



December 2017

SORNA Implementation Review Territory of American Samoa

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 Territory of American Samoa 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 American Samoa's SORNA substantial implementation packet and has found that American Samoa has substantially implemented SORNA.

In July 2015, the American Samoa Attorney General's Office requested a substantial implementation review and provided legislation and other materials. In addition, email and phone correspondence informed our review. Written policies and procedures, necessary to complete our review, were confirmed as finalized in January 2017. One amendment to American Samoa's sex offender registration code was made in October 2017, and is included as part of this review.

Our review of the submitted materials follows the outline of the SMART Office Substantial Implementation Checklist-Revised, and contains 14 sections addressing the SORNA requirements. Under each section, we indicate whether American Samoa meets the SORNA requirements of that section or deviates from the requirements in some way. In instances of deviation, we specify that the departure(s) from a particular requirement does not substantially disserve the purpose of that requirement. In other words, American Samoa is encouraged to work toward rectifying deviations from requirements in order to achieve full implementation of SORNA, but this is not necessary for substantial implementation purposes.

We encourage you to review the information below, share it with relevant stakeholders in the territory 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 and/or updates his or her information in a jurisdiction, that the initial registration information or updated information be immediately sent to other jurisdictions where the offender has to register, as well as to the National Crime Information Center (NCIC)/National Sex Offender Registry (NSOR) and the jurisdiction's public sex offender registry website.

American Samoa meets all of the SORNA requirements in this section.

II. Offenses That 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. American Samoa Offenses

American Samoa registers all required American Samoa sex offense convictions.

B. Offenses of Other SORNA Registration Jurisdictions

American Samoa registers all required offense convictions from other SORNA registration jurisdictions.

C. Federal Offenses

American Samoa registers all required federal sex offense convictions.

D. Military Offenses

American Samoa registers all required military sex offense convictions.

E. Juvenile Adjudications

American Samoa registers all required juvenile adjudications of delinquency for a sex offense.

American Samoa meets all of the SORNA requirements in this section.

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 American Samoa's placement of these statutes within the SORNA three tier levels (see Appendix I. American Samoa Territory Statutes).

American Samoa meets all of the SORNA requirements in this section.

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.

SORNA requires sex offender registration information under 22 primary categories. American Samoa's code properly provides for the collection all of this information. However, American Samoa is unable at the present time to collect palm prints.

This deviation does not substantially disserve the purposes of the SORNA requirements in this section.

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.

American Samoa 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 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 or her registration duties and require the offender to acknowledge in writing that he or she understands those duties.

American Samoa 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).

American Samoa meets all of the SORNA requirements in this section.

VIII. Keeping the Registration Current

SORNA requires that when a sex offender resides in a jurisdiction, he or she must immediately appear in person to update his or her name, residence, employment, school attendance and termination of residence. SORNA also requires that when an offender resides in a jurisdiction, he or she must immediately update any changes to his or her 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 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 and intends to travel outside the United States, he or she must notify the residence jurisdiction at least 21 days in advance of such travel.

In addition, SORNA requires that when an offender notifies the jurisdiction of his or her intent to relocate to another country to live, work or attend school, 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.

American Samoa 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. 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 SORNA tier III offenders register for life.

SORNA also 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.

In addition, SORNA creates certain requirements under which a jurisdiction can allow an offender to have a reduced registration period.

A. Frequency of Registration

American Samoa requires tier I offenders to appear in person annually, tier II offenders to appear in person every six months and tier III offenders to appear in person every three months.

B. Duration of Registration

American Samoa requires tier I offenders to register for 15 years, tier II offenders to register for 25 years and tier III offenders to register for life.

C. Reduction of Registration Periods

American Samoa permits tier I offenders to petition for reduction of their registration period if they have maintained a clean record for 10 consecutive years. Tier III offenders who are registered based on an adjudication of delinquency for a sex offense may petition for reduction of their registration period if they have maintained a clean record for 25 consecutive years. SORNA does not permit any reduction in registration period for tier II offenders.

D. Clean Record Requirement

American Samoa defines “clean record” identically to SORNA’s requirements.

American Samoa meets all of the SORNA requirements in this section.

X. Public 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.

American Samoa meets all of the SORNA requirements in this section.

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.

American Samoa meets all of the SORNA requirements in this section.

XII. Failure to Register as a Sex Offender: Territory 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.

American Samoa 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.

American Samoa 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 to investigate the absconder and notify various law enforcement agencies.

American Samoa meets all of the SORNA requirements in this section.

Conclusion

American Samoa has put forth good work and effort toward substantially implementing SORNA and enhancing its sex offender registration and notification system. We encourage American Samoa to continue to work toward meeting all the provisions of SORNA and to work with SMART Office personnel to maintain American Samoa's status as having substantially implemented SORNA. American Samoa is expected to keep the SMART Office informed of its progress toward the continuing implementation of SORNA and the SMART Office will continue to provide any necessary technical assistance toward that end.

We encourage you to contact the SMART Office with any questions or concerns once you have had the opportunity to review and discuss our findings.

Appendix I. American Samoa Territory Statutes

The SMART Office has reviewed all of American Samoa's statutes identified in its substantial implementation package and has identified American Samoa'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 American Samoa.

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

- A tier I offender is required to register for 15 years with annual verification appearances.
- A tier II offender is required to register for 25 years with semiannual verification appearances.
- A tier III offender is required to register for life, with quarterly verification appearances.

SORNA Tier I Offenders

SORNA requires that tier I offenders register for a minimum of 15 years and annually verify registration information. The following offenses listed in American Samoa's statutes would require, at a minimum, tier I registration requirements under SORNA. Statutes are listed by their citation, then their codified statutory reference.

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| § 46.3533 | False Imprisonment (when the offender is not a parent, and the victim is under 18) |
| § 46.3615 | Sexual Abuse in the First Degree (when the victim is 18 or older) |
| § 46.3616 | Sexual Abuse in the Second Degree |

SORNA Tier II Offenders

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

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| § 46.3615 | Sexual Abuse in the First Degree (victim 13-17) |
| § 46.3703 | Patronizing Prostitution (victim under 18) |
| § 46.3705 | Promoting Prostitution in the First Degree (victim under 18) |
| § 46.3706 | Promoting Prostitution in the Second Degree (victim under 18) |
| § 46.3802 | Incest (victim 16 or 17) |
| § 46.3811 | Abuse of a Child (when the offense is of a sexual nature) |

SORNA Tier III Offenders

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

- § 46.3531 Kidnapping (when the offender is not a parent, and the victim is under 18)
- § 46.3532 Felonious Restraint (when the offender is not a parent, and victim is under 18)
- § 46.3604 Rape
- § 46.3610 Sexual Assault
- § 46.3611 Sodomy
- § 46.3612 Deviate Sexual Assault
- § 46.3615 Sexual Abuse in the First Degree (victim under 13)
- § 46.3618 Child Molesting
- § 46.3802 Incest (victim under 16)