



**County Chief Adult Probation and Parole Officers  
Association of Pennsylvania**

## **Annual Conference Handouts**

**Breakout Session:**

***SORNA***

***Making Sense of the Ever Changing Landscape***

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**September 18, 2018**



**SORNA & SORNA II: COURT SHEET**

- Sex Offender Registration and Notification Act (“SORNA”); Act 29 of 2018. Both laws are effective. You must identify when the offense occurred to know whether to apply SORNA or SORNA II with December 20, 2012 being the dividing line.
- SORNA and SORNA II require individuals to register as sex offenders if convicted of an enumerated offense.
- The chart below lists all of the “Tier” offenses numerically by statute (“X” indicates which tier corresponds to the offense). For some offenses, only certain subsections trigger SORNA registration. In those instances, the subsections or factual basis are written on the chart.
- For SORNA II, several of the offenses listed in the left column do not trigger registration requirements. Thus, they are shaded grey.

Offenses	SORNA 42 Pa.C.S. § 9799.14 (offenses committed on or after 12/20/2012)			SORNA II 42 Pa.C.S. § 9799.55 (offenses committed after 4/22/1996 but before 12/20/2012 or required to register pre-SORNA)	
	Tier I (15 years)	Tier II (25 years)	Tier III (Life)	10 Year	Lifetime
<b>Kidnapping</b> (18 Pa. C.S. § 2901)			X (§ 2901(a.1): kidnapping of a minor)	X (§ 2901 kidnapping of a minor)	
<b>Unlawful Restraint</b> (18 Pa. C.S. § 2902)	X (§ 2902(b): minor complainant; offender not parent or guardian)				
<b>False Imprisonment</b> (18 Pa. C.S. § 2903)	X (§ 2903(b): minor complainant; offender not parent or guardian)				
<b>Interference with Custody of Children</b> (18 Pa. C.S. § 2904)	X				
<b>Luring child into a MV</b> (18 Pa. C.S. § 2910)	X			X (only if after 1/26/2005)	
<b>Rape</b> (18 Pa. C.S. § 3121)			X		X
<b>Statutory Sex Assault</b> (18 Pa. C.S. § 3122.1)		X (§ 3122.1(a)(2): “Eight years older but less than 11 years older than the complainant”)	X (§ 3122.1(b): “11 or more years older than the complainant”)		
<b>IDSI</b> (18 Pa. C.S. § 3123)			X		X

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	Tier I (15 years)	Tier II (25 years)	Tier III (Life)	10 Year	Lifetime
Sexual Assault (18 Pa. C.S. § 3124.1)			X		X
Inst. Sex Assault (18 Pa. C.S. § 3124.2)	X (§ 3124.2(a))	X (§§ 3124.2(a.2-a.3))	X (§ 3124.2(a.1))	X (only if after 1/26/2005)	X
Agg. Indecent Assault (18 Pa. C.S. § 3125)			X		
Indecent Assault (18 Pa. C.S. § 3126)	X (§ 3126 (a)(1); M2)	X (§§ 3126(a)(2-6),(8))	X (§ 3126 (a)(7))	X (only if graded M1 or higher)	X (if victim is under 12)
Incest (18 Pa. C.S. § 4302)			X (§ 4302(b): of a minor)	X (victim is 12 or older but under 18)	
Promoting Prostitution of a Minor (18 Pa. C.S. § 5902)		X (§ 5902(b.1))		X (§ 5902(B) or (B.1))	
Obscene materials, minor complainant (18 Pa. C.S. §§ 5903)		X (§§ 5903(a)(3)(ii),4(ii), 5(ii),(6))		X (§§ 5903(a)(3) ,(4), (5), or (6))	
Corruption of Minors (18 Pa. C.S. § 6301)	X (§ 6301(a)(1)(ii): F3)				
Sexual abuse of children (18 Pa. C.S. § 6312)	X (§ 6312(d))	X (§§ 6312 (b),(c))		X	
Unlawful Contact with Minor (18 Pa. C.S. § 6318)		X		X	
Sexual Exploitation of Children (18 Pa. C.S. § 6320)		X		X	
Invasion of Privacy (18 Pa. C.S. § 7507.1)	X				
Federal Offenses	A list of federal crimes.	A list of federal crimes.	Three federal crimes.		
Multiple Convictions			“Two or more convictions of offenses listed as Tier I or Tier II sexual offenses.” *must be in SEPARATE cases		“Two or more convictions of any of the offenses set forth in subsection (A)” [10 year offenses]

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	Tier I (15 years)	Tier II (25 years)	Tier III (Life)	10 Year	Lifetime
<b>Similar Offenses</b>	<p>“A comparable military offense or similar offense under the law of another jurisdiction or foreign country, or under a former law of this Commonwealth”</p> <p>“A conviction for a sexual offense in another jurisdiction or foreign country that is not set forth in this section, but nevertheless requires registration under a sexual offender statute in the jurisdiction or foreign country.”</p>	<p>“A comparable military offense or similar offense under the law of another jurisdiction or foreign country, or under a former law of this Commonwealth”</p>	<p>“A comparable military offense or similar offense under the law of another jurisdiction or country, or under a former law of this Commonwealth”</p>	<p>“offenses similar to” the enumerated lifetime offenses under laws of another stet, territory, or jurisdiction</p>	<p>“offenses similar to” the enumerated lifetime offenses under laws of another stet, territory, or jurisdiction.</p>
<b>Attempt, Conspiracy or Solicitation</b>	<p>“An attempt, conspiracy or solicitation to commit an offense listed” above.</p>	<p>“An attempt, conspiracy or solicitation to commit an offense listed” above.</p>	<p>“An attempt, conspiracy or solicitation to commit an offense listed” above.</p>	<p>“An attempt, conspiracy or solicitation to commit an offense listed” as either 10 year offenses or lifetime offenses.</p>	
<b>Sexually Violent Predators (SVP)</b>			Sexually violent predators		Sexually violent predators

**MANDATORY SENTENCES**

**A. RECIDIVIST MANDOS (SORNA THREE STRIKES LAW)**

- Second SORNA Offense: 25 to 50 MANDO (42 Pa.C.S. § 9718.2)

25 to 50 mando applies to any current SORNA offense where:

- at the time of the commission of the current offense he has previously been convicted of any SORNA offense including an equivalent crime under the laws of this Commonwealth in effect at the time or those of another jurisdiction.

1. It does not matter that the prior conviction was not a SORNA offense at the time of that conviction
2. It does not matter whether the previous or current offenses are misdemeanors. The mando still applies.

- Third or Subsequent SORNA offense: LIFE MANDO (42 Pa.C.S. § 9718.2)

LIFE mando applies to any current SORNA offense where

- at the time of the commission of the current offense, he has previously been convicted two or more SORNA offense arising from separate transactions.

  1. The prior crimes must be from separate incidents to qualify for a life mando.
  2. Equivalent offenses under old PA law or the laws of other jurisdictions also count.

- 3 Year Probation Mandatory: 42 Pa.C.S. § 9718.5: Applies to Tier III SORNA offenses only!

- Any person convicted of an offense enumerated as a Tier III SORNA offense under 42 Pa.C.S. § 9799.14(d)
- “Shall be sentenced to a mandatory period of probation of three years consecutive to and in addition to any other lawful sentence issued by the court.”
- **Means**” that the court MUST impose a three year probation tail on any of the most serious sexual offenses. The COURT can impose this ON TOP of a sentence which would otherwise be the statutory maximum.
- For example, 3126(a)(7) is M1 indecent assault. It is enumerated a tier III offense. If a court sentences a person to 2 ½ to 5 years of state custody, the court MUST impose an additional 3 years of probation. If a court imposes a sentence of “time served” the court must still impose a sentence of that plus 3 years probation.

**IMPORTANT DATES & THINGS TO KNOW**

- **Megan's Law I** Effective April 22, 1996. Required the following persons to register:
    - A person convicted of any of the offenses set forth in subsection (b) shall be required to register a current address with the Pennsylvania State Police upon release from incarceration, upon parole from a State or county correctional institution or upon the commencement of a sentence of intermediate punishment or probation. The period of registration shall be ten years. 42 Pa.C.S. § 9793(a) (1996) (ML I); Act 24 of 1995; 1995 Pa. ALS 24; 1995 Pa. Laws 24; 1995 Pa. SB 7.
    - People registered under ML I, who were not convicted of a new sex crime should have remained 10 year registrants. They should not have been reclassified at any point to a longer period of registration.
  - **Megan's Law II**: Effective July 10, 2000:
    - An offender had to register under ML II when: OFFENDERS AND SEXUALLY VIOLENT PREDATORS SHALL BE REQUIRED TO REGISTER [J]WITH THE PENNSYLVANIA STATE POLICE UPON RELEASE FROM INCARCERATION, UPON PAROLE FROM A STATE OR COUNTY CORRECTIONAL INSTITUTION OR UPON THE COMMENCEMENT OF A SENTENCE OF INTERMEDIATE PUNISHMENT OR PROBATION. FOR PURPOSES OF REGISTRATION, OFFENDERS AND SEXUALLY VIOLENT PREDATORS SHALL PROVIDE THE PENNSYLVANIA STATE POLICE WITH ALL CURRENT OR INTENDED RESIDENCES, ALL INFORMATION CONCERNING CURRENT OR INTENDED EMPLOYMENT, AND ALL INFORMATION CONCERNING CURRENT OR INTENDED ENROLLMENT AS A STUDENT. 42 Pa.C.S. § 9795.2(A)(1) (2003).
    - ML II had an enabling provision which limited Applicability of the above registrations section as follows:
      - (1) TO PROCEEDINGS INITIATED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.
      - (2) THE REENACTMENT AND AMENDMENT OF 42 PA.C.S. CH. 97 SUBCH. H SHALL APPLY TO INDIVIDUALS INCARCERATED OR CONVICTED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.
      - (3) THIS ACT SHALL NOT AFFECT THE REQUIREMENTS FOR INDIVIDUALS REGISTERED PURSUANT TO 42 PA.C.S. CH. 97 SUBCH. H PRIOR TO THE EFFECTIVE DATE OF THIS ACT.
- Act 18 of 2000, Section 5; 2000 Pa. ALS 18; 2000 Pa. Laws 18; 1999 Pa. SB 380.

- **Megan’s Law III:** Effective January 3, 2005. Ruled Unconstitutional in Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013), but anyone subject to registration still had to Register under SORNA. Same registration clause as above in ML II.
- **SORNA**; Effective December 20, 2012.
  - Commonwealth v. Muniz, 164 A.3d 1189 (Pa. 2017) holds that SORNA is punitive. That means it cannot apply to any person whose underlying sexual offense occurred BEFORE December 20, 2012. There remains an open question however, about what might apply to those individuals if anything. Litigation is ongoing.
  - For those whose offenses occurred AFTER December 20, 2012, SORNA is still effective. Nearly all of its provisions are still intact, but it is under challenge.
- **SORNA II:** Act 10 of 2018 (SB 631); Act 29 of 2018. Effective February 21, 2018 and June 12, 2018 respectively. Create a two track system where the date of the offense matters. Subchapter H, 9799.10-.42 applies to offenses occurring on or after 12/20/12. Subchapter I applies to offense occurring before 12/20/12.
- **Failure to Comply with SORNA: 18 Pa.C.S. § 4915.1:** After 12/20/12 registrants ONLY there are three different crimes someone can be charged with for failing to comply with sex offender registration. They are all FELONY offenses and are prosecuted harshly.
  - ***Failure to register:*** 4915.1(a)(1): This prohibits failing to initially register as a sex offender and punishes a person for failing to tell the Pa. State Police (PSP) within 72 hours of any change, addition, or termination of any of the required information. \*Transients only have to update at their monthly date.
  - ***Failure to verify:*** 4915.1(a)(2): Registrants must periodically go in person to the PSP to “verify” the registration information. Tier I, once a year; Tier II, twice a year; and Tier III and SVPs, 4 times a year. They must go within a ten day window prior to the “verification date.” If they don’t go, it’s a crime. Transients must go once a month.
  - ***Failure to provide accurate information:*** 4915.1(a)(3). Prohibits lying to the PSP. Ex: Client tells the PSP that he lives at 123 Market St., but he doesn’t.
- **Failure to Comply with SORNA: 18 Pa.C.S. § 4915.2:** Before 12/20/12 registrants ONLY. there are three different crimes someone can be charged with for failing to comply with sex offender registration. They are all FELONY offenses and are prosecuted harshly.
  - ***Failure to register:*** 4915.2(a)(1): This prohibits failing to initially register as a sex offender and punishes a person for failing to tell the Pa. State Police (PSP) within 72 hours of any change, addition, or termination of any of the required information. \*Transients only have to update at their monthly date.



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