



Adam Walsh Act Update: State Resistance to Comply and Federal Leniency in Compliance Review

In July 2006, President Bush signed the Adam Walsh Child Protection and Safety Act. The law establishes a comprehensive set of minimum standards for juveniles adjudicated delinquent on both national and state sex offender registries and forces state to meet the law's requirements or face a 10% cut in federal justice assistance funding. The deadline for complying with this law was July 27, 2011.

The Final Guidelines - Changes to the Public Website Posting Requirement

On January 11, 2011, only six months before the final deadline for implementation, the U.S. Department of Justice released supplemental guidelinesⁱ for the Sex Offender Registration and Notification Act (SORNA), Title I of the Adam Walsh Act. In response to input from advocates and others around the country, the SMART (Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking) office modified the law's guidelines, allowing jurisdictions to exempt youthful offenders from public registries, and place them on private, law-enforcement-only registries.

Few States in Compliance

As of August 2011, only fourteen states, nine tribes and the territory of Guam have been deemed by the SMART office to have "substantially implemented" SORNA. States have resisted implementing the Act for numerous reasons including:

- confidence in their current state registration laws, many of which are carefully crafted to assess for risk, rather than using the blunt tool of an offense-based registry;
- concern about the legislation's high costs of implementation far outweighing the potential loss of federal grant funding; and
- concern over the negative public safety and rehabilitation effects of placing youth on any registry, public or private.

Two states exemplify some of the fiscal problems with the law. Texas estimated the federal funding cuts at \$1.4 million, compared to an implementation cost of \$38.7 million and chose not to comply. Ohio, alternatively, has spent millions complying with the law and defending against thousands of lawsuits, but stood to lose only thousands of dollars a year.ⁱⁱ

Meaning of "Substantial Implementation" – A Moving Target

Recently, Maryland achieved compliance with SORNAⁱⁱⁱ without meeting all of SORNA's requirements.^{iv} Thus, the SMART Office has allowed for a more lenient definition of "substantial implementation" than it indicated it would in the past. Maryland specifically fails to meet SORNA's mandates because:

- Youth must register for a maximum of 5 years, not 25 years as mandated by SORNA.^v
- Length of registration is subject to a reduction by the juvenile court on the filing of a petition by the registrant.^{vi}
- Youth are automatically removed from the registry at the age of 21.^{vii}

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ⁱ http://www.ojp.usdoj.gov/smart/pdfs/SORNAFinalSuppGuidelines01_11_11.pdf

ⁱⁱ Emanuella Grinberg, *5 Years later, States Struggle to Comply with Federal Sex Offender Law*, CNN (Jul. 28, 2011),

http://articles.cnn.com/2011-07-28/justice/sex.offender.adam.walsh.act_1_adam-walsh-act-offender-law-registry?_s=PM:CRIME.

ⁱⁱⁱ Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, Department of Justice: Justice Department Finds 24 Jurisdictions Have Substantially Implemented SORNA Requirements (Jul. 28, 2011).

^{iv} Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, Department of Justice: The National Guidelines for Sex Offender Registration and Notification (2011).

^v MD. CODE ANN., Criminal Procedure § 11-707(a)(4)(iv) (West 2011).

^{vi} *Id.*

^{vii} MD. CODE ANN., Criminal Procedure § 11-704.1(d) (West 2011).

