

Registration Requirements Under the Sex Offender Registration and Notification Act

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The Department of Justice (“DOJ”) published its final rule setting forth the minimum national standards for sex offender registration under the Sex Offender Registration and Notification Act (“SORNA”) on December 8, 2021. The rule, according to the DOJ, only memorializes current practices based on guidelines that have been published by the Attorney General.

The Attorney General has broad authority to require information from sex offenders to “protect the public.” Under the rule, sex offenders are required to provide a breadth of information about themselves, where they will be (residential, temporary lodging, international travel employer information and work location), mode of transportation, and what profession or trade they are authorized to practice. In addition to providing the typical identifying information, sex offenders are required to report any information they have used to identify themselves, even if it is not their actual information. For example, sex offenders are required to provide their name (including aliases), date of birth (actual and purported), and Social Security number (actual and purported). This information must be provided by sex offenders at the time of registration and be kept up to date. Sex offenders must also appear in person periodically to verify information.

Notably, the DOJ reiterates that “date of birth information is regularly utilized as part of an individual’s basic identification information and hence is of value in helping to identify, track, and locate registered sex offenders.” Additionally, purported information must be provided because sex offenders “may provide false date of birth information in seeking employment that would provide access to children or other potential victims.” The same also holds true for Social Security number information.

Importantly, it seems that the DOJ is intending to remind states of their duty to require this information. Specifically, the DOJ cites to 34 U.S.C. §§ 20912(a), 20926-27, indicating that the requirements set forth in the rule are the minimum national standards and non-Federal jurisdictions that fail to incorporate these requirements will risk their Federal funding, as has been the case since SORNA was enacted in 2006. On the flip side, the DOJ notes that the rule is not intended to make any changes to how registration jurisdictions have implemented SORNA in their registration programs, which are still effective under the July 2, 2008 SORNA Guidelines. Additionally, the DOJ stops short of addressing how non-Federal jurisdictions disclose this information to the public, stating that the scope of the disclosure of the information provided by the sex offender to the reporting jurisdiction is “not germane” to the rule.

Noncompliant sex offenders can be prosecuted for failing to provide the information in accordance with the rule. The rule is effective January 7, 2022.

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