



July 2016

SORNA Substantial Implementation Review State of Illinois

The U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) would like to acknowledge the State of Illinois for the 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 Illinois' SORNA substantial implementation packet and has found the State of Illinois to have not substantially implemented SORNA.

In July 2015, the Illinois State Police submitted a substantial implementation package that included a completed Substantial Implementation Checklist-Revised, current Illinois statutes and all Illinois criminal offenses which require registration. Previously, Illinois had submitted for SMART's review administrative rules regarding sex offender registration and screen shots of the Illinois Sex Offender Registry website; these materials were also used in this review.

Our review of these 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 Illinois meets the SORNA requirements of that section or deviates from the requirements in some way. In instances of deviation, we specify where the departure(s) from a particular requirement does not substantially disserve the purposes of that requirement. Illinois is encouraged to focus on the deviations that substantially disserve SORNA's requirements and to work toward rectifying those deviations in order to achieve substantial implementation of SORNA. To achieve full implementation of SORNA, Illinois should also work toward rectifying the deviations that do not substantially disserve the purposes of SORNA.

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 remaining issues.

I. Immediate Transfer of Information

SORNA requires that when an offender initially registers and/or updates his information in a jurisdiction, that that initial registration information/updated information be immediately sent to other jurisdictions where the offender has to register, as well as to NCIC/NSOR and the jurisdiction's public sex offender registry website.

Illinois notifies law enforcement agencies within the state and in other states, as appropriate, updates its public sex offender registry website, and updates the FBI databases when an offender initially registers and/or updates information within three business days. However, Illinois does not notify US territories, the District of Columbia, or tribal jurisdictions of any updates to registration information.

Illinois does not meet 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. Illinois Offenses

Illinois requires registration when any person is convicted of a listed sex offense, or a conviction for an offense of the law of another state, jurisdiction, federal, military, tribe, territory, District of Columbia, or foreign country which is a "substantially similar" offense. Illinois does not require registration for conspiracy to commit a registerable sex offense.

B. Federal Offenses

In Illinois, registration is required for any offender if the offense committed in another jurisdiction is substantially similar to an Illinois registerable offense. However, while this scheme will include many of the federal offenses requiring registration, Illinois does not require registration for the following federal offenses:

- 18 U.S.C. §1591 (Sex Trafficking by Force, Fraud, or Coercion)
- 18 U.S.C. §1801 (Video Voyeurism of a Minor)
- 18 U.S.C. §2252B (Misleading Domain Names on the Internet)
- 18 U.S.C. §2251A (Selling or Buying of Children)
- 18 U.S.C. §2252C (Misleading Words or Digital Images on the Internet)
- 18 U.S.C. §2260 (Production of Sexually Explicit Depictions of a Minor for Import in to the United States)
- 18 U.S.C. §2421 (Transportation of a Minor for Illegal Sexual Activity)
- 18 U.S.C. §2424 (Failure to File Factual Statement about an Alien Individual)
- 18 U.S.C. §2425 (Transmitting Information about a Minor to further Criminal Sexual Conduct)

C. Military Offenses

Illinois requires offenders to register if they committed offenses requiring registration under military law, if the offense committed is comparable to an Illinois sex offense. Illinois will register most of the military offenses required by SORNA. Nevertheless, there are some UCMJ Offenses (such as Conduct Unbecoming) that are not comparable to those registerable under Illinois law and, therefore, would not be registered under Illinois' existing scheme.

D. Juveniles

In Illinois, all juveniles, regardless of age, adjudicated delinquent for committing or attempting to commit any registerable sex offense are required to register. Conspiracy to commit a registerable offense in Illinois does not subject a juvenile to registration.

These deviations do not substantially disserve the purposes 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 Illinois' materials and has identified Illinois' placement of these statutes within the SORNA three tier levels (see attached "Illinois Offense Tiering Review" for a detailed analysis regarding this subsection of the review).

Illinois' current registration and notification scheme requires sex offenders to either register for 10 years or for life, with annual in-person verification; those offenders adjudicated as sexually dangerous or sexually violent¹ and those offenders who violate registration requirements must verify every 90 days for the duration of their registration (see section IX of this report for further information about reporting requirements).

The following Illinois offenses presently require 10 year registration with annual in-person verification; to meet SORNA requirements these offenses would, at minimum, require 15 year registration with annual in-person verification:

- 720 ILSC 5/10-4 Forcible Detention
- 720 ILCS 5/11-9.1 Sexual Exploitation of a Child
- 720 ILCS 5/11-9.2 Custodial Sexual Misconduct
- 720 ILCS 5/11-11 Sexual Relations within Families

¹ A "sexually dangerous person" suffers from a mental disorder, which the mental disorder has existed for a period of not less than one year, coupled with criminal propensities to the commission of sex offenses, and who have demonstrated propensities toward acts of sexual assault or acts of sexual molestation of children. "Sexually violent person" means a person who has been convicted of a sexually violent offense, has been adjudicated delinquent for a sexually violent offense, or has been found not guilty of a sexually violent offense by reason of insanity and who is dangerous because he or she suffers from a mental disorder that makes it substantially probable that the person will engage in acts of sexual violence.

- 720 ILCS 5/12-15 Criminal sexual abuse (if the offense is a misdemeanor)
- 720 ILCS 150/5.1 Permitting sexual abuse (if the offense is a misdemeanor)

The following Illinois offenses also presently require 10 year registration with annual in-person verification; to meet SORNA requirements these offenses would, at minimum, require 25 year registration with twice-annual in-person verification:

- 720 ILCS 5/10-5.1 Child Luring
- 720 ILCS 5/11-6 Indecent Solicitation of a Child
- 720 ILCS 5/11-6.5 Indecent Solicitation of an Adult
- 720 ILCS 5/11-15 Soliciting a Prostitute if the Victim is Under Age 18 (if the victim is 16 or 17 years old)
- 720 ILCS 5/11-15.1 Soliciting for a juvenile prostitute (if the victim is 16 or 17 years old)
- 720 ILCS 5/11-16 Pandering
- 720 ILCS 5/11-18 Patronizing a prostitute if the victim is under 18 (if the victim is 16 or 17 years old)
- 720 ILCS 5/11-18.1 Patronizing a juvenile prostitute (if the victim is 16 or 17 years old)
- 720 ILCS 5/11-19 Pimping (if victim is under the age of 18)
- 720 ILCS 5/11-25 Grooming
- 720 ILCS 5/11-26 Traveling to meet a minor
- 720 ILCS 150/5.1 Permitting sexual abuse (if the offense is a felony)

The following Illinois offenses also presently require 10 year registration with annual in-person verification; to meet SORNA requirements, these offenses would, at minimum require lifetime registration with quarterly in-person verification:

- 720 ILCS 5/12-15 Criminal sexual abuse (if the offense is a felony)
- 720 ILCS 5/11-18 Patronizing a prostitute if the victim is under 18 (if the victim is under the age of 16)
- 720 ILCS 5/11-18.1 Patronizing a juvenile prostitute (if the victim is under the age of 16)

Illinois does not meet the SORNA requirements of 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. Illinois deviates from SORNA requirements in that law enforcement does not collect and keep the following information in its registry:

- Name: Ethnic or Tribal names by which they are commonly known

- Palm Prints
- Passports and Immigration documents
- Vehicle information: aircraft, watercraft, descriptions of all vehicles, and permanent or frequent location where all vehicles are kept.

These deviations do 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.

Illinois 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 registration duties and require the offender to acknowledge in writing that he understands those duties.

Illinois 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).

Illinois' first registration law was enacted in 1986, and has been amended to add requirements and eligible offenses multiple times in the ensuing years. The most recent amendments (enacted in 2012 and 2014) require that sex offenders or sexual predators, who have previously not been required to register in Illinois, have a duty to register if they have been

convicted of any felony offense after July 1, 2011. It also provides that a person who previously was required to register for a period of 10 years and successfully completed that registration period has a duty to register if: (1) the person has been convicted of any felony offense after July 1, 2011, and (2) the offense for which the 10 year registration was served currently requires a registration period of more than 10 years.

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

VIII. 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. 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, 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 but indicates to the state that he/she intends to travel outside the United States, that the offender 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 intent to relocate to another country to live, work or attend school, or of his intent to travel to another country, the jurisdiction must 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.

Illinois' statutes and policies meet many of the SORNA requirements in this section, with exceptions. While registered sex offenders in Illinois are required to report immediately in-person changes in residence, temporary domicile, employment, and school attendance, they are not required to report name changes immediately in-person. Illinois does not require registered sex offenders to provide 21 day advance notice of international travel and do not immediately notify the United States Marshals Service as required by the SORNA Supplemental Guidelines, published on January 11, 2011.

Because Illinois does not require offenders to provide 21 day advance notice of international travel, Illinois does not meet the SORNA requirements of this section.

IX. Verification/Appearance Requirements

A. Duration of Registration

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.

Illinois' registration and notification scheme deviates from SORNA requirements in that sex offenders are required to either register for 10 years or for life. The following Illinois offenses require 10 year registration:

- 720 ILCS 5/10-4. Forcible Detention
- 720 ILCS 5/10-5.1. Child Luring
- 720 ILCS 5/11-6. Indecent Solicitation of a Child
- 720 ILCS 5/11-6.5. Indecent Solicitation of an Adult
- 720 ILCS 5/11-9. Public Indecency
- 720 ILCS 5/11-9.1. Sexual Exploitation of a Child
- 720 ILCS 5/11-9.2. Custodial Sexual Misconduct
- 720 ILCS 5/11-11. Sexual Relations within Families
- 720 ILCS 5/11-15. Soliciting a Prostitute if the Victim is Under Age 18
- 720 ILCS 5/11-15.1. Soliciting for a juvenile prostitute
- 720 ILCS 5/11-16. Pandering
- 720 ILCS 5/11-18. Patronizing a prostitute if the victim is under 18
- 720 ILCS 5/11-18.1. Patronizing a juvenile prostitute
- 720 ILCS 5/11-19. Pimping if victim is under 18
- 720 ILCS 5/11-25. Grooming
- 720 ILCS 5/11-26. Traveling to meet a minor
- 720 ILCS 5/12-15. Criminal sexual abuse
- 720 ILCS 150/5.1. Permitting sexual abuse

The following Illinois offenses require lifetime registration:

- 720 ILCS 5/9-1. First degree murder
- 720 ILCS 5/10-1. Kidnapping
- 720 ILCS 5/10-2. Aggravated Kidnapping
- 720 ILCS 5/10-3. Unlawful Restraint
- 720 ILCS 5/10-3.1. Aggravated Unlawful Restraint
- 720 ILCS 5/10-5(b)(10). Child abduction
- 720 ILCS 5/11-9.5. Sexual misconduct with a person with a disability
- 720 ILCS 5/11-17.1. Keeping a place of juvenile prostitution
- 720 ILCS 5/11-19.1. Juvenile pimping
- 720 ILCS 5/11-19.2. Exploitation of a child

- 720 ILCS 5/11-20.1. Child pornography
- 720 ILCS 5/11-20.3. Aggravated child pornography
- 720 ILCS 5/12-13. Criminal sexual assault
- 720 ILCS 5/12-14. Aggravated criminal sexual assault
- 720 ILCS 5/12-14.1. Predatory criminal sexual assault of a child
- 720 ILCS 5/12-16. Aggravated criminal sexual abuse
- 720 ILCS 5/12-33. Ritualized abuse of a child

B. Frequency of Registration

SORNA 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.

Illinois requires that all registered sex offenders must annually update information with law enforcement; quarterly registration is required if the offender is certified as sexually dangerous, found to be sexually dangerous or convicted of violating registration requirements.

C. Reduction of Registration Periods

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

Illinois deviates from SORNA in its allowance of reduced registration periods to adjudicated juveniles required to register as sex offenders. In Illinois, while all registered adjudicated juveniles are bound by the same frequency of appearance and duration requirements as adults, those required to register for felony sex offenses may petition the court for the termination of registration requirements after five years. The court may terminate registration if it finds that the registrant poses no risk to the community. This deviation does not substantially disserve the purpose of this SORNA requirement.

Because Illinois' duration and frequency of registration do not align with SORNA requirements, Illinois does not meet the SORNA requirements of 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. Illinois' public registry website requirements deviate from SORNA requirements in that the public registry website does not display the following information required by SORNA:

- Criminal History
- Employer Address

- School address
- Vehicle(s) information, including license plate number(s) and vehicle description(s)

Illinois does not meet the SORNA requirements of 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.

Illinois does not monitor or utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status. In addition, Illinois does not provide notification (including a sex offender's identity) to the general public whenever a sex offender commences residence, employment, school attendance, or within a certain zip code or geographic radius in a jurisdiction.

Illinois does not meet the SORNA requirements of this section.

XII. 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.

Illinois 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.

Illinois 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.

Illinois meets all of the SORNA requirements in this section.

Conclusion

Illinois has put forth exceptional work and effort in adopting SORNA and enhancing its sex offender registration and notification system. We encourage Illinois to continue to work towards meeting the provisions of SORNA. However, there are many provisions identified in this report that should be addressed in order for Illinois to substantially implement SORNA. Please contact the SMART Office with any questions or concerns once you have had the opportunity to review and discuss our findings.

Appendix: Illinois Offense Tiering Review

The SMART Office has reviewed all Illinois statutes identified in its substantial implementation submission package and has identified Illinois' 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 Illinois. It is possible that other offenses will need to be included in Illinois' 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 Illinois Code, the SMART Office understands that Illinois' registration and notification scheme requires sex offenders to either register for 10 years or for life, with annual in-person verification; quarterly in-person verification is required for those offenders who are certified as sexually dangerous, found to be sexually dangerous, or violate registration requirements.

Tier I Offenses

SORNA requires that Tier I offenders register for a minimum of 15 years and annually verify registration information. The following offenses listed in Illinois Code would require, at a minimum, Tier I registration requirements under SORNA.

- 720 ILCS 5/10-4 Forcible Detention (victim under 18)
- 720 ILCS 5/11-9.1 Sexual Exploitation of a Child (misdemeanor)
- 720 ILCS 5/11-9.2 Custodial Sexual Misconduct
- 720 ILCS 5/11-11 Sexual Relations within Families
- 720 ILCS 5/12-15 Criminal Sexual Abuse (misdemeanor)
- 720 ILCS 150/5.1 Permitting Sexual Abuse (misdemeanor)
- 720 ILCS 5/11-20.1 Child Pornography (possession)

Tier II Offenses

SORNA requires that Tier II offenders register for a minimum of 25 years and semi-annually verify registration information. The following offenses listed in Illinois Code would require, at a minimum, Tier II registration requirements under SORNA.

- 720 ILCS 5/10-5.1 Child Luring
- 720 ILCS 5/11-6 Indecent Solicitation of a Child
- 720 ILCS 5/11-6.5 Indecent Solicitation of an Adult
- 720 ILCS 5/11-15 Soliciting a Prostitute if the Victim is Under Age 18
- 720 ILCS 5/11-15.1 Soliciting for a Juvenile Prostitute

- 720 ILCS 5/11-16 Pandering (victim under 18)
- 720 ILCS 5/11-18 Patronizing a Prostitute if the Victim is Under 18 (victim 16 or 17)
- 720 ILCS 5/11-18.1 Patronizing a Juvenile Prostitute (victim 16 or 17)
- 720 ILCS 5/11-19 Pimping if the Victim is Under Age 18
- 720 ILCS 5/11-25 Grooming
- 720 ILCS 5/11-26 Traveling to Meet a Minor
- 720 ILCS 150/5.1 Permitting Sexual Abuse (felony)
- 720 ILCS 5/11-17.1 Keeping a Place of Juvenile Prostitution
- 720 ILCS 5/11-19.1 Juvenile Pimping
- 720 ILCS 5/11-19.2 Exploitation of a Child
- 720 ILCS 5/11-20.1 Child Pornography (production, distribution)
- 720 ILCS 5/11-20.3 Aggravated Child Pornography (production, distribution)
- 720 ILCS 5/12-33 Ritualized Abuse of a Child (if sexual contact and victim 13-18)

Tier III Offenses

SORNA requires that Tier III offenders register for life and quarterly verify registration information. The following offenses listed in Illinois Code would require Tier III registration requirements under SORNA.

- 720 ILCS 5/9-1 First Degree Murder
- 720 ILCS 5/11-18 Patronizing a Prostitute if the Victim is Under 18 (victim under 16)
- 720 ILCS 5/11-18.1 Patronizing a Juvenile Prostitute (victim under 16)
- 720 ILCS 5/12-15 Criminal Sexual Abuse (felony)
- 720 ILCS 5/10-1 Kidnapping (non-parental)
- 720 ILCS 5/10-2 Aggravated Kidnapping (non-parental)
- 720 ILCS 5/10-3 Unlawful Restraint (victim under 18)
- 720 ILCS 5/10-3.1 Aggravated Unlawful Restraint (victim under 18)
- 720 ILCS 5/10-5(b)(10) Child Abduction
- 720 ILCS 5/11-9.5 Sexual Misconduct with a Person with a Disability
- 720 ILCS 5/12-13 Criminal Sexual Assault
- 720 ILCS 5/12-14 Aggravated Criminal Sexual Assault
- 720 ILCS 5/12-14.1 Predatory Criminal Sexual Assault of a Child
- 720 ILCS 5/12-16 Aggravated Criminal Sexual Abuse
- 720 ILCS 5/12-33 Ritualized Abuse of a Child (if Sexual Contact and victim under 13)

Further Review

In reviewing the statutes that Illinois cited as those that are registerable offenses under Illinois' registration scheme, the SMART office did notice offenses that do not require registration under SORNA:

- 720 ILCS 5/11-9 Public Indecency