in that Arizona allows offenders to apply for a reduction of their registration period if the offender was a minor during the commission of the underlying sex offense and has successfully completed their probation. There is an annual review available for such offenders if they are under 22 years of age, and the court may adjust or terminate any portion of their registration and notification responsibilities at that time.

Arizona also deviates from SORNA requirements because the state allows offenders who have successfully completed their probation to petition the court for termination of their registration period. In the petition, the offender must "avow under penalty of perjury" that the

¹¹ Transient is defined in Ariz. Rev. Stat. § 13-3821(S)(4) as "a person who does not have a single and permanent dwelling place."

offender is at least 35 years of age and the offense was committed when the offender was under 22 years of age. The victim must have been at least 15 years of age at the time of the offense or was an officer posing as a 15-, 16- or 17-year-old or was a “fictitious minor” purporting to be a 15-, 16- or 17-year-old. The offense must not have involved more than one victim and the offender must not have been sentenced to a term of imprisonment for the underlying sex offense. If the underlying registerable offense is Ariz. Rev. Stat. § 13-1405 (sexual conduct with a minor), the sexual conduct must have been consensual. A number of statutorily enumerated offenses are also excluded from eligibility.¹² These requirements in effect exclude all SORNA tier III offenses (except non-parental kidnapping) and most SORNA tier II offenses against minors.

In the petition, the offender must also attest to the following:

- Offender did not violate any sex offender terms of probation.
- Offender did not commit any subsequent felony or any sex offense for at least 10 years after sentencing for the underlying sex offense.
- A court has not determined (by probable cause) that the offender is a “sexually violent person” nor is there a “sexually violent person” proceeding pending at the time of offender’s petition.¹³
- Offender was not convicted of more than one offense involving more than one victim.

Upon receipt of an offender’s petition, the court must hold a hearing and provide “sufficient notice” to the state to allow for victim notification. The state has the burden of proof to show by a preponderance of the evidence that at least one of the aforementioned factors is not met. The court must deny a petition that does not meet at least one factor and may in its discretion deny any petition — despite meeting all factors — if the court finds it is in the best interests of justice and/or public safety.

Because nearly all offenders are only required to update their registration information in person annually, Arizona does not meet the SORNA requirements in this section.

IX. Public Registry Website and Community Notification Requirements

SORNA requires 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 published on a jurisdiction’s public registry website. Additionally, SORNA requires each jurisdiction disseminate certain initial and updated registration information to schools, public

¹² Ariz. Rev. Stat. §§ 13-1406 (sexual assault); 13-1410 (molestation of a child); 13-1417 (continuous sexual abuse of a child); 13-1423 (violent sexual assault); 13-3206 (taking child for purpose of prostitution); 13-3212 (child sex trafficking); and 13-3553 (sexual exploitation of a minor).

¹³ Ariz. Rev. Stat. § 36-3701 defines a “sexually violent person” as a person “convicted of or found guilty but insane of a sexually violent offense or was charged with a sexually violent offense and was determined incompetent to stand trial” and who “has a mental disorder that makes the person likely to engage in acts of sexual violence.”

housing agencies, and social service entities responsible for protecting minors, and the community through an automated notification system.

A. Public Registry Website

SORNA requires offender information be published on the jurisdiction's public registry website within three business days. In addition to being able to search for a specific offender by name, the jurisdiction's sex offender website must also be searchable by ZIP code or geographic radius.

Arizona's public sex offender registry website deviates from SORNA in that Arizona does not regularly post information about offenders on its public registry website within the required three business days from initial registration. Arizona primarily uses a risk assessment process to determine which offenders are required to be posted on the public registry website, classifying its offenders as either level I (low risk), level II (intermediate risk),¹⁴ or level III (high risk). Risk assessment screening and/or legal review of out-of-state offenses to determine equivalency often result in delays, which prevent publishing offender information on the state public registry website within three business days. Only level II and level III offenders are required to be posted on the public registry website. In addition, certain statutorily enumerated offenses against minors are required to be posted irrespective of risk assessment.¹⁵ In effect, most SORNA tier III offenses are publicly posted.

In addition, Arizona does not display the following information on its public registry website:

1. Criminal history
2. Employer address
3. School address

¹⁴ If law enforcement is unable to obtain "sufficient information" to complete the risk assessment, the offender is categorized as a level II offender pursuant to Ariz. Rev. Stat. § 13-3825.

¹⁵ Ariz. Rev. Stat. § 13-3827 requires the following completed Arizona offenses or substantially similar out-of-state offenses to be publicly posted:

- § 13-1406 (sexual assault);
- § 13-3553 (sexual exploitation of a minor) if the offender is at least 21 years of age and is sentenced pursuant to § 13-705;
- § 13-3552 (commercial sexual exploitation of a minor);
- § 13-1404 (sexual abuse) if the victim is under 12 years of age;
- § 13-1410 (molestation of a child) if the victim is under 12 of age;
- § 13-1405 (sexual conduct with a minor) if the victim is under 12 years of age;
- § 13-3212 (child prostitution), subsection a or subsection b, para. 1 or 2 committed before august 9, 2017;
- § 13-3212 (child sex trafficking), subsection a, paragraph 1, 2, 3, 4, 5, 6, 7 or 8 or subsection b, para. 1 or 2 committed on or after august 9, 2017;
- § 13-3206 (taking a child for the purpose of prostitution) if the victim is under 12 years of age;
- § 13-3554 (luring a minor for sexual exploitation) if the victim is under 12 years of age;
- § 13-3560 (aggravated luring a minor for sexual exploitation) if the victim is under 12 years of age; and
- § 13-1417 (continuous sexual abuse of a child) if the victim is under 12 years of age.

4. Vehicle information¹⁶

B. Community Notification

The jurisdiction's public sex offender registry website must include a function to allow members of the public and organizations to request email notification when sex offenders move into, or start employment or school within, a ZIP code or geographic radius specified by the requester.

Arizona's community notification provisions deviate from SORNA in that community notification is not offense-based but rather based on a risk assessment classification determined by each local county sheriff. For those offenders assessed as level II and level III, nonelectronic notification (by way of a flyer) must be made to an offender's surrounding neighborhood, schools, appropriate community groups and prospective employers. In addition, a press release must be provided to local print and electronic media. For those assessed as level I offenders, local law enforcement may provide notification to the people with whom the offender resides. In addition, local law enforcement may provide community notification of offenders that "pose a danger to the community."¹⁷ The aforementioned community notification does not apply to juveniles adjudicated delinquent unless court ordered.

Arizona has implemented an email notification system for when an offender initially registers or has their address information updated on the public registry website. Any person can register to receive automated email alerts when an offender registers an address within 1 mile of any address a person designates.

Because public registry website posting is primarily based on a risk-assessment process that may result in many SORNA required offenses not being included and employer address is not publicly posted, Arizona does not meet the SORNA requirements in this section.

¹⁶ Senate Bill 1305, which was passed on July 10, 2021, expanded the required registration information an offender must provide to include vehicle information (make, model, year of manufacturer, color, VIN, state of registration, and license plate number). Although there is no statutory authority requiring public posting of vehicle information, there is also no statutory prohibition. Arizona's registry system currently has the capability to display this information on its public registry website. Because vehicle information is now statutorily required to be collected, the Arizona Public Safety Department is examining whether vehicle information should also be posted on Arizona's publicly registry website.

¹⁷ Ariz. Rev. Stat. § 13-3825(J).

X. Enforcement of Registration Requirements

SORNA requires that jurisdictions take measures to enforce registration requirements, including penalties for registration violations, and engage in practical procedures for investigating and dealing with such violations.

A. State Penalty

SORNA requires jurisdictions provide a criminal penalty for a sex offender's failure to comply with their registration requirements that includes a maximum imprisonment term that is longer than one year.

Arizona's penalty for failure to register conforms with SORNA requirements.

B. Failure to Appear for Registration

SORNA requires that when a jurisdiction is notified of a sex offender's intent to live, work or go to school in its jurisdiction, and that offender fails to appear for registration as required, the receiving jurisdiction must inform the originating jurisdiction (the jurisdiction that provided the initial notification) that the sex offender failed to appear for registration.

Arizona's failure-to-appear procedures conform with SORNA requirements.

C. Absconders

SORNA requires that, when a jurisdiction has information that a sex offender may have absconded, the jurisdiction take certain actions to investigate the absconder and notify various law enforcement agencies.

Arizona's investigation and notification procedures conform with SORNA requirements.

Arizona meets all of the SORNA requirements in this section.

XI. Tribal Considerations

All federally recognized tribal jurisdictions located within the boundaries of the state of Arizona are substantially implementing SORNA,¹⁸ except for Fort Yuma Quechan Tribe and San Juan Southern Paiute Tribe, both of whom had their sex offender registration and notification responsibilities delegated to Arizona pursuant to 34 U.S.C. § 20929(2).

¹⁸ The following 20 tribes have land located within the boundaries of Arizona and are substantially implementing SORNA requirements: Ak-Chin Indian Community, Cocopah Indian Tribe, Colorado River Indian Tribes, Fort McDowell Yavapai Nation, Fort Mojave Indian Tribe, Gila River Indian Community, Havasupai Tribe, Hopi Tribe, Hualapai Tribe, Kaibab Band of Paiute Indians, Navajo Nation, Pascua Yaqui Tribe, Pueblo of Zuni, Salt River Pima-Maricopa Indian Community, San Carlos Apache Tribe, Tohono O'odham Nation, Tonto Apache Tribe, White Mountain Apache Tribe, Yavapai-Apache Tribe, and Yavapai-Prescott Indian Tribe.

Arizona has worked cooperatively with tribes within the state over the past several years to assist tribes in carrying out certain sex offender information-sharing responsibilities. For example, Arizona has —

- Supplied DNA collection kits to tribes and facilitated submission of tribal DNA data into CODIS;
- Configured the Arizona Automated Fingerprint Identification System to enable tribes with the requisite equipment and routers to use the state system to submit fingerprints to the FBI electronically; and
- Entered limited registration data into NSOR on behalf of tribes who entered into a memorandum of agreement with the Arizona Department of Public Safety.¹⁹

There are currently 14 tribal SORNA programs located in Arizona that are participating in the Tribal Access Program (TAP),²⁰ which enables federally recognized tribes to submit all SORNA-required registration information into NCIC/NSOR as well as collect and submit fingerprints and palm prints to FBI CJIS. Tribes participating in TAP have full access to NCIC/NSOR and are not subject to state limitations.

The primary contact for tribal SORNA issues in Arizona is:

Melanie Veilleux, Manager
Criminal Justice Services Bureau
Arizona Department of Public Safety
2222 W. Encanto Blvd.
Phoenix, AZ 85005

Conclusion

The SMART Office concludes that Arizona has not yet substantially implemented SORNA. There are a number of requirements identified in this review that should be addressed for Arizona to substantially implement SORNA.

SMART recommends Arizona focuses on the sections where the jurisdiction has not met SORNA's requirements, and to resolve the issues identified in those sections to achieve substantial implementation. Additionally, SMART recommends Arizona resolve the deviations that do not substantially disserve SORNA's requirements in order to achieve full implementation of SORNA; however, failing to resolve deviations that do not substantially disserve will not impact Arizona's ability to achieve substantial implementation.

¹⁹ Arizona Department of Public Safety does not currently enter NSOR data on behalf of any tribe as all memorandum of agreements related to NSOR entry have expired.

²⁰ The following 14 tribes have SORNA programs located within the boundaries of Arizona and are participating in TAP: Colorado River Indian Tribes, Fort McDowell Yavapai Nation, Fort Mojave Indian Tribe, Gila River Indian Community, Havasupai Tribe, Hopi Tribe, Navajo Nation, Pascua Yaqui Tribe, Salt River Pima-Maricopa Indian Community, San Carlos Apache Tribe, Tohono O'odham Nation, White Mountain Apache Tribe, Yavapai-Apache Tribe, and Yavapai-Prescott Indian Tribe.

Appendix

Arizona Offense Tiering Policy Review

The SMART Office has reviewed all relevant Arizona statutes and has identified Arizona's placement of these statutes within the tiering policy structure created in Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act.

In reviewing the Arizona Code, the SMART Office understands that the state has one broad category of registrants for purposes of its duration of registration and frequency of registration requirements: Offenders are generally required to register for life and update registration in person annually. However, offenders convicted of unlawful imprisonment (Ariz. Rev. Stat. § 13-1303) and kidnapping (Ariz. Rev. Stat. § 13-1304) are required to register for 10 years. Additionally, transient offenders must update their registration in person every 90 days.

SORNA Tier I Offenses

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

Ariz. Rev. Stat. § 13-1303	Unlawful imprisonment
Ariz. Rev. Stat. § 13-1307	Sex trafficking
Ariz. Rev. Stat. § 13-1404	Sexual abuse (victim 18 or older)
Ariz. Rev. Stat. § 13-1406	Sexual assault (if it does not involve administering certain drugs without victim's knowledge or inflicting serious bodily injury and victim 18 or older)
Ariz. Rev. Stat. § 13-1409	Unlawful sexual conduct (victim 18 or older)
Ariz. Rev. Stat. § 13-1419	Unlawful sexual conduct (victim 18 or older)
Ariz. Rev. Stat. § 13-1424	Voyeurism

SORNA Tier II Offenses

SORNA requires tier II offenders register for a minimum of 25 years and verify registration information every six months. The following offenses listed in Arizona's Code would require, at a minimum, tier II registration requirements under SORNA.

Ariz. Rev. Stat. § 13-1404	Sexual abuse (victim 13-17)
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Ariz. Rev. Stat. § 13-1405	Sexual conduct with a minor (victim 12-17)
Ariz. Rev. Stat. § 13-1406	Sexual assault (if it does not involve administering certain drugs without victim's knowledge or inflicting serious bodily injury and victim is 12-17)
Ariz. Rev. Stat. § 13-1409	Unlawful sexual conduct (victim 13-17)
Ariz. Rev. Stat. § 13-1412	Unlawful sexual conduct; peace officers (victim 13-17)
Ariz. Rev. Stat. § 13-1418	Sexual misconduct (victim 12-17)
Ariz. Rev. Stat. § 13-1419	Unlawful sexual conduct (victim 13-17)
Ariz. Rev. Stat. § 13-1425	Unlawful distribution of images (victim under 18)
Ariz. Rev. Stat. § 13-3201	Enticement of persons for purposes of prostitution (victim under 18)
Ariz. Rev. Stat. § 13-3202	Procurement by false pretenses of person for purposes of prostitution (victim under 18)
Ariz. Rev. Stat. § 13-3203	Procuring or placing persons in house of prostitution (victim under 18)
Ariz. Rev. Stat. § 13-3204	Receiving earnings of prostitute (victim under 18)
Ariz. Rev. Stat. § 13-3205	Causing spouse to become prostitute (victim under 18)
Ariz. Rev. Stat. § 13-3206	Taking child for purpose of prostitution
Ariz. Rev. Stat. § 13-3209	Pandering (victim under 18)
Ariz. Rev. Stat. § 13-3210	Transporting persons for purpose of prostitution or other immoral purpose (victim under 18)
Ariz. Rev. Stat. § 13-3212	Child sex trafficking
Ariz. Rev. Stat. § 13-3552	Commercial sexual exploitation of a minor
Ariz. Rev. Stat. § 13-3553	Sexual exploitation of a minor
Ariz. Rev. Stat. § 13-3554	Luring a minor for sexual exploitation
Ariz. Rev. Stat. § 13-3560	Aggravated luring a minor for sexual exploitation

Ariz. Rev. Stat. § 13-3561 Unlawful age misrepresentation

SORNA Tier III Offenses

SORNA requires tier III offenders register for life and verify registration information every three months. The following offenses listed in Arizona's Code would require, at a minimum, tier III registration requirements under SORNA.

- Ariz. Rev. Stat. § 13-1304 Kidnapping (non-parental and victim under 18)
- Ariz. Rev. Stat. § 13-1404 Sexual abuse (victim under 13)
- Ariz. Rev. Stat. § 13-1405 Sexual conduct with a minor (victim under 12)
- Ariz. Rev. Stat. § 13-1406 Sexual assault (if it involves administering certain drugs without victim's knowledge or inflicting serious bodily injury or victim under 12)
- Ariz. Rev. Stat. § 13-1409 Unlawful sexual conduct (victim under 13)
- Ariz. Rev. Stat. § 13-1410 Molestation of a child
- Ariz. Rev. Stat. § 13-1417 Continuous sexual abuse of a child
- Ariz. Rev. Stat. § 13-1418 Sexual misconduct (victim under 12)
- Ariz. Rev. Stat. § 13-1419 Unlawful sexual conduct (victim under 13)
- Ariz. Rev. Stat. § 13-1423 Violent sexual assault

Further Review

In reviewing the statutes Arizona cited as registerable offenses under its registration scheme, the SMART Office noted the following SORNA-required offenses are missing from those statutes.

- Ariz. Rev. Stat. § 13-1307 Sex trafficking
- Ariz. Rev. Stat. § 13-3201 Enticement of persons for purposes of prostitution
- Ariz. Rev. Stat. § 13-3202 Procurement by false pretenses of person for purposes of prostitution
- Ariz. Rev. Stat. § 13-3203 Procuring or placing persons in house of prostitution
- Ariz. Rev. Stat. § 13-3204 Receiving earnings of prostitute

- Ariz. Rev. Stat. § 13-3205 Causing spouse to become prostitute
- Ariz. Rev. Stat. § 13-3209 Pandering
- Ariz. Rev. Stat. § 13-3210 Transporting persons for purpose of prostitution or other immoral purpose
- Ariz. Rev. Stat. § 13-3212 Child sex trafficking (subsection (B)(3))

In addition, Arizona registers the following offenses, which — without the commission of (or the attempt or conspiracy to commit) a sexual offense — SORNA does not require registration for and registration thereof exceeds SORNA’s minimum standards. However, registration of these offenses does not disserve the purposes of SORNA’s requirements.

- Ariz. Rev. Stat. § 13-1402 Indecent exposure (recidivist)
- Ariz. Rev. Stat. § 13-1403 Public sexual indecency (recidivist)
- Ariz. Rev. Stat. § 13-1428 Sexual extortion (victim under 15)
- Ariz. Rev. Stat. § 13-3822 Failure to update registration
- Ariz. Rev. Stat. § 13-3824 Failure to register