

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 1: CRIMES AGAINST THE PERSON

§ 1360. Definitions.

(a) *The CNMI Sex Offender Registry Act (CNMI-SORA)*. SORA is the CNMI's Sex Offenders' Registry and Notification Act which is designed to register, monitor and track all covered sex offenders' mobility and whereabouts in the Commonwealth.

(b) *Conviction*. A person is convicted of a sex offense if the sex offender has been subject to any penal consequences based on the conviction, however the conviction may be styled. This includes convictions of juveniles who are prosecuted as adults and those adjudicated delinquent if the offender is 14 years of age or older at the time of the offense and the offense was comparable to or more severe than aggravated sexual abuse (18 USC 2241) or was an attempt or conspiracy to commit such an offense.

(c) *Department of Public Safety (DPS or SORA-Office)*. DPS or SORA-Office is the Commonwealth's Official Sex Offender Registry and Notification Agency responsible to implement the Commonwealth's Sex Offender Registration Act (SORA) Requirements.

(d) *Law Enforcement Supervision Agencies (LESA)*. LESA agencies are the supervision agencies augmenting certain provisions of this article and SORA-Office (DPS). The identified LESA are the: Department of Corrections, Office of Parole and the Office of Adult Probation and Division of Youth Services Juvenile Probation. These are agencies with law enforcement and supervision authorities over certain covered sex offenders under supervision. They are responsible to provide initial registration, maintain the agency's initial registration and transmission to CNMI-SORA-Office/DPS.

(e) *Employee*. The term "employee" includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation including but not limited to volunteers, interns, externs, and apprentices.

(f) *Immediate*. "Immediate" and "immediately" means within 3 business days.

(g) *Imprisonment*. The term "imprisonment" refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, confinement in the Commonwealth prison as well as a local "jail" or other terms of incarceration including "house arrest."

(h) *Jurisdiction*. The term "jurisdiction" refers to the Commonwealth of the Northern Mariana Islands, which includes such area of the land and water and the airspace above those areas with respect to which the Commonwealth government has established its legislative and territorial jurisdiction, and includes boats, aircraft and other vessels while in those areas; the 50 states; the District of Columbia; Commonwealth of Puerto Rico; Guam; American Samoa; the United States Virgin Islands; and any Indian Tribes.

(i) *Minor*. The term "minor" means an individual who has not attained the age of 18 years.

(j) *Resides*. The term "reside" or "resides" means, with respect to an individual, location of the individual's home or other place where the sex offender habitually lives or sleeps.

(k) *Sex Offense*. The term "sex offense" as used in this article includes all of the offenses contained in 42 U.S.C. 16911(5), and all of the covered offenses

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contained in Title 6 CMC, Division 1, Part 1, Chapter 3, Article 4, Section 1361 [6 CMC § 1361].

(l) *Sex Offender*. A person convicted of a sex offense is a "sex offender".

(m) *SORAB* (Sex Offender Registration Administrative Board). The SORAB is the SORA-Office/DPS non-appointed board composition of the SORA-Office (DPS Officer-In-Charge), CJPA Director, and the supervision agencies (LESA) directors or designees (DOC, Parole, Adult and Juvenile Probation, and the Attorney General or his designee (as legal counsel) charged with the overall responsibilities to ensure, oversee, promulgate policies, approve agencies' policies and procedures, be the expenditure authority on the supplemental sex offender fees for SORA-OFFICE/DPS and other related cost and expenses, facilitate training, plan, meet and facilitate the implementation of this article (CNMI-SORA) by SORA-Office/DPS and the supervision agencies under this article.

(n) *Student*. A sex offender "student" who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.

(o) *SORNA*. "SORNA" means Title I of the Adam Walsh Child Protection and Safety Act of 2006 (PL 109-248).

Source: PL 11-104, § 1 (Section 2 of reenacted PL 11-35) repealed and reenacted PL 11-35; repealed and reenacted with a different section number by PL 17-49 § 2(1360) (July 29, 2011), modified.

Commission Comment: Pursuant to 1 CMC § 3806(c), (d) and (f), the Commission changed occurrences of "the Act" to "this article;" italicized words being defined for emphasis; inserted bracketed citation; and changed capitalization for conformity. Before the enactment of Public Law 17-49, the definition section of this article was 6 CMC § 1361. Public Law 17-49, which repealed, renamed and reenacted Title 6, Division 1, Part 1, Chapter 3, Article 4, made substantial changes to the structure and content of this article. The previous public laws which created this article are PL 11-35 and PL 11-104, as discussed below.

PL 17-49, effective July 29, 2011, included the following findings:

Section 1. Findings. The Legislature finds that many sex offenders are likely to repeat their crimes. The recidivism rate of sex offenders is high. The Legislature finds that the safety of our residents requires that we shield them from known sexual predators. Therefore, it is appropriate that we take the extraordinary measure of placing requirements on sexual offenders even after they have served their criminal sentence. The Legislature finds that sex offender registration system can greatly enhance public safety by tracking sex offenders after incarcerated sentencing following their release from DOC into Parole Supervision or non-incarcerated sentencing under non-supervision or agency's supervision such as Adult or Juvenile Probation supervision into the general registration requirements under the Department of Public Safety. It will, also, benefit the investigation of sex crimes to identify perpetrators if a sex molestation occurred within the area by making an immediate

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apprehension. The Legislature further finds the CNMI current registration law needs to meet the minimum mandatory requirements of the Adam Walsh Child Protection and Safety Act of 2006 known as Sex Offender Registration Notification Act (SORNA) (42 U.S.C. 16901). Thus, [r]epealing and [r]e-enacting PL 11-104 is crucial to meeting SORNA Minimum Requirements and, more so, safeguarding our community, the Act will augment the ability of law enforcement agencies responsible with registration within the Commonwealth and other Jurisdictions to track, monitor and communicate with each other regarding sex offenders who abscond and/or cross state lines. Therefore, a person convicted of a criminal offense of a sexual nature against a victim who is a minor, or who is convicted of a sexually violent offense will be required to register.

On July 27, 2006, the President of the United States signed into law the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901-16969), also known as the Sex Offender Registration and Notification Act (SORNA), which established a comprehensive national system for registration of sex offenders. The Act requires each state and territory to implement the provisions of the Act.

PL 11-104 took effect October 1, 1999. Section 1 of PL 11-104 repealed and reenacted PL 11-35. The findings of the reenacted PL 11-35 as set forth in PL 11-104 provide:

Section 1. Findings. The Legislature finds that the Justice Department recently granted states two-year extensions based on good faith efforts to achieve compliance with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. This Act is a key element of the Violent Crime Control and Law Enforcement Act of 1994, which provides financial incentives for states to establish effective registration systems for child molesters and other sexually violent offenders. The Legislature further finds that the Justice Department included provisions of the Pam Lychner Act as amendments to the Wetterling Act that created a limited number of new requirements for state registration programs, including a requirement that the perpetrators of particularly serious offenses and recidivists be subject to lifetime registration. States can take advantage of these incentives if they make good faith efforts to be in compliance with these amendments by September 12, 1999, for the Wetterling Act and by October 3, 1999 for the Pam Lychner Act.

PL 11-104 also contained severability and saving clauses as follows:

Section 2. Severability. If any provision of this Act or the application of any such provision to any person or circumstances should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 3. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under con-

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tract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

PL 11-35 took effect September 11, 1998. The title and findings of PL 11-35 were set forth as follows:

Section 1. Title. This Act shall be known as “The Sex Offender Registration and Notification Act.”

Section 2 Findings. The Legislature finds that many sex offenders are likely to repeat their crimes. The Commonwealth does not have a sex offender treatment program, but even if it did, the recidivism rate of sex offenders is high. The Legislature finds that the safety of our children requires we shield them from known sexual predators. Therefore, it is appropriate that we take the extraordinary measure of placing requirements on sexual offenders even after they have served their criminal sentence. The Legislature finds that sex offender registration systems can greatly assist the investigation of sex crimes. The Legislature further finds that state-based registration systems are crucial to the ability of state law enforcement officials to communicate with each other regarding sex offenders who cross state lines. Therefore, persons convicted of a criminal offense of a sexual nature against a victim who is a minor, or who is convicted of a sexually violent offense, or is a person known to be a violent sexual predator should be required to register a current address with law enforcement agencies wherever they reside.

The Legislature finds that the Justice Department recently published the final guidelines implementing the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act providing for registration of offenders and community notification of their location. This Act is a key element of the Violent Crime Control and Law Enforcement Act of 1994, which provides financial incentives for states to establish effective registration systems for child molesters and other sexually violent offenders. States can avail themselves of these incentives if they adopt a registration and notification law by September, 1998. The Legislature intends that this Act should be such a law.