



May 2010

SORNA Substantial Implementation Review State of Florida

The U.S. Department of Justice, Office of Justice Program, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) would like to thank the State of Florida 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 Florida's SORNA substantial implementation packet and has found the State of Florida to have substantially implemented SORNA.

In December 2009, the Florida Department of Justice submitted a substantial implementation submission package that included a compliance report entitled "State of Florida Compliance with the Sex Offender Registration and Notification Act," a "SORNA Compliance Checklist Summary Table," relevant state statutes, various forms and letters related to registration, a sample public website flyer, and a Memorandum of Understanding between the Florida Department of Law Enforcement (FDLE) and the United States Marshals Service regarding absconded sex offenders. In addition, email and phone correspondence with FDLE personnel filled in gaps in information and procedure, which informed our review.¹

Our review of these materials follows the outline of the SMART Office Substantial Implementation Checklist—Revised. We have highlighted those areas that are not in conformity with the SORNA guidelines and areas where correspondence augmented materials submitted. This is an exhaustive review and meant 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 issues.

I. Immediate Transfer of Information

SORNA requires that when an offender initially registers and/or updates his information in a jurisdiction, that that registration/updated information is immediately sent to other jurisdictions where the offender has to register, as well as to NSOR and the jurisdiction's public sex offender registry website. Florida meets these requirements except with regards to other SORNA registration jurisdictions, to which it only sends updated residence, school, or employment-related information.

II. Terminology

SORNA provides a definition of "Jurisdiction" that refers to the 50 States, the District of Columbia, the five principal U.S. territories (i.e., the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands) and Indian tribes that elect to function as registration jurisdictions under 42 U.S.C. §16927.

¹Email correspondence with FDLE officials on April 30, 2010.

Florida does not define “jurisdiction” for purposes of sex offender registration and notification; however, F.S. 775.21(c) and 943.0435(1)(a)1.a.(I) recognize convictions (for purposes of registration in Florida) from the courts of other states, as well as the courts of non-specified non-state jurisdictions, and by doing so, it recognizes convictions from all other SORNA registration jurisdictions.

For more guidance on SORNA’s definition of “Jurisdiction”, see Section III (pages 11-12) of the National Guidelines for Sex Offender Registration and Notification (June 2008).

Florida does not define “sex offense” for purposes of sex offender registration and notification; however, the term “sex offense” utilized in Florida’s registration statute concerns the crimes that are enumerated and specified in § 775.21, § 943.0435, § 944.607, and § 985.4815. Those statutes do specify most of the Florida sex offenses that are required to be captured by SORNA.

III. Offenses that Must Be Included in the Registry

Florida registers all of the offenses that SORNA requires Florida to register, with a few exceptions.

One issue pertains to federal, military, and foreign offenses. There are three classes of offenders who, if not convicted by a Florida court, nevertheless must register in Florida: those who commit similar offenses (to the Florida offenses that Florida captures) in another jurisdiction; those who are required to register in another jurisdiction, and those who have been designated by sex offenders in another jurisdiction and were, as a result of that designation, subjected to registration and/or notification, or would be if the person were a resident of that jurisdiction. Therefore, Florida registers all military, federal, and foreign offenses if those offenses are similar to the Florida offenses that Florida captures, *or* if an offender has to register in another jurisdiction as a result of a the offense, and then comes to live, work, or go to school in Florida. Under this scope, the only offenders who Florida does not capture are those who commit a federal, military, or foreign offense that is *not* similar to any of the captured Florida offenses *and* that do not register in any other jurisdiction before living, working, or attending school in Florida.

Florida does not include in its registry any conduct similar to that prohibited by 18 U.S.C. § 1801(Video Voyeurism of a Minor).

Juvenile Adjudications

SORNA requires that certain state, local, and tribal adjudications of delinquency are included in a jurisdiction’s registration scheme. Florida captures all of the adjudications of delinquency that it is required to capture in its registration scheme. In addition, Florida’s designation of its registerable juvenile offenders as “sexual offenders” who must register for life and quarterly verify registration information meets SORNA’s requirements for Tier III offenses.

IV. Tiering of Offenses

The SMART Office has reviewed all statutes identified in the substantial implementation submission package and has identified Florida's placement of these statutes within the SORNA three tier levels (see attached "Florida Offense Tiering Review" for a detailed analysis regarding this subsection of the review). Florida correctly places its statutes within at least the minimum appropriate SORNA tiers, with the following exceptions (see "Florida State Statutes" beginning on page 8 for information about Florida's classification of its offenders and associated registration requirements):

- § 794.011(5) Sexual Battery listed as a sexual offender offense. This does not meet SORNA requirements; involves a non-consensual sexual act (intercourse/penetration), which is a Tier III offense under SORNA.
- § 800.04(4)(a) Lewd or Lascivious Battery listed as a sexual offender offense. This does not meet SORNA requirements; involves a sexual act (intercourse/penetration) with a victim under the age of 16, which is a Tier III offense under SORNA.
- § 800.04(4)(a) Lewd or Lascivious Molestation (offender convicted as adult, victim 13-15 years of age and the touching is without clothing of the genitalia). This does not meet SORNA requirements; involves a sexual act (intentional touching of the genitalia) with a victim under the age of 16, which is a Tier III offense under SORNA.
- § 796.04 Forcing, compelling, or coercing another to become a prostitute (victim under 18). This does not meet SORNA requirements; involves forceful/coercive commercial sexual exploitation of a child, which is a Tier II offense under SORNA.
- § 796.045 Sex trafficking (victim under 18). This does not meet SORNA requirements; involves transportation for commercial sexual exploitation of a child, which is a Tier II offense under SORNA.
- § 810.145 Video voyeurism (victim under the age of 18). This does not meet SORNA requirements; involves video voyeurism where the victim is under 18, which is a Tier I offense under SORNA.
- § 847.011(c) Prohibition of certain acts in connection with obscene, lewd, etc., materials (where the materials depict child pornography). This does not meet SORNA requirements; involves possession of child pornography, which is a Tier I offense under SORNA, and distribution of child pornography, which is a Tier II offense under SORNA.

Additionally, Florida's inclusion of only certain recidivists as sexual offenders does not fully meet SORNA requirements. Per § 775.21(4)(a)1.b, sexual offenders who have previously been convicted of certain enumerated sex offenses qualify as sexual predators. However, Florida must edit § 775.21(4)(a)1.b. to include § 847.0137 (Transmission of pornography by electronic device or equipment prohibited) in the list of offenses for which a previous conviction/nolo contendere/guilty plea qualifies an offender for sexual predator status, and must edit § 775.21(4)(a)1.b. to include § 825.1025(3)(b) (Lewd or lascivious molestation of an elderly person) and § 847.0135 in the list of offenses which, if committed after the offender has already been designated as a sexual offender under Florida law, will cause the offender to be designated as a sexual predator.

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.

For more guidance on SORNA classes of offenders, see 42 USC § 16911 and Section V (pages 21-25) of the National Guidelines.

V. Required Registration Information

SORNA requires sex offender registration information in 20 primary categories. Florida correctly captures information under all of these categories, with some exceptions.

In Florida, professional licenses are public record and are searchable by accessing one of four state agencies. However, Florida does not provide any indication in its registry of whether a particular offender has a professional license, unless the offender, law enforcement, or parole happens to provide such information to the Florida Department of Law Enforcement. In addition the Florida registry does not cross-reference to the state databases that contain searchable professional licensing information.

While Florida collects the names and addresses of any institutions of higher education that an offender attends, including those of career centers, community colleges, and independent postsecondary education institutions, it does not always collect the names and addresses of the high schools in Florida that offenders attend.

Florida does not provide in its registry a link to the text of the law that defines the offense for which the offender is registered, if that law is a non-Florida law; rather, it only lists the offense of conviction.

For more guidance on specific items of required registration information, see 42 USC §16914 and Section VI (pages 26-33) of the National Guidelines.

VI. Where Registration is Required

Meets SORNA requirements.

VII. Initial Registration: Generally

Meets SORNA requirements.

VIII. Initial Registration: Retroactive Classes of Offenders

SORNA's requirements took effect when the law was enacted on July 27, 2006, and they have applied since that time to all sex offenders, including those whose convictions predate SORNA's enactment. The National Guidelines (pages 7-8) further clarify the retroactive provision of SORNA to apply to sex offenders who are in (or reenter) the system because they are incarcerated or under supervision, either for the predicate sex offense or for some other crime; they are already registered or subject to a pre-existing sex offender registration requirement under the jurisdiction's law; or they reenter the jurisdiction's justice system because of conviction for some other crime (whether or not a sex offense).

Florida meets SORNA requirements with respect to the retroactive registration of offenders, with one exception: Florida does not re-capture offenders who simply re-enter the system with a new non-sex offense. Because of Florida's long-standing lifetime registration requirement for all registered offenders, the number of offenders who would evade re-capture under this exception does not substantially disserve the purposes of this SORNA requirement.

For more guidance on the registration of the retroactive class of offenders, see Part IX (pages 45-47) of the National Guidelines.

IX. Keeping the Registration Current

SORNA requires that when an offender resides in a jurisdiction, that sex offender must immediately appear in-person to update his or her name, residence, employment, school attendance, and termination of residence. Offenders who reside in Florida are appearing in person to update information regarding name, residence, termination of residence, and school attendance. In addition, Florida's plan is to permit offenders to report change of employment information via a secure on-line or phone system; the SMART Office has discussed this plan with the Florida Department of Law Enforcement, and has determined that it does not substantially disserve the objectives of SORNA.

SORNA also requires that when an offender resides in a jurisdiction, that sex offender must immediately update any changes to his or her email addresses, instant message addresses, any other designations used in internet communications, postings, or telephone communications, vehicle information, and temporary lodging information. However, offenders who reside in Florida are not immediately updating any of this information except for temporary lodging information and vehicle information (both of which are updated at the Department of Highway Safety and Motor Vehicles, which then updates the registry).

When an offender resides in Florida but indicates to the state that he/she intends to begin residence, school, or employment outside of the United States, Florida immediately notifies INTERPOL of this update, which forwards the information to other jurisdictions where the offender is registered or required to register.

When an offender only works in Florida (but does not reside or attend school there), and his/her Florida employment-related information changes (including a termination of that employment), it is presumed that Florida's plan is to permit offenders to report change of employment information via a secure on-line or phone system. As mentioned above, the SMART Office has discussed this plan with the Florida Department of Law Enforcement, and has determined that it does not substantially disserve the objectives of SORNA.

X. Verification/Appearance Requirements

Florida exceeds the SORNA requirements related to frequency and duration of in-person appearances for Tier I offenders, and exceeds the SORNA requirements related to duration of in-person appearances for Tier II offenders. Florida meets the SORNA requirements related to

frequency and duration of in-person appearances for III offenders. Florida also meets the requirements for in-person regular appearances, in that at all such appearances, a current photograph may be taken, and the offender reviews the existing registration information for accuracy.

Florida meets SORNA requirements with respect to any reduction in registration periods for eligible offenders.

For more guidance on the reduction of the registration period, see Part XII (pages 56-58) of the National Guidelines.

XI. Registry Website Requirements

Meets SORNA requirements. Florida has a system whereby it allows private citizens and law enforcement to conduct an employer, business or school address search for sexual offenders who have registered an employment or school address. Upon discussions with, and clarification from, the Florida Department of Law Enforcement, the SMART Office has determined that this system does not substantially disserve the intent of SORNA.

XII. Community Notification

Law Enforcement Community Notification

SORNA requires that jurisdictions immediately notify specific agencies of the initial registration or the changes to an offender's registration information, and make the updated information available to these agencies. However, Florida only provides immediate notification of changes in school, residence, or employment information. In addition, the notification of agencies that fall under the National Child Protection Act (NCPA) is done through the registry's email notification system. This system allows NCPA agencies to access and receive e-mail notifications of reported address changes by sex offenders, as well as movements by sex offenders within areas of geographical interest to the NCPA agency (as the NCPA agency so chooses).

For more guidance on these notification requirements, please refer to Part VII (pages 38-40) of the National Guidelines.

General Community Notification

Meets SORNA requirements.

XIII. Failure to Register

Meets SORNA requirements.

XIV. When a Sex Offender Fails to Appear for Registration

Meets SORNA requirements.

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

Meets SORNA requirements.

Conclusion

Florida has put forth exceptional work and effort in adopting SORNA and enhancing its sex offender registration and notification system. The SMART Office has found the State of Florida to have substantially implemented SORNA. However, there are several provisions identified in this report that will need to be addressed in order for Florida to fully implement SORNA.

We encourage you to contact the SMART Office once you have had the opportunity to review and discuss our findings and have developed a strategy for addressing and fully adopting the remaining provisions of SORNA.

Florida State Statutes

The SMART Office has reviewed all Florida statutes identified in its substantial implementation submission package and has identified Florida'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). It should be noted that SORNA requires all attempts, conspiracies, and solicitations to mirror requirements of the actual offense. 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 Florida. It is possible that other offenses will need to be included in Florida's sex offender registry to substantially implement SORNA. For more guidance on SORNA classes of offenders, see 42 USC § 16911 and Section V (pages 21-25) of the National Guidelines for Sex Offender Registration and Notification (June 2008).

In reviewing Florida Code, the SMART Office understands that Florida has two categories of registrants.

1. Sexual predators, who are required to register for life and quarterly verify registration information; and
2. Sexual offenders, who are required to register for life and bi-annually verify registration information.

Tier I Offenses

SORNA requires that Tier I offenders register for a minimum of 15 years and annually verify registration information. Florida currently does not utilize this tier in its registration scheme, as its sexual offenders must register for life and biannually verify registration information, and its sexual predators must register for life and quarterly verify registration information. However, the following offenses listed in Florida Statutes would require, at a minimum, Tier I registration requirements under SORNA; therefore, designation of those who are convicted of these offenses as "sexual offenders" who must register for life and biannually verify registration information exceeds SORNA's requirements for Tier I offenses:

§ 787.02 False Imprisonment

Placement of this statute in the "sexual offender" category exceeds SORNA's requirements. Furthermore, per §943.0435(14)(b), where the offender is not the victim's parent or guardian and the victim is a minor, Florida requires the sexual offender in this instance to quarterly verify registration information, which exceeds SORNA's requirements.

§ 794.011(5) Sexual Battery (victim 18 years of age or over)

Placement of this statute in the "sexual offender" category exceeds SORNA's requirements. Furthermore, per §943.0435(14)(b), Florida requires the sexual offender in this instance to quarterly verify registration information, which exceeds SORNA's requirements.

§ 810.145 Video voyeurism (victim under the age of 18).

Florida does not register offenders who are convicted under this statute, which, to the extent that this statute involves a victim under the age of 18, does not meet SORNA requirements. § 810.145 involves video voyeurism where the victim is under the age of 18. Offenses involving video voyeurism where the victim is under the age of 18 are considered Tier I offenses under SORNA.

§ 825.1025(3)(b) Lewd or lascivious offenses committed upon or the in the presence of an elderly person or disabled person

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements.

§ 827.071(4) Sexual Performance by a Child (Possession)

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements.

§ 827.071(5) Sexual Performance by a Child (Possession)

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements.

§ 847.011(c) Prohibition of certain acts in connection with obscene, lewd, etc., materials (where the materials depict child pornography).

Florida does not register offenders who are convicted under this statute, which, to the extent that this statute involves the possession of materials that depict child pornography, does not meet SORNA requirements. § 847.011(c) involves the possession of child pornography. Offenses involving possession of child pornography are considered Tier I offenses under SORNA.

§ 847.0135(2) Computer Pornography

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements.

§ 847.0135(3) Computer Pornography

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements.

§ 847.0135(4) Computer Pornography

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements.

Tier II Offenses

SORNA requires that Tier II offenders register for a minimum of 25 years and biannually verify registration information. Florida currently does not utilize this tier in its registration scheme, as its sexual offenders must register for life, and its sexual predators must register for life and quarterly verify registration information. However, the following offenses listed in Florida Statutes would require, at a minimum, Tier II registration requirements under SORNA; therefore, designation of any of the following offenses as requiring biannual verification and registration for life exceeds SORNA’s requirements for Tier II offenses with respect to duration of registration. Designation of any of the following offenses as requiring quarterly verification and registration for life exceeds SORNA’s requirements for Tier II offenses with respect to both frequency and duration of registration .

§ 787.025(2)(c) Luring or enticing a child

Placement of this statute in the “sexual predator” category exceeds SORNA’s requirements with respect to duration and frequency of registration.

§ 794.011(8)(a) Sexual Battery (solicitation of an act of sexual battery of a child under 18 who is under the offender’s guardianship/authority)

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration. Furthermore, per §943.0435(14)(b), Florida requires the sexual offender in this instance to quarterly verify registration information, which exceeds SORNA’s requirements with respect to frequency of registration.

§ 794.05 Unlawful sexual activity with certain minors

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration.

§ 796.03 Procuring person under age 18 for prostitution

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration.

§ 796.035 Selling or buying of minors into sex trafficking or prostitution; penalties

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration.

§ 796.04 Forcing, compelling, or coercing another to become a prostitute (victim under 18)

Florida does not register offenders who are convicted under this statute, which does not meet SORNA requirements. § 796.04 involves forceful/coercive commercial sexual exploitation of a child. Offenses involving forceful/coercive commercial sexual exploitation of a child are considered Tier II offenses under SORNA.

§ 796.045 Sex trafficking (victim under 18)

Florida does not register offenders who are convicted under this statute, which does not meet SORNA requirements. § 796.045 involves transportation for commercial sexual exploitation of a child. Offenses involving transportation for commercial sexual exploitation of a child are considered Tier II offenses under SORNA.

§ 800.04(4)(b) Lewd or Lascivious Battery

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration. Furthermore, Florida requires the sexual offender in this instance to quarterly verify registration information, per §943.0435(14)(b), which exceeds SORNA’s requirements with respect to frequency of registration.

§ 800.04(5) Lewd or Lascivious Molestation (offender convicted as adult, victim 13-15 years of age and the touching is through the clothing or of the breasts or buttocks)

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration.

§ 827.071(2) Sexual Performance by a child

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration.

§ 827.071(3) Sexual Performance by a Child

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration.

§ 847.011(c) Prohibition of certain acts in connection with obscene, lewd, etc., materials (where the materials depict child pornography).

Florida does not register offenders who are convicted under this statute, which, to the extent that this statute involves the distribution of materials that depict child pornography, does not meet SORNA requirements. § 847.011(c) involves the distribution of child pornography. Offenses involving distribution of child pornography are considered Tier II offenses under SORNA.

§ 847.0135(4) Computer pornography; traveling to meet minor

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration. § 796.045 involves transportation for commercial sexual exploitation of a child. Offenses involving transportation for commercial sexual exploitation of a child are considered Tier II offenses under SORNA

§ 847.0137 Transmission of pornography by electronic device or equipment prohibited

Placement of this statute in the “sexual offender” category exceeds SORNA’s requirements with respect to duration of registration.

§ 847.0145 Selling or buying of minors

Placement of this statute in the “sexual predator” category exceeds SORNA’s requirements with respect to duration and frequency of registration.

Tier III Offenses

SORNA requires that Tier III offenders register for life and quarterly verify registration information. Florida does utilize this tier in its registration scheme, as its sexual predators must register for life and quarterly verify registration information.

§ 775.21(4)(a)1.b. Sexual Predator Criteria (sexual offender who has previously been convicted of certain enumerated sex offenses)

This statute is the means by which Florida captures recidivist sex offenders. SORNA requires that any sex offender whose registration offense is punishable by more than one year, where that offense occurs after that sex offender is already a Tier II offender, is automatically a tier III offender. In order to implement this requirement, Florida must edit § 775.21(4)(a)1.b. to include § 847.0137 (Transmission of pornography by electronic device or equipment prohibited) in the list of offenses for which a previous conviction/nolo contendere/guilty plea qualifies an offender for sexual predator status, and must edit § 775.21(4)(a)1.b. to include § 825.1025(3)(b) (Lewd or lascivious molestation of an elderly person) and § 847.0135 in the list of offenses which, if committed after the offender has already been designated as a sexual offender under Florida law, will cause the offender to be designated as a sexual predator.

§ 787.01 Kidnapping

Placement of this statute in the “sexual predator” category meets SORNA’s requirements.

§ 794.011(2)(a) Sexual Battery

Placement of this statute in the “sexual predator” category meets SORNA’s requirements.

§ 794.011(3) Sexual Battery

Placement of this statute in the “sexual predator” category meets SORNA’s requirements.

§ 794.011(4) Sexual Battery

Placement of this statute in the “sexual predator” category meets SORNA’s requirements.

§ 794.011(5) Sexual Battery

Placement of this statute in the “sexual offender” category does not meet SORNA’s requirements. § 794.011(5) involves a non-consensual sexual act (intercourse/penetration). Offenses involving a non-consensual sexual act are considered Tier III offenses under SORNA.

§ 794.011(8)(b) Sexual Battery

Placement of this statute in the “sexual predator” category meets SORNA’s requirements.

§ 794.011(8)(c) Sexual Battery

Placement of this statute in the “sexual predator” category meets SORNA’s requirements.

§ 800.04(4)(a) Lewd or Lascivious Battery

Placement of this statute in the “sexual offender” category does not meet SORNA’s requirements. § 800.04(4)(a) involves a sexual act (intercourse/penetration) with a victim under the age of 16. Offenses involving a sexual act with a victim under the age of 16 are considered Tier III offenses under SORNA.

§ 800.04(5) Lewd or Lascivious Molestation (offender convicted as adult, victim 13-15 years of age and the touching is without clothing of the genitalia)

Placement of this statute in the “sexual offender” category does not meet SORNA’s requirements. § 800.04(4)(a) involves a sexual act (intentional touching of the genitalia) with a victim under the age of 16. Offenses involving a sexual act with a victim under the age of 16 are considered Tier III offenses under SORNA.

§ 800.04(5) Lewd or Lascivious Molestation (offender convicted as adult, victim under 12 years of age)

Placement of this statute in the “sexual predator” category meets SORNA’s requirements with respect to duration of registration.

§ 800.04(5) Lewd or Lascivious Molestation (offender convicted as adult, victim 12 years of age)

Placement of this statute in the “sexual offender” category, and requiring that sexual offender to quarterly verify registration information per §943.0435(14)(b), meets SORNA’s requirements with respect to duration of registration. § 800.04(5), if the victim is 12 years of age, the offense involves sexual contact of a victim less than 13 years of age. Offenses involving sexual contact with a victim under the age of 13 are considered Tier III offenses under SORNA.

§ 825.1025(2)(b) Lewd or lascivious offenses committed upon or the in the presence of an elderly person or disabled person

Placement of this statute in the “sexual offender” category does not meet SORNA’s requirements with respect to duration of registration. § 825.1025(2)(b) involves a non-consensual sexual act. Offenses involving a non-consensual sexual act with a victim of any age are considered Tier III offenses under SORNA.

Further Review

The SMART office has not further reviewed the Florida Code for additional statutes that might also require registration and are not currently included in Florida’s sex offender registry scheme. Nonetheless, Florida is encouraged to find any and all of the following categories of violations of the criminal law as contained in Florida criminal code so as to determine the propriety of requiring registration (to the extent that they are not already included). The following offenses will require registration under SORNA:

1. Any criminal offense that has an element involving a sexual act or sexual contact with another, regardless of the age of the victim;
2. Any offense involving the non-parental kidnapping of a minor;
3. Any offense involving the non-parental false imprisonment of a minor;
4. Any offense involving solicitation to engage a minor in sexual conduct;
5. Any offense involving use of a minor in a sexual performance;
6. Any offense involving solicitation of a minor to practice prostitution;
7. Any offense involving video voyeurism of a minor;
8. Any offense involving possession, production, or distribution of child pornography;
9. Any offense involving criminal sexual conduct involving a minor; or
10. Any offense involving the use of the internet to engage a minor in criminal sexual conduct.

Florida is in a better position than the SMART office to review its criminal laws for any additional offenses which might warrant inclusion. The SMART office is happy to review any proposed additional tiering decisions.