



August 2019

SORNA Substantial Implementation Review State of Wyoming – Revised

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) applauds the state of Wyoming for its extensive work and 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 Wyoming's SORNA substantial implementation materials and has determined Wyoming continues to substantially implement SORNA.

Wyoming's initial review in September 2010 found that although the state had made significant progress toward implementing SORNA, it fell short of substantial implementation. Wyoming addressed the areas that did not meet the minimum requirements by passing legislation in March 2011. The SMART Office issued a revised review in April 2011 finding that Wyoming had substantially implemented SORNA. In December 2018, the Division of Criminal Investigation, Sex Offender Registry submitted updated materials that included revised statutes to supplement the state's previous substantial implementation package. The SMART Office has reviewed current laws and policies governing sex offender registration and notification in Wyoming, as well as other documents. In addition, email and phone correspondence with the Wyoming Attorney General's Office and Division of Criminal Investigation, Sex Offender Registry filled in gaps in information and procedure, which informed our review.

Our review of these materials follows the outline of the SMART Office Substantial Implementation Checklist-Revised, which contains 14 sections addressing the SORNA requirements. Under each section, we indicate whether Wyoming meets the SORNA requirements of that section, or deviates from the SORNA requirements in a way that does not substantially disserve SORNA's requirements. While Wyoming is encouraged to work toward rectifying any deviations that do not disserve SORNA's requirements in order to achieve full implementation of SORNA, this is not required to maintain substantial implementation.

This report is an exhaustive review based on the totality of materials received from Wyoming. The report details every area in which Wyoming deviates, but does not substantially disserve the requirements of SORNA. We encourage Wyoming to review the information below, share it with relevant stakeholders and contact the SMART Office to develop a strategy to address these remaining issues. The SMART Office will continue to provide any necessary technical assistance to help Wyoming achieve full implementation. Wyoming is required to keep the SMART Office informed of its progress in addressing the remaining provisions and annually certify continuing implementation of SORNA.

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's National Sex Offender Registry (NCIC/NSOR) and the jurisdiction's public sex offender registry website.

Wyoming meets all of the SORNA requirements in this section.

II. Offenses That Must Be Included in the Registry

SORNA requires certain federal, military and foreign offenses be 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. Wyoming Offenses

Wyoming includes almost all of the state offenses for which SORNA requires registration in its registration scheme. The following state offenses are not included in Wyoming's registration law:

- W.S. § 6-2-313 Sexual Battery
- W.S. § 6-4-201(a)(iii) Public Indecency (where the victim is an adult)
- W.S. § 6-2-203 False Imprisonment (where the victim is a minor and the offender is not the victim's parent or guardian)
- W.S. § 6-2-202 Felonious Restraint (where the victim is a minor and the offender is not the victim's parent or guardian)

In addition, Wyoming does not register offenders that have not been "convicted" as defined under state law. Under W.S. § 7-13-301, Wyoming allows for a court (with the consent of the district attorney and defendant) to withhold entering a judgment of guilt or conviction for many offenses, including many registerable sex offenses, and place the offender on probation for up to five years. The court may dismiss the charges after the offender satisfies the terms of probation. An offender with a prior felony conviction is ineligible for this procedure. Although this disposition does not constitute a "conviction" under state law, it may satisfy SORNA's definition of "conviction" as the offender is subject to "penal consequences" as explained in the 2008 Attorney General National Guidelines for Sex Offender Registration and Notification.

B. Offenses of Other SORNA Registration Jurisdictions

Wyoming requires registration for any offense from any other jurisdiction that is equivalent to a Wyoming offense that requires registration. Specifically, an offense from another jurisdiction is equivalent if it contains "the same or similar elements, or arising out of the same

or similar facts or circumstances” as a registerable Wyoming offense.¹ Wyoming conducts a legal review to determine equivalency and does not consider whether the offender has a requirement to register in the jurisdiction of conviction or any other jurisdiction.

C. Federal Offenses

Wyoming includes federal convictions in its registration scheme by specifically referencing certain federal offenses and by generally capturing any offenses equivalent to registerable Wyoming offenses. The following federal offenses however are not specifically referenced and do not have an equivalent registerable offense under Wyoming law and, therefore, do not require registration under Wyoming’s existing scheme:

- 18 U.S.C. § 1591(a)(2) and (d) Sex trafficking of children or by force, fraud, or coercion
- 18 U.S.C. § 2423(d) Transportation of minors (for illicit sexual conduct)

D. Military Offenses

Wyoming includes military offense convictions in its registration scheme if the offense is equivalent to a registerable Wyoming offense. Therefore, there are some military offenses (such as Conduct Unbecoming) that do not appear to have an equivalent under Wyoming law and, if not, may not require registration under Wyoming’s existing scheme.

E. Foreign Offenses

Wyoming includes foreign convictions in its registration scheme if the offense is equivalent to a registerable Wyoming offense. Therefore, there are some foreign offenses that do not appear to have an equivalent offense under Wyoming law and, if not, may not require registration under Wyoming’s existing scheme.

F. Juveniles

Wyoming registers juveniles adjudicated delinquent for certain serious sex offenses listed in W.S. § 7-19-302(j), which includes offenses comparable to or more severe than 18 U.S.C. § 2241 Aggravated Sexual Abuse.

However, Wyoming allows for a juvenile court, under W.S. § 14-6-228, to issue a “consent decree” (with the consent of the district attorney, juvenile, juvenile’s attorney and notice to the juvenile’s parents) to order proceedings held in abeyance and require the juvenile to comply with certain terms, including up to one year probation. The juvenile may be discharged after satisfying the terms of the decree and is not adjudicated a delinquent. In such a case, the juvenile is not subject to registration, as this disposition is not considered a “conviction” under state law.

¹ W.S. § 7-19-301.

If, as part of the “consent decree,” the juvenile made an admission to the allegations, this disposition may satisfy SORNA’s definition of “conviction” as the juvenile is subject to “penal consequences” as explained in the 2008 Attorney General National Guidelines for Sex Offender Registration and Notification. A juvenile discharged under this procedure may be required to register under SORNA.

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

Wyoming meets all of the SORNA requirements in this section.

IV. Where Registration Is Required

SORNA requires the jurisdiction register an offender if the jurisdiction is the one in which he or she is convicted or incarcerated. In addition, SORNA requires the jurisdiction register offenders who reside, work or attend school in the jurisdiction.

Wyoming meets all of the SORNA requirements in this section.

V. 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 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.

Wyoming meets all of the SORNA requirements in this section.

VI. Initial Registration: Retroactive Classes of Offenders

SORNA requires each registration jurisdiction have a procedure in place to recapture three categories of sex offenders: (1) those who are currently incarcerated or under supervision, either for the predicate sex offense or for some other crime, (2) those who are already registered or subject to a pre-existing sex offender registration requirement under the jurisdiction’s law, and

(3) those who re-enter the jurisdiction's criminal justice system because of a some other felony conviction (whether or not it is a sex offense).

Wyoming deviates from SORNA requirements in that offenders convicted as adults are required to register if they were sentenced on or after January 1, 1985.² Juveniles adjudicated delinquent are required to register if they were sentenced after July 1, 2001.³

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

VII. Keeping the Registration Current

SORNA requires that when a registered sex offender resides in a jurisdiction, the sex offender 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, the sex offender must immediately update any changes to his or her email addresses, internet identifiers, telephonic 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 when an offender intends to travel outside the United States, the offender notify the residence jurisdiction at least 21 days in advance of such travel.

In addition, SORNA requires 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.

Wyoming meets all of the SORNA requirements in this section.

VIII. Offense Tiering and Verification/Appearance Requirements

SORNA requires offenses be classified based on the nature of the offense of conviction and 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.

² W.S. § 7-19-302(c)(iv)

³ W.S. § 7-19-302(c)(v)

Wyoming classifies its sex offenders into three tiers. All offenders are initially required to register for life. Offenses are classified based on the nature of the offense of conviction for purposes of determining the frequency of in-person appearances and eligibility to petition for removal of registration requirements. Tier I offenders appear annually, tier II offenders appear semiannually, and tier III offenders appear quarterly.

A. Offense Tiering

The SMART Office has reviewed all statutes identified in the substantial implementation submission package and has identified Wyoming's placement of these statutes within the SORNA three tier levels (see the Appendix "Wyoming Offense Tiering Policy Review" for information about Wyoming's classification of its offenders and associated registration requirements). Wyoming correctly places its statutes within at least the minimum appropriate SORNA tiers, with the following exceptions:

- W.S. § 6-2-314(a)(ii) and (iii) Sexual Abuse of a Minor in the First Degree
(where victim is 13-15)
Wyoming classifies this offense as a tier II offense but it requires a tier III classification under SORNA because it involves a "sexual act" with a victim between 13 and 15 years of age.
- W.S. § 6-2-315(a)(i) Sexual Abuse of a Minor in the Second Degree
(where victim is under 16)
Wyoming classifies this offense as a tier II offense but it requires a tier III classification under SORNA because it involves a "sexual act" with a victim under 16 years of age.
- W.S. § 6-2-316(a)(i) Sexual Abuse of a Minor in the Third Degree
(where victim is 13-15)
Wyoming classifies this offense as a tier I offense but it requires a tier II classification under SORNA because it involves "sexual contact" with a victim between 13 and 15 years of age.

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.

Wyoming requires all offenders to register for life.

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.

Wyoming requires offenders convicted of an offense enumerated in W.S. § 7-19-302(g) to appear annually in person; offenders convicted of an offense enumerated in W.S. § 7-19-302(h) to appear semiannually in person; and offenders convicted of an offense enumerated in W.S. § 7-19-302(j) to appear quarterly in person.

D. Reduction of Registration Periods

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

Wyoming allows certain offenders to apply for a reduction of their registration period if they maintain a clean record. Tier I offenders convicted of an offense enumerated in W.S. § 7-19-302(g) may petition for removal from the registry after maintaining a clean record for 10 years. Tier II offenders convicted of an offense enumerated in W.S. § 7-19-302(h) may petition for removal from the registry after maintaining a clean record for 25 years. Tier III offenders convicted of an offense enumerated in W.S. § 7-19-302(j) are not eligible for early removal unless they are a juvenile adjudicated delinquent.

Wyoming deviates from the SORNA requirements in this subsection in that a juvenile adjudicated delinquent for an offense enumerated in W.S. § 7-19-302(j), the most serious sex offenses, may petition for removal from the registry after maintaining a clean record for 10 years as opposed to 25 years under SORNA.

E. Clean Record Requirements

Under SORNA, a registered sex offender has a clean record if he or she has satisfied certain requirements.

Wyoming's clean record provision mirrors the requirements under SORNA.

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

IX. Public Registry Website 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 displayed on a jurisdiction's public registry website.

Wyoming meets all of the SORNA requirements in this section.⁴

⁴ Wyoming prohibits juveniles adjudicated delinquent from being included on the public sex offender registry website, which is discretionary under the 2011 Attorney General Supplemental Guidelines for Sex Offender Registration and Notification.

X. Community Notification

SORNA requires each jurisdiction disseminate certain initial and updated registration information to particular agencies within the jurisdiction. In addition, SORNA requires each jurisdiction also disseminate certain initial and updated registration information to the community.

Wyoming meets all of the SORNA requirements in this section.

XI. Failure to Register as a Sex Offender: State 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.

Wyoming meets all of the SORNA requirements in this section.

XII. When a Sex Offender Fails to Appear for Registration

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

Wyoming meets all of the SORNA requirements in this section.

XIII. 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, the jurisdiction take certain actions to investigate the absconder and notify various law enforcement agencies.

Wyoming deviates from SORNA requirements in that seeking a warrant for an absconder is discretionary rather than mandatory and, although the United States Marshals Service is notified, the notification is not required to be done within three business days.

XIV. Tribal Considerations

Wyoming has two federally recognized Indian tribes located within its boundaries: the Northern Arapaho Tribe and the Eastern Shoshone Tribe, which together form the Wind River Indian Reservation. The Eastern Shoshone Tribe signed a Memorandum of Agreement with the Northern Arapaho Tribe assigning its SORNA responsibilities to the Northern Arapaho Tribe. The Northern Arapaho Tribe therefore administers and maintains the Wind River SORNA program on behalf of both tribes. Both tribes were found to have substantially implemented SORNA in May 2014 and continue to do so as of the date of this review.

As the SMART Office continues to work with Wyoming on SORNA implementation, we will notify the SORNA tribes within the state of any processes, policies or procedures that facilitate the sharing of criminal justice information.

Conclusion

Wyoming has performed exceptional work in substantially implementing SORNA and enhancing its sex offender registration and notification system. However, there remain provisions identified in this report that should be addressed in order for Wyoming to fully implement SORNA.

We encourage you to contact the SMART Office once you have had the opportunity to review and discuss our findings. Please let us know if we can be of assistance in developing a strategy for addressing and adopting the remaining provisions of SORNA.

Appendix: Wyoming Offense Tiering Policy Review

The SMART Office has reviewed all Wyoming statutes identified in its substantial implementation submission package and has identified Wyoming'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 (SORNA). Unless indicated, the SMART Office has not reviewed any statutes (or subsections) that were not included in the legislation provided by Wyoming.

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

- Offenders convicted of an offense listed in § 7-19-302(g) are subject to annual in-person verifications and may petition for removal from the registry after 10 years;
- A person convicted of an offense listed in § 7-19-302(h) is subject to semiannual in-person verifications and may petition for removal from the registry after 25 years; and
- A person convicted of an offense listed in § 7-19-302(j) is subject to quarterly in-person verifications and is not eligible for any reduction in the duration of their registration obligation.

In addition, persons required to register based on a juvenile adjudication must appear in-person every three months and may petition for termination of registration after 10 years.

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 Wyoming's statutes would require, at a minimum, tier I registration requirements under SORNA.

W.S. § 6-2-202	Felonious Restraint (minor victim)
W.S. § 6-2-203	False Imprisonment (minor victim)
W.S. § 6-2-303(b)	Sexual Assault in the Second Degree (adult victim)
W.S. § 6-2-313	Sexual Battery
W.S. § 6-4-201(a)(3)	Public Indecency
W.S. § 6-4-303(iv)	Possession of Child Pornography
W.S. § 6-4-304(b)	Voyeurism

SORNA Tier II Offenses

SORNA requires tier II offenders register for a minimum of 25 years and semiannually verify registration information. The following offenses listed in Wyoming's statutes would require, at a minimum, tier II registration requirements under SORNA.

W.S. § 6-2-303(a)(vii)	Sexual Assault in the Second Degree (victim 16-17)
W.S. § 6-2-303(b)	Sexual Assault in the Second Degree (victim 13-18)
W.S. § 6-2-304(a)(iii)	Sexual Assault in the Third Degree (victim 13-18)
W.S. § 6-2-314(a)(ii)	Sexual Abuse of a Minor in the First Degree (victim 16-17)
W.S. § 6-2-315(a)(iii)	Sexual Abuse of a Minor in the Second Degree (victim 13-18)
W.S. § 6-2-315(a)(iv)	Sexual Abuse of a Minor in the Second Degree (victim 13-16)
W.S. § 6-2-316(a)(i-ii, iv)	Sexual Abuse of a Minor in the Third Degree
W.S. § 6-2-317(a)(ii)	Sexual Abuse of a Minor in the Fourth Degree
W.S. § 6-2-318	Soliciting to Engage in Illicit Sexual Relations
W.S. § 6-4-102	Soliciting an Act of Prostitution (where the person solicited is a minor)
W.S. § 6-4-103	Promoting Prostitution (where the person enticed or compelled is a minor)
W.S. § 6-4-302(a)(i)	Promoting Obscenity (if the offense involves the use of a minor in a sexual performance)
W.S. § 6-4-303(b)(i-iii)	Sexual Exploitation of Children
W.S. § 6-4-402	Incest (sexual act with a victim 16 or 17; or sexual contact with a victim 13-18)

SORNA Tier III Offenses

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

W.S. § 6-2-201	Kidnapping (minor victim)
W.S. § 6-2-302	Sexual Assault in the First Degree
W.S. § 6-2-303	Sexual Assault in the Second Degree (except as noted above in tier I and tier II)
W.S. § 6-2-304(a)(iii)	Sexual Assault in the Third Degree (victim under 13)
W.S. § 6-2-314(a)(i)	Sexual Abuse of a Minor in the First Degree
W.S. § 6-2-314(a)(ii)	Sexual Abuse of a Minor in the First Degree (victim under 16)
W.S. § 6-2-314(a)(iii)	Sexual Abuse of a Minor in the First Degree
W.S. § 6-2-315(a)(i-ii)	Sexual Abuse of a Minor in the Second Degree
W.S. § 6-2-315(a)(iii-iv)	Sexual Abuse of a Minor in the Second Degree (victim under 13)
W.S. § 6-2-316(a)(iii)	Sexual Abuse of a Minor in the Third Degree

W.S. § 6-4-402

Incest (sexual act with a victim under 16; or sexual contact with a victim under 13)

Further Review

In addition, Wyoming registers the following offense; however, without the commission of (or the attempt or conspiracy to commit) a sexual offense, registration of this offenses exceed the minimum standards of SORNA. This offense does not require registration under SORNA but in no way disserve the purposes of the SORNA requirements:

W.S. § 6-2-317(a)(i)

Sexual Abuse of a Minor in the Fourth Degree