



## Juvenile Offenders Required to Register Under SORNA: A Fact Sheet

Section 111 of the Adam Walsh Act, codified at 34 U.S.C. § 20911, governs the applicability of SORNA's sex offender registration requirements to juvenile offenders who are adjudicated delinquent of a sex offense. 34 U.S.C. § 20911(8) provides that:

The term "convicted" or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in section 2241 of title 18, United States Code [18 USCS § 2241]), or was an attempt or conspiracy to commit such an offense.

Generally speaking, 18 USC § 2241 prohibits:

- (a) knowingly caus[ing] another person to engage in a sexual act--
  - (1) by using force against that other person; or
  - (2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; [or
- (b) engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim; or
- (c) engaging in a sexual act with a person under the age of 12]

Under the Final Guidelines, the definition of "sexual act" that jurisdictions are minimally required to use to determine whether a criminal offense is "comparable to" 18 U.S.C. § 2241 is as follows:

- engaging in a sexual act with another by force or the threat of serious violence (*see* 18 U.S.C. 2241(a)); or
- engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim (*see* 18 U.S.C. 2241(b)).

"Sexual act" for this purpose should be understood to include any degree of genital or anal penetration, and any oral-genital or oral-anal contact.

To meet the minimum standards of substantial compliance under the Final Guidelines, jurisdictions are not required to register juveniles adjudicated delinquent of a SORNA sex offense simply because it involves a sexual act with a person under 12 (18 USC § 2241(c)), without more.

By definition, an adjudication of delinquency for an offense 'comparable to' 18 U.S.C. §2241 will result in a tier III registration classification. 34 U.S.C. § 20911(4). The Final Guidelines make clear the criteria to be used in determining whether an offense for which a juvenile has been adjudicated delinquent qualifies for a tier III registration:

[J]urisdictions generally may premise the determination on the elements of the offense, and are not required to look to underlying conduct that is not reflected in the offense of conviction.

There is an exception to this general rule when the age of the victim might affect the tier of an offense. Jurisdictions should review Section V of the Final Guidelines for additional information.

Jurisdictions are free to exceed these minimum standards and adopt stricter requirements, and in doing so, they would need to refer to the remainder of the Final Guidelines for guidance as to the determination of tiers.

For complete information regarding juveniles adjudicated delinquent of sex offenses and SORNA's application to them, please review Section IV.A of the Final Guidelines.