



SMART

Office of Sex Offender Sentencing, Monitoring,
Apprehending, Registering, and Tracking

STATUTE IN REVIEW

International Megan's Law

In 2016, Congress enacted International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders.¹ More commonly referred to as International Megan's Law (IML), it contains a number of notable provisions. A brief summary of its most important sections follows.

Angel Watch Center

The Angel Watch Center (AWC) is headed by Immigration and Customs Enforcement's (ICE) Child Exploitation Investigations Unit (CEIU), and IML provides specific statutory authority for AWC to engage in certain activities. Generally speaking, the Angel Watch Center receives information about the intended travel of individuals through Customs and Border Protection's National Targeting Center, and does not receive notice of international travel from individual offenders or jurisdictional registration officials.²

IML specifically authorizes AWC to determine if any person who intends to travel internationally is a registered sex offender because of a conviction for a sex offense against a minor. If AWC determines that a person fits that definition, it is authorized to send any relevant information about that individual to the destination country where that individual intends to go. As part of this process, Angel Watch is also required to consult with the National Sex Offender Targeting Center (below) to determine if the individual is in compliance with their sex offender registration responsibilities.

National Sex Offender Targeting Center

In 2011, the SORNA Supplemental Guidelines added a requirement to SORNA's baseline standards that jurisdictions were required to have their offenders inform them of any intended international travel at least 21 days prior to that travel taking place.³ Per these standards, offenders are to provide authorities with information regarding their itinerary and intended destinations, among other items, and registration jurisdictions are required to provide this information to the National Sex Offender Targeting Center (NSOTC) of the United States Marshals Service.

IML codifies this requirement in general terms (as described below), and specifically authorizes NSOTC to 1) provide notice to a destination country regarding any sex offender who has provided advance notice of their international travel, or about whose travel plans NSOTC otherwise becomes aware via the transfer of information from AWC, and 2) provide information relating to such traveling offenders to appropriate federal, state and local authorities, as appropriate.

1 International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders, Pub. L. No. 114-119 (Feb. 8, 2016), available at <https://www.congress.gov/114/bills/hr515/BILLS-114hr515enr.pdf>.

2 GAO-13-200, Registered Sex Offenders: Sharing More Information Will Enable Federal Agencies to Improve Notifications of Sex Offenders' International Travel, (2013), <http://www.gao.gov/assets/660/652194.pdf>.

3 Supplemental Guidelines for Sex Offender Registration and Notification, 76 Fed. Reg. 1630 (Jan. 11, 2011)



Office of Sex Offender Sentencing, Monitoring,
Apprehending, Registering, and Tracking

Sex Offender Notification of International Travel

IML specifically amends SORNA (34 U.S.C. § 20914(a)) to require sex offenders to provide certain information about their “intended travel...outside of the United States.” This is a partial codification of the already-existing SORNA requirement found in the Supplemental Guidelines.

Amendment to 18 U.S.C. § 2250

IML amends the federal failure to register statute, 18 U.S.C. § 2250, to criminalize situations in which an individual has failed to provide the advance notice of international travel as required by the SORNA amendments above.

Passport Identifiers for Sex Offenders

IML provides that the Department of State shall not issue a passport to a “covered sex offender” unless the passport contains a “unique identifier.” Broadly speaking, this provision is applicable to anyone who is currently required to register as a sex offender based on a conviction for a sex offense against a minor.

The unique identifier is a passport endorsement that states “The bearer was convicted of a sex offense against a minor, and is a covered sex offender pursuant to 22 United States Code Section 212b(c)(1).”

Practical Implications

There are numerous practical implications flowing from the enactment of IML.

Does IML change SORNA’s substantial implementation requirements for jurisdictions?

For the purposes of substantial implementation, the requirements for international travel notifications as previously laid out in the Supplemental Guidelines continue to govern. Practitioners should be advised, however, that because of Congress’ specific placement of the offenders’ requirement to provide advance notice of international travel in the text of SORNA’s statutory requirements via IML, the SMART Office will closely examine jurisdictions’ policies and procedures regarding international travel notifications during any review of whether a jurisdiction has substantially implemented — or continues to substantially implement — SORNA.

Can the SMART Office process international travel notices?

The SMART Office is not authorized to collect or receive official notifications of international travel from anyone, including individual offenders, attorneys or registration officials. Offenders should report their international travel plans their local registration agency.

Can the SMART Office advise a sex offender if they have to provide notice of international travel?

The SMART Office cannot provide any legal advice as to whether an individual is required to provide advance notice of international travel based on the provisions contained in IML. Offenders concerned about the application of IML to their particular circumstances should contact their local registry officials and/or an attorney for specific legal advice. The SMART Office also cannot provide any legal advice as to whether individual convicted sex offenders are required to register or whether a particular jurisdiction requires advance notice of international travel.

Will a sex offender be prevented from entering another country?

Foreign governments set their own standards and make their own decisions on who they will admit to their country. Denials of entry can be for any reason, including an individual’s previous criminal history. Offenders planning to travel internationally may wish to check with the appropriate foreign embassy or consulate before departure about their specific circumstances.