

## **SORNA General Information**

The Sex Offender Registration and Notification Act (SORNA), passed as part of the Adam Walsh Child Protection and Safety Act of 2006, created standards for sex offender registration and notification programs in states, tribes, and territories. States and territories which had not "substantially implemented" SORNA by July 27, 2011 are required to forfeit 10 percent of the Byrne Justice Assistance Grant (Byrne JAG) award annually, beginning in Fiscal Year 2012. Based on the 2010 grant amount, North Carolina will lose around \$860,000.

There are currently 15 states in compliance:

Alabama, Delaware, Florida, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nevada, Ohio, South Carolina, South Dakota, Tennessee, and Wyoming.

To date Texas and New York have indicated that they do not currently intend to comply. (See attached letters).

The US Department of Justice has issued guidelines for compliance. The guidelines have been modified several times, the most recent changes being issued in January 2011. Additionally, there are currently several potential modifications to the legislation being considered by Congress, although it is unknown at this time if any will actually be enacted.



**STATE OF NEW YORK  
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August 23, 2011

Linda Baldwin  
Director  
U.S. Department of Justice  
Office of Justice Programs, SMART Office  
810 7th Street, NW  
Washington, DC 20531

Re: New York State

Dear Ms. Baldwin;

I am in receipt of your letter dated July 28, 2001 to Governor Cuomo indicating your preliminary findings that New York State has not substantially implemented the Sex Offender Registration and Notification Act (SORNA). Please accept this letter as notification that New York does not disagree with your findings. While New York looks forward to continuing to work together with the Department of Justice in the future, we are convinced that the statutory scheme set out by our legislature is in the best interests of New York State and the best way to protect our citizens. While we are concerned about the loss of federal financial support, especially in this fiscal environment, the issues set out below when combined with the projected cost of SORNA requirements resulted in our decision. New York will continue to cooperate with the federal authorities and all other states in the effort to protect all victims against sexual predators by preventing the attacks against child and adult victims and bringing sexual predators to justice.

New York believes that our present laws and risk assessment method provide our citizens with effective protection against sexual predators. Initially enacted in 1996, New York law implements a risk assessment that considers the offender's background, prior criminal history, the manner in which the crime was committed and whether there was a plea bargain to a lesser included offense, the age of the victim and the offender's mental health history. This comprehensive look gives us an accurate prediction of the risk an offender poses to the community. After examining the proposed federal approach which focuses on the crime of

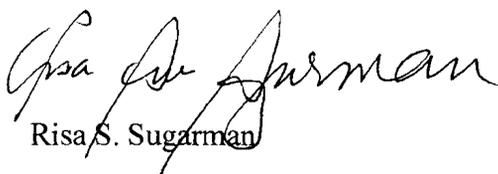
conviction, we are concerned that the federal approach may both over- and understate threat in a way that is not consistent with our public safety goals.

New York has a long standing public policy of treating juvenile offenders differently from adult offenders so that juveniles have the best opportunity of rehabilitation and re-integration. The federal requirement that juveniles be placed on the Sex Offender Registry under SORNA is in direct conflict with that public policy. While New York law provides that the most dangerous juvenile offenders may be prosecuted in adult courts and, if convicted, they would be placed on the Sex Offender Registry, our laws and public policy also acknowledge that other than those most dangerous offenders, children who commit crimes should avoid the ramifications of adult convictions.

Finally, the fiscal impact of implementation is significant with no improvement of public safety. As unfortunate as the loss of the funds will be to important programs in New York, the costs would be far greater than the loss. The in person reporting requirements for all Tiers would impose significant costs on law enforcement without a foreseeable public safety justification. The likelihood of required separate reporting facilities for juvenile offenders would also place an undue burden on local law enforcement. In addition, there are significant costs of technical construction a new registry and the likelihood of litigation to defend the implementation of the Act.

New York will continue its commitment to ensuring that our citizens are protected from sexual predators by the enforcement of all of our laws and the continued cooperation with your office. If you have any questions, please contact me at your earliest convenience.

Very truly yours,



Risa S. Sugarman

Deputy Commissioner

Director, Office of Sex Offender Management

Via Regular Mail and email to [Linda.Baldwin@usdoj.gov](mailto:Linda.Baldwin@usdoj.gov)



OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

August 17, 2011

Linda M. Baldwin  
Director  
SMART Office  
Office of Justice Programs  
U.S. Department of Justice  
810 7th Street, NW, 6th Floor  
Washington, D.C. 20531

Dear Ms. Baldwin:

Thank you for your July 28 letter inquiring about the implementation of the federal Sex Offender Registration and Notification Act (SORNA) in Texas. Although we in Texas certainly appreciate and agree with the stated goals of SORNA, the adoption of this "one-size-fits-all" federal legislation in Texas would in fact undermine the accomplishment of those objectives in Texas, just as it would in most other states.

As you may be aware, the bipartisan Texas Senate Committee on Criminal Justice (Committee) carefully considered the question of compliance with SORNA over the past two years. After extensive review, including the receipt of public testimony during several "well attended and informative" hearings, the Committee firmly recommended that the Texas Legislature should not implement SORNA in Texas. As the Committee explained in its Interim Report to the 82<sup>nd</sup> Legislature (*see* <http://www.senate.state.tx.us/75r/Senate/commit/c590/c590.htm>), implementation of SORNA would be both unnecessary and counter-productive in Texas because:

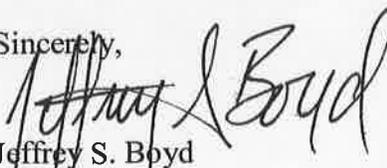
- Texas already has a comprehensive array of statutes to punish, supervise, and protect the public from sex offenders, including those that require registration and publication, community supervision, child safety zones, future risk assessments, and civil commitment for certain high-risk offenders. Indeed, Texas's sex offender laws are undeniably among the most stringent in the nation.
- SORNA's oversimplified registration and publication requirements, which apply based solely on the particular criminal offense, fail to accommodate for Texas's more appropriately tailored future risk assessments.

- By tying specific requirements, such as re-verification, DNA testing, and duration of registration, to offense "tiers," SORNA imposes expensive and burdensome requirements without regard to whether those requirements are necessary or appropriate in a particular case.
- By imposing such requirements in cases in which they are unnecessary, SORNA would create backlogs and strains on local law enforcement agencies that, as a practical matter, would effectively undermine the objectives that SORNA is intended to meet.
- In dealing with juvenile sex offenders, Texas law more appropriately provides for judges to determine whether registration would be beneficial to the community and the juvenile offender in a particular case.
- By imposing oversimplified blanket registration requirements, SORNA would make it more difficult for Texas to focus on and address the most dangerous sex offenders, who pose the greatest public threat. Moreover, SORNA does so while merely assuming that the requirements are necessary in all cases, while failing to account for the negative impacts that unnecessary registration has on both juvenile offenders and the children of low-risk adult offenders.
- Implementation of all of SORNA's requirements would cost Texas more than 30 times the amount of the federal funds that the federal government has threatened to withhold from Texas if it fails to comply.

For these reasons, Texas's sex offender laws are more effective in protecting Texans than SORNA's requirements would be. In short, while Texas shares the federal government's objectives, the oversimplified means by which SORNA seeks to meet those objectives, while costing Texans significantly more, would provide them with far less than Texas law already provides. While SORNA's approach might be appropriate for some states, it is not right for Texas.

In fact, we are advised that, to date, only 14 states have substantially implemented SORNA as the federal government has demanded. We would encourage you to consider that fact, as well as the information detailed in the Texas Senate Committee's report, as you evaluate the reality that there is a better way to achieve the goals that we share. We would look forward to discussing those alternatives with you.

Sincerely,



Jeffrey S. Boyd

General Counsel and Acting Chief of Staff