

SMART

Office of Sex Offender Sentencing, Monitoring,
Apprehending, Registering, and Tracking

**SMART Summary:
Prosecution, Transfer, and Registration of
Serious Juvenile Sex Offenders**

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Prosecution, Transfer, and Registration of Serious Juvenile Sex Offenders

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Introduction

The Sex Offender Registration and Notification Act (SORNA) (Title I of the Adam Walsh Child Protection and Safety Act of 2006) was a landmark piece of federal legislation which set revised standards for states, territories and certain federally-recognized tribes to meet as they improved or established their sex offender registration and notification systems. One of the key changes in SORNA from previous federal schemes was the intentional inclusion of certain juveniles adjudicated delinquent of serious sex offenses in its registration and notification standards.

This inclusion drew increased attention to the manner in which juveniles are adjudicated and sentenced for serious sex offenses in juvenile courts. What has not received as much attention, and is the focus of this current overview, are the full range of alternative approaches for prosecuting serious sex offenders in juvenile courts across the country.

States vary widely between their applicable ages of criminal responsibility, circumstances in which a juvenile will automatically be prosecuted in adult criminal court (legislative waiver), and when the decision to try a juvenile in adult court is vested either in the prosecuting attorney (prosecutorial waiver) or a judge (judicial waiver). Any survey of sex offender registration and notification requirements applicable to juveniles is incomplete without a more thorough analysis of the systems of charging, adjudication, disposition, transfer, and/or sentencing which might apply to a serious juvenile sex offender.

This overview paints a broad picture of the state of the law in the United States regarding these issues, and then takes a look at the relevant provisions regarding sex offender registration and notification for juveniles adjudicated delinquent in juvenile court of serious sex offenses. Full statutory citations are provided in Appendix Six.

Juvenile Courts

Initially established more than a century ago in Cook County, Illinois, courts dedicated to juveniles are now part and parcel of the American criminal justice system. The original goal of juvenile courts can be described as follows:

[J]uvenile courts tried to focus on the ‘best interests of the child.’ They emphasized an informal, nonadversarial, and flexible approach to cases. . . .[c]ases were treated as civil (noncriminal) actions, and the ultimate goal was to guide a juvenile offender toward life as a responsible, law abiding adult.*

In contrast to this initial impetus, and in part as a result of a series of Supreme Court decisions beginning in the 1960’s—in addition to policy decisions made by states—delinquency proceedings in juvenile court today have a fair resemblance to adult criminal court proceedings. By and large, delinquency proceedings are now adversarial in nature, and a minor in juvenile court has many of the same constitutional rights as an adult facing criminal charges. Juveniles adjudicated delinquent also now face many of the same consequences as adults, including incarceration and probation supervision.

The modern American juvenile justice system contains within it these two differing approaches and interests—the traditional purpose of juvenile courts focusing on “the best interests of the child”, and the state’s more recent interest in ensuring safety in the community through the more ‘adult-like’ treatment of juveniles (including the more common goals of adult sentencing: rehabilitation, punishment, deterrence, and restitution). Often, these approaches conflict, and it is that conflict that drives the debate over how to handle serious juvenile sex offenders.

Serious Sex Offenses in Juvenile Courts

Unless excluded from its jurisdiction by legislative waiver or age of adult criminal responsibility, all serious sex offenses committed by juveniles will commence in juvenile court. *This report focuses solely on the most serious sex offenses—generally those involving forcible sexual penetration—which would be considered a registerable offense under SORNA.* As will be discussed later in this overview, SORNA generally requires registration of any juvenile adjudicated delinquent of a sex offense comparable to 18 U.S.C. § 2241(a) or (b), so long as the juvenile was 14 years of age or older at the time of the offense.

* From *Dialogue on Youth and Justice*, ABA Division for Public Education (2007), p. 5.

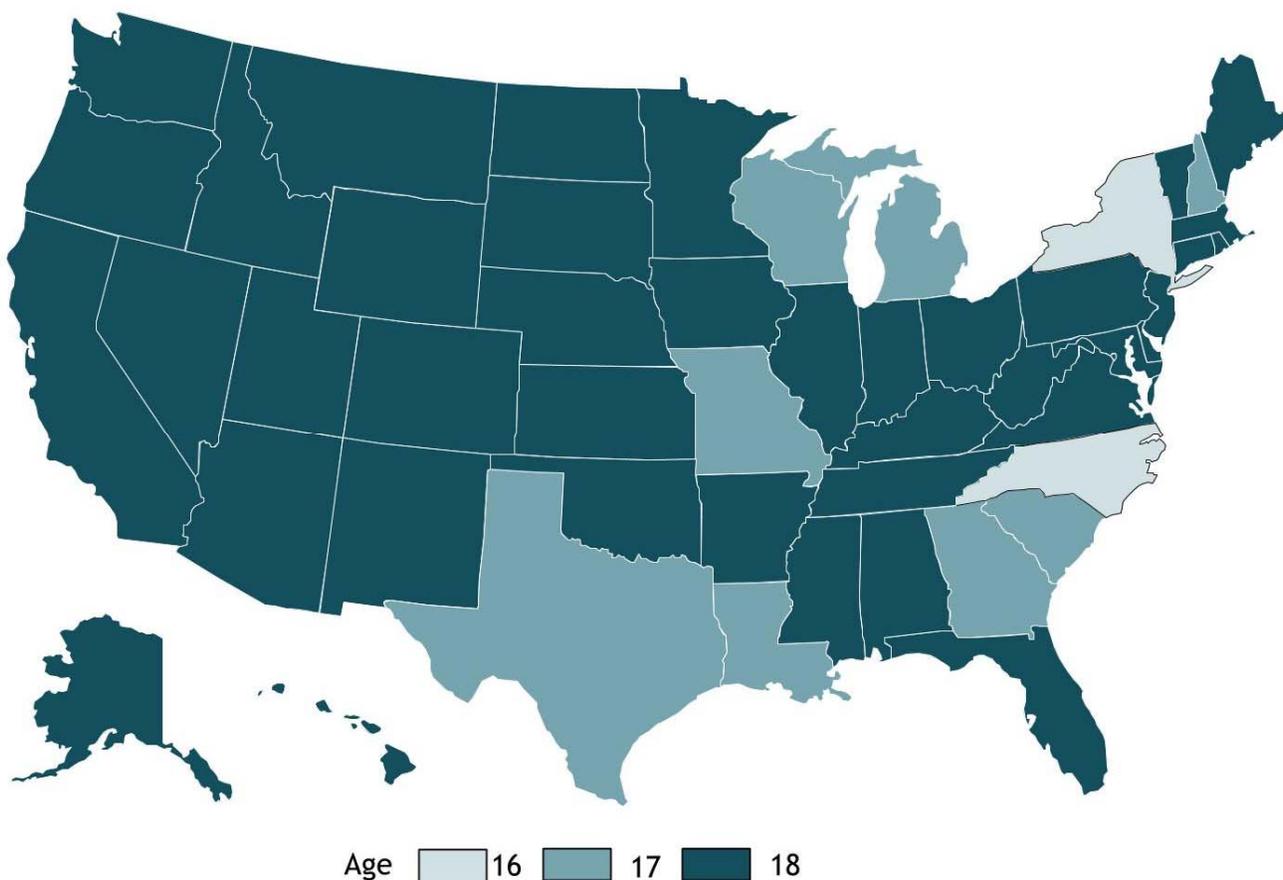
Age of Adult Criminal Responsibility

The age of adult criminal responsibility is the age at which a person is automatically referred to the adult criminal justice system for the prosecution of a criminal offense. This age is governed by the offender's age *at the time of the offense* rather than the offender's age at arrest, prosecution or sentencing. The age of adult criminal responsibility varies across the country.

In the federal system, the age of adult criminal responsibility is 18. As displayed below, the vast majority of states also use the age of 18 as their age of adult criminal responsibility. However, some states use an age of 16 (New York and North Carolina) or 17 (Georgia, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas and Wisconsin).

Because certain states have an age of adult criminal responsibility of either 16 or 17, any person of the applicable age in these ten states who is charged with committing a serious sex offense will generally be subjected to adult sex offender registration and notification requirements upon conviction.

Map 1: Age of Adult Criminal Responsibility



Juveniles Tried as Adults

The remainder of this overview discusses the alternatives available to a prosecutor or the courts throughout the course of a case involving a juvenile who has committed a serious sex offense.

For those who oppose sex offender registration requirements being imposed on juveniles adjudicated delinquent of serious sex offenses, their opinion is generally founded on the idea that the obligation of complying with a sometimes lengthy and public collateral consequence is not aligned with the overarching rehabilitative goals of the juvenile justice system. Before addressing the particular issue of juvenile sex offender registration, however, it is important to review *all* of the prosecutorial options available when handling a serious sex offense committed by a juvenile.

By the time a juvenile adjudicated delinquent of a serious sex offense is subjected to sex offender registration, there are usually a number of procedural and factual determinations which have been made—either by the prosecutor or the court—that have kept that juvenile from facing trial and sentencing in the adult criminal justice system. The factors which determine whether an offender will be eligible for transfer to adult court for trial are: (1) the age of the offender at the time of the offense, and (2) the specific offenses with which a juvenile is charged.

As the age of the offender is fixed in any particular case, the focus turns to the charging discretion vested in the prosecutor.

Prosecutorial Discretion

The American criminal justice system—and juvenile justice system—vests an enormous amount of power in the office of the prosecutor. Generally speaking, prosecutors in the United States are locally-elected Constitutional officers who fall within the executive branch of their local governments. The primary checks and balances on a Prosecutor's discretion are from the judicial branch (court rules, appellate and local judicial decisions), other executive branch offices (controlling discretionary funding and staffing, for example), the legislative branch (imposing statutory or regulatory constraints on prosecution), and their constituents (jury verdicts and subsequent elections).

In the course of pursuing a case against a serious juvenile sex offender, a prosecutor has a series of decisions vested to his or her discretion which will affect the trajectory of the case. The importance of this discretion cannot be overemphasized. At any stage in a prosecution, whenever there is a choice of which course to take, the prosecutor might seek concessions from a defendant. Chief among these choices is the decision of which charge(s) to prosecute.

Charging Decision

A critical choice that a prosecutor has when pursuing a case is the initial charging decision. The offense with which a juvenile is charged is the single most important factor in determining what options will be available regarding filing, transfer, discovery, detention, and sentencing. In the vast majority of jurisdictions, the offense with which a juvenile is charged (along with the juvenile's age) will drive whether or not that juvenile is subject to the possibility of:

- Legislative waiver to adult criminal court;
- Prosecutorial waiver to adult criminal court;
- Judicial waiver to adult criminal court; or
- Certain collateral consequences upon adjudication, such as sex offender registration.

Unless otherwise noted herein, this overview intentionally omits transfer and direct file provisions which are based on recidivism (prior adjudications of delinquency) or aggravating factors such as use of a firearm or serious bodily injury. There are multiple resources available which describe the nuances of the entirety of juvenile transfer, and there are direct citations to each state's juvenile transfer code sections located in Appendix Six of this overview.

In addition, the provisions covered herein are limited to those that affect prosecutions for serious sex offenses. Vagaries of the transfer laws that would not apply to sex offense prosecutions (such as those specific to murder, gang, or drug prosecutions) are not covered.

Methods for Prosecuting a Juvenile as an Adult

Even if a juvenile is under the state's age of adult criminal responsibility at the time an offense was committed, every state but one at the time of this writing (New Mexico) has carved out at least one mechanism by which a juvenile might be tried as an adult for a serious sex offense. There are three basic ways that this can happen: Legislative Waiver, Prosecutorial Waiver, and Judicial Waiver.

- ***Legislative Waiver:*** States utilizing this approach mandate that juveniles (of a certain age) charged with certain serious crimes *will be prosecuted* in adult criminal court. Most times a reverse-amenable hearing is available in adult criminal court where a juvenile can petition to have the case remanded for trial in juvenile court. Occasionally the juvenile court will conduct a preliminary hearing as to the facts of the case prior to sending the case to adult criminal court for trial.

Legislative Waiver

No Minimum Age

*Delaware**

Age 13

Georgia

*Mississippi

New York**

Age 14

Connecticut

*Maryland**

New York**

North Dakota

Vermont

Age 15

Arizona

Illinois

*Louisiana

Oregon

Age 16

*Alabama

Alaska

D.C.

Indiana

Iowa

*Maryland**

Oklahoma

*South Carolina

*South Dakota

Washington

Age 17

Montana

Rhode Island

As described in the previous section, some states have chosen to subject certain juveniles (depending on their age and/or the seriousness of their charges) to an ‘automatic’ prosecution of their case in adult criminal court—in other words, there will be little, if any, contact between the juvenile and the juvenile court during the initial stages of the prosecution. In addition, in such cases it is not necessary for a prosecutor to make any kind of procedural motion in order to transfer the juvenile, and the juvenile court judge will not make any sort of determination as to the juvenile’s ongoing amenability to treatment and rehabilitation in juvenile court. In many of these states a “reverse-amenable” or “reverse-transfer” hearing is available to the juvenile once the case is in the adult criminal court.

In legislative waiver states, the discretion to prosecute a juvenile as an adult is a *charging decision* that rests with the prosecutor.

The states listed on this page *require* that a prosecution be initiated in adult criminal court against a juvenile charged with the most serious sex offenses, at the ages listed. This “legislative” waiver of juvenile court jurisdiction is not appealable and the juvenile court has no discretion to retain the case. A detailed chart explaining these provisions can be found in Appendix One.

Historical Note

In 1979, there were seven states that provided for legislative waiver for certain juveniles charged with their first serious sex offense. By 1995, that number rose to ten. Of those states that had legislative waiver for certain juveniles charged with such offenses in 1995, one (Idaho) has repealed their legislative waiver provisions, and an additional fourteen states have enacted legislative waiver provisions for certain juveniles charged with their first serious sex offense.

* State has substantially implemented SORNA

** Different charges are waived at different ages

Prosecutorial Waiver

In some instances, prosecutors have full discretion—depending on the age of the juvenile and the offense charged—to directly file criminal charges against a juvenile in adult court. In some states the authority to directly file is very broad, with concurrent jurisdiction between juvenile and adult courts. Concurrent jurisdiction states tend to permit the charging of any offense in adult court so long as the juvenile meets the appropriate age threshold.

Other states allow the “mandatory” transfer of a case. In these cases, transfer will only occur *on motion* in juvenile court, usually by the prosecutor. In the absence of such a motion, the case will remain in juvenile court. However, when and if that motion is submitted, and so long as the appropriate factual findings are made (such as those concerning whether there is probable cause to believe the juvenile committed the charged offense), the juvenile court judge has *no discretion* to retain the case in juvenile court and the case *must* be transferred to adult criminal court.

The discretion to prosecute a juvenile as an adult in prosecutorial waiver states is a *procedural decision* that rests with the prosecutor.

The difference between prosecutorial waiver and legislative waiver is one of a different kind, and timing, of prosecutorial discretion. In legislative waiver states, the prosecutor has the discretion to decide whether or not a juvenile will be *charged* with an offense that subjects them to waiver at the beginning of a prosecution.

In prosecutorial waiver states, in addition to deciding whether or not the offense *charged* will subject the juvenile to *possible* trial as an adult, the prosecutor also decides whether or not to take the *procedural* steps to try the juvenile as an adult. In the course of making that second decision, a prosecutor (and counsel for the juvenile) might try to negotiate a resolution to the case in exchange for it remaining in juvenile court.

A detailed chart discussing prosecutorial waiver can be found in Appendix Two.

No Minimum
Georgia

Age 12
Montana**

Age 14
Arizona
Arkansas**
California**
*Florida**
*Michigan
Nebraska
Virginia
West Virginia
*Wyoming

Age 15
*Louisiana

Age 16
Arkansas**
California**
*Colorado
*Florida**
Montana**
*Nevada
New Jersey
Vermont

* State has substantially implemented SORNA

** Different charges are waived at different ages

No Set Minimum Age

Alaska
Idaho
Maine
*Maryland
New Hampshire
Oklahoma
Rhode Island
*South Carolina
*South Dakota
*Tennessee
Washington
West Virginia
*Wyoming

Age 10

Vermont

Age 12

*Colorado
*Kansas
*Missouri

Age 13

Illinois
*Mississippi
North Carolina

Age 14

Age 15

Georgia
Oregon

Age 16

Indiana

Judicial Waiver

Juveniles may also be transferred for trial in adult criminal court by way of a discretionary transfer procedure. Generally speaking, discretionary transfer requires not only the finding of probable cause to believe a juvenile committed the underlying offense, but also a determination by the juvenile court judge that the juvenile is no longer amenable to treatment and rehabilitation in the juvenile court system. The transfer hearing is usually made on motion of the prosecutor and the decision to transfer is only made once the judge has considered detailed information about the juvenile.

Every state except for Massachusetts, Montana, New Mexico, and New York has a discretionary transfer procedure. Generally speaking, juveniles are eligible for discretionary transfer at younger ages than would be required for legislative waiver or prosecutorial waiver proceedings. The states on this page permit a *juvenile court judge*, on motion, to transfer a juvenile charged with a serious sex offense to adult court for trial at the ages noted.

The decision to prosecute a juvenile as an adult in judicial waiver states is a *judicial determination* which often happens as a result of a *discretionary motion by the prosecutor*.

A detailed chart can be found in Appendix Three.



*Alabama	Minnesota
Arizona	Nebraska
Arkansas	*Nevada
California	New Jersey
Connecticut	North Dakota
*Delaware	*Ohio
*Florida	*Pennsylvania
Hawaii	Texas
Iowa	Utah
Kentucky	Virginia
*Louisiana	Wisconsin
*Michigan	

Juvenile Sex Offender Registration--Generally

Juveniles adjudicated delinquent of sex offenses have been gradually incorporated into the overall sex offender registration and notification process in the United States. Over the past few decades, the majority of states have enacted provisions specifying that certain adjudicated juveniles are required to register, and the circumstances of that registration.

In some states, the registration requirements for juveniles adjudicated delinquent of serious sex offenses are automatically imposed as the result of the adjudication. In others, registration is discretionary, while ten states do not require any registration for juveniles adjudicated delinquent.

Mandatory Registration

At least in part because of the rehabilitative nature of the juvenile justice system, many states have made registration discretionary for serious juvenile sex offenders. These provisions are discussed in the next section. In contrast, the following states *mandate* sex offender registration and notification for certain juveniles adjudicated delinquent of the *most serious* sex offenses. The details of those registration requirements are listed in Appendix Four—namely the minimum age for mandatory registration, duration of registration, and removal opportunities.

Mandatory Registration for Juveniles Adjudicated Delinquent of the Most Serious Sex Offenses

*Alabama	*Maryland	Oregon
*Colorado	*Michigan	*Pennsylvania**
*Delaware	Minnesota	Rhode Island
*Florida	*Mississippi	*South Carolina
Idaho	*Missouri	*South Dakota
Illinois	*Nevada	*Tennessee
Iowa	New Jersey	Washington
*Kansas	North Dakota	Wisconsin
*Louisiana	*Ohio	Wyoming

* State has substantially implemented SORNA

** Pennsylvania's Supreme Court recently held that the mandatory imposition of lifetime sex offender registration requirements on juveniles adjudicated delinquent of a sex offense violates Procedural Due Process.

Discretionary Registration

The states in this section make certain juveniles adjudicated delinquent of the most serious sex offenses *eligible* for sex offender registration and notification requirements, but require an additional determination (usually by the juvenile court judge) before ordering such registration.

Arizona	North Carolina
Arkansas	*Ohio
Indiana	Oklahoma
Massachusetts	Texas
Montana	Virginia
New Hampshire	

Hybrid Registration

Three states (California, New Mexico, and Utah) have what can be characterized as hybrid registration systems. In these states registration is available, but only for juveniles who are committed to the state for a registerable offense (California), committed to the state and held until 30 days prior to their 21st birthday (Utah), or are designated as a “Youthful Offender” in juvenile court (New Mexico).

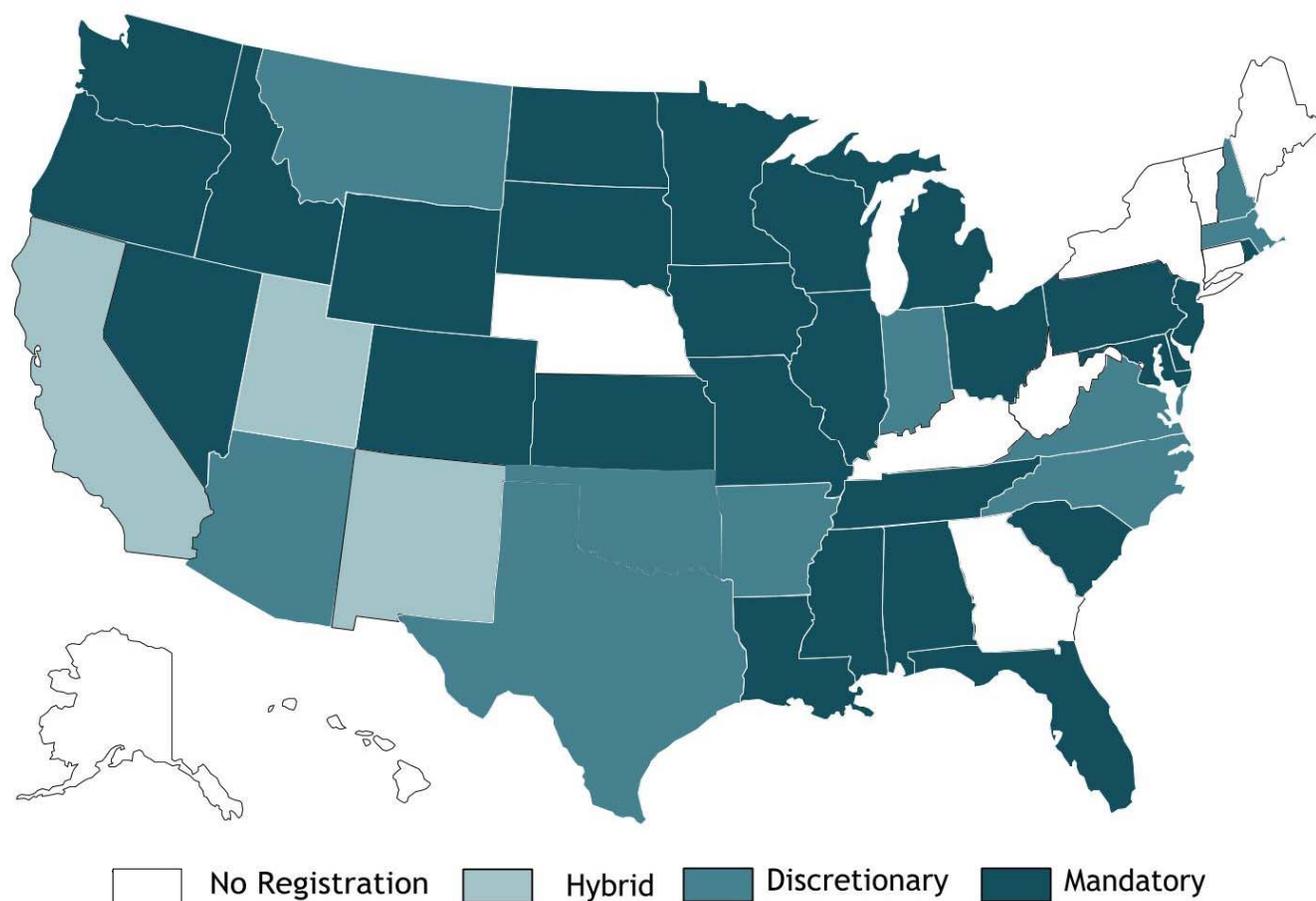
No Registration

The following states do not register *any* juvenile adjudicated delinquent of a sex offense.

Alaska	Maine
Connecticut	Nebraska
District of Columbia	New York
Georgia	Vermont
Hawaii	West Virginia
Kentucky	

* State has substantially implemented SORNA

Map 3: Registration of Serious Juvenile Sex Offenders



Public Registry Posting

The National Sex Offender Public Website (NSOPW), located at www.nsopw.gov, was created by the U.S. Department of Justice in 2005 and is administered by the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART Office). All 50 states had public registry websites linked to NSOPW prior to the passage of SORNA.

SORNA *does not* require that states post information on their public registry websites about juveniles adjudicated delinquent of sex offenses. Nevertheless, many states either mandate or make discretionary the posting of such information, once it is decided that a juvenile will be subject to the state's registration requirements.

Mandatory Website Posting

The following states mandate the public posting of information about any juvenile required to register based on an adjudication of delinquency for a serious sex offense.

*Alabama	*Mississippi
California	*Missouri
*Delaware	*Nevada
*Florida	North Dakota
Indiana	*South Carolina
Iowa	*South Dakota
*Kansas	Utah
*Louisiana	Virginia

Discretionary Website Posting

The following states either grant the juvenile court judge the discretion of whether to order public posting of information about a juvenile ordered to register, or otherwise make that determination based on a risk assessment process.

Arizona	*Ohio
Massachusetts	Oregon
Montana	Texas
New Jersey	Washington
New Mexico	

No Website Posting

The following states *do* register certain juveniles adjudicated delinquent of a sex offense but *do not* post any of that information on their public registry website.

Arkansas	North Carolina
*Colorado	Oklahoma
Idaho	*Pennsylvania
Illinois	Rhode Island
*Maryland	*Tennessee
*Michigan	Wisconsin
Minnesota	*Wyoming
New Hampshire	

* State has substantially implemented SORNA

SORNA & Juvenile Sex Offender Registration

Prior to the passage of SORNA in July of 2006, there were 36 States that had passed legislation requiring certain juveniles adjudicated delinquent of sex offenses to register as a sex offender. The last state to enact such legislation *prior* to SORNA's passage was New Hampshire. The following states had such registration provisions in place at the time SORNA was passed:

*Alabama	*Michigan	*Ohio
Arizona	Minnesota	Oklahoma
Arkansas	*Mississippi	Oregon
California	*Missouri	*Pennsylvania
*Colorado	Montana	Rhode Island
*Delaware	Nebraska	*South Carolina
Idaho	*Nevada	*South Dakota
Illinois	New Hampshire	Texas
Indiana	New Jersey	Utah
Iowa	New Mexico	Virginia
*Kansas	North Carolina	Washington
Massachusetts	North Dakota	Wisconsin

Since the passage of SORNA, five states who previously did not register adjudicated juveniles have passed legislation to register certain juvenile sex offenders. All five of these states have been determined to have substantially implemented SORNA. The following is the list of these states with the years of passage of said legislation:

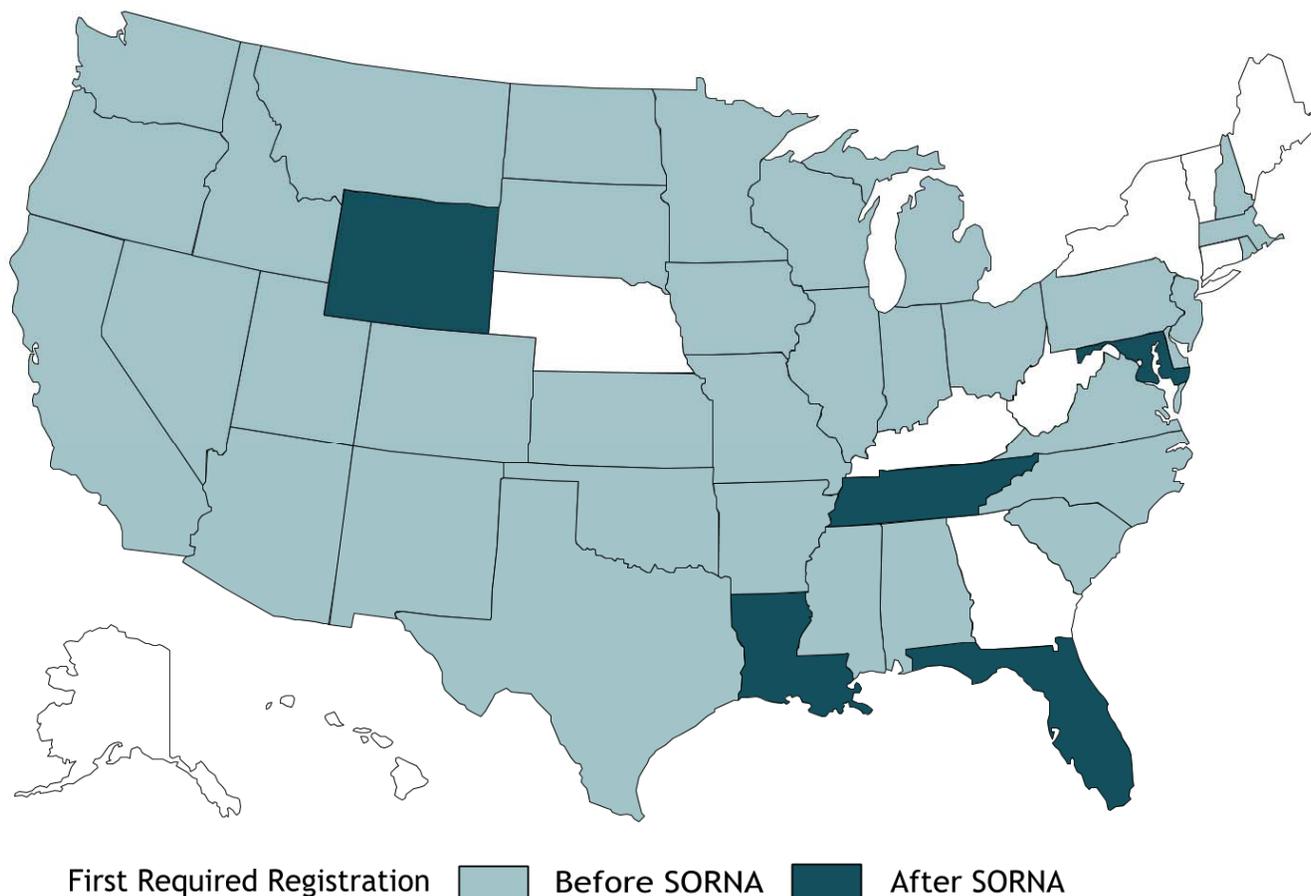
2007: Florida, Louisiana

2010: Maryland

2011: Tennessee, Wyoming

* State has substantially implemented SORNA

Map 4: Juvenile Registration Provisions Enacted Before and After SORNA



The current set of federal standards applicable to states' sex offender registration and notification systems is found in SORNA. If a state chooses to refrain from substantially implementing SORNA's standards, the jurisdiction risks losing 10 percent of its Edward R. Byrne Justice Assistance Grant (Byrne JAG) funds.

SORNA's minimum standards require registration for certain juvenile offenders adjudicated delinquent of serious sex offenses. Specifically, SORNA requires that jurisdictions register juveniles who were at least 14 years old at the time of the offense and who have been adjudicated delinquent for committing (or attempting or conspiring to commit) a sexual act with another by force, by the threat of serious violence, or by rendering unconscious or drugging the victim. Generally speaking, this will include all forcible penetration offenses. However, jurisdictions are *not* required to disclose information about juveniles adjudicated delinquent on their public registry websites. SORNA provides states full discretion over whether they will post information on their public registry websites about juveniles adjudicated delinquent of sex offenses.

Taking a Broader View

As the preceding sections demonstrate, it is extremely difficult to look through a narrow scope when addressing issues regarding serious juvenile sex offenders. Integrating the information within this report, it is clear that juvenile justice policy decisions are not made in a vacuum, as shown below.

For example, there are states which do not register *any* juvenile adjudicated delinquent of a sex offense. In all of these states, though, a prosecutor has many other options available.

- Alaska: A juvenile is subject to judicial waiver at any age for any criminal offense, and to legislative waiver at age 16 for the most serious sex offenses.
- Connecticut: A juvenile is subject to legislative waiver at age 14 for most serious sex offenses.
- D.C.: A juvenile is subject to judicial waiver at age 15 for any felony offense, and to legislative waiver at age 16 for the most serious sex offense: First Degree Sexual Abuse.
- Georgia: A juvenile is subject to legislative waiver at age 13 for most serious sex offenses.
- Hawaii: A juvenile is subject to judicial waiver at age 14 for the most serious sex offenses.
- Kentucky: A juvenile is subject to judicial waiver at age 14 for the most serious sex offenses.
- Maine: A juvenile is subject to judicial waiver at any age for the most serious sex offenses.
- New York: A juvenile is subject to legislative waiver beginning at age 13 for many serious sex offenses.
- Vermont: A juvenile is subject to judicial waiver at age 10 for serious sex offenses, and to legislative waiver at age 14 for the most serious sex offenses.
- West Virginia: A juvenile is subject to judicial waiver at any age for the most serious sex offense, and to prosecutorial waiver at age 14 for the most serious sex offense: Sexual Assault in the First Degree.

Each of these states has provided a mechanism by which the prosecuting attorney may seek enhanced consequences for a serious juvenile sex offender, not by way of sex offender registration based on a juvenile adjudication, but via prosecution in adult court.

The Developmental Approach

The developmental approach to juvenile justice uses the results of research on both adolescent development and the effectiveness of juvenile justice interventions to advocate for changes in the juvenile justice system. Generally speaking, serious collateral consequences of a juvenile adjudication (such as lifetime sex offender registration) are viewed by developmental approach adherents as “fundamentally at odds” with an effective juvenile justice system. In addition, adherents are in favor of *judicial* waiver, when it is necessary, as opposed to *legislative* or *prosecutorial* waiver.

For additional information about the developmental approach to juvenile justice, please see the Office on Juvenile Justice and Delinquency Prevention’s (OJJDP) newsletter at http://www.ojjdp.gov/newsletter/248243/sf_5.html.

Conclusion

Sex offender registration and public notification for serious juvenile sex offenders is a significant collateral consequence and one that should be part of any larger-scale discussion on how to handle a state’s sex offenders. However, it is but one piece of that puzzle, and cannot be easily isolated from other juvenile justice issues such as the age of adult criminal responsibility, legislative waiver, prosecutorial waiver, and judicial waiver.

The SMART Office hopes that this overview will be a helpful resource for the field. For any questions about SORNA itself, or for more information about the work of the SMART Office, please feel free to contact the SMART Office at asksmart@usdoj.gov or visit our website at www.smart.gov.

Resources

AMERICAN UNIV., WASHINGTON COLL. OF LAW, FIFTY STATE SURVEY OF JUVENILE SEX OFFENDER REGISTRATION REQUIREMENTS, *available at* https://www.wcl.american.edu/endsilence/documents/FiftyStateSurveyonJuvenileSexOffenderRegistrationStatutes_FINALSept2009.pdf.

LISA BERESFORD, *Is Lowering the Age at which Juveniles can be Transferred to Adult Criminal Court the Answer to Juvenile Crime? A State-by-State Assessment*, 37 SAN DIEGO L. REV. 783 (2000).

ERIC FRITSCH & CRAIG HEMMENS, *Juvenile Waiver in the United States 1979-1995: A Comparison and Analysis of State Waiver Statutes*, 46 JUV. & FAM. CT. J. 17 (1995).

PATRICK GRIFFIN ET. AL., OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (OJJDP), TRYING JUVENILES AS ADULTS: AN ANALYSIS OF STATE TRANSFER LAWS AND REPORTING (September 2011), <https://www.ncjrs.gov/pdffiles1/ojjdp/232434.pdf>.

SARAH HOCKENBERRY & CHARLES PUZZANCHERA, NATIONAL RESEARCH COUNCIL, REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH (Richard J. Bonnie et. al., eds., 2013).

SARAH HOCKENBERRY & CHARLES PUZZANCHERA, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (OJJDP), DELINQUENCY CASES WAIVED TO CRIMINAL COURT, 2011 (December 2014), *available at* <http://www.ojjdp.gov/pubs/248410.pdf>.

HUMAN RIGHTS WATCH, RAISED ON THE REGISTRY, *available at* http://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf.

HUMAN RIGHTS WATCH, STATE-BY-STATE SUMMARY OF TRANSFER LAWS, http://www.hrw.org/sites/default/files/related_material/2014_US_StateTransferLawsAppendix.pdf.

NATIONAL CENTER FOR JUVENILE JUSTICE, JUVENILE COURT STATISTICS 2011, <http://www.ojjdp.gov/ojstatbb/njcda/pdf/jcs2011.pdf>.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION, STATE STATUTES: JUVENILE TRANSFER TO ADULT COURT, <http://www.ndaa.org/pdf/Juvenile%20Transfer%202011.pdf>.

NICOLE PITTMAN & QUYEN NGUYEN, A SNAPSHOT OF JUVENILE SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS: A SURVEY OF THE UNITED STATES, *available at* http://www.njjn.org/uploads/digital-library/SNAPSHOT_web10-28.pdf.

OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (SMART OFFICE), JUVENILE OFFENDERS AND SORNA, http://www.smart.gov/juvenile_offenders.htm.

OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (SMART OFFICE), SEX OFFENDER MANAGEMENT ASSESSMENT AND PLANNING INITIATIVE, JUVENILE SECTION, <http://www.smart.gov/SOMAPI/contents.html>.

M. SICKMUND ET. AL., NATIONAL CENTER FOR JUVENILE JUSTICE, EASY ACCESS TO JUVENILE COURT STATISTICS: 1985-2011 (2014), <http://www.ojjdp/ojstatbb/ezajcs>.

Appendix One: Legislative Waiver

State	Minimum Age	Charges
Alabama	16	Any Class A Felony; includes First Degree Rape, First Degree Sodomy, Sexual Torture, Traveling and/or Facilitating Travel to Meet a Child for an Unlawful Sexual Act
Alaska	16	Any Unclassified or Class A Felony; includes Sexual Assault in the First Degree and Sexual Abuse of a Minor in the First Degree
Arizona	15	Forcible Sexual Assault
Connecticut	14	Any Class A or B felony, including most serious sex offenses
D.C.	16	First Degree Sexual Abuse
Delaware	No min.	Rape in the First Degree, Rape in the Second Degree, Unlawful Sexual Intercourse in the First Degree
Georgia	13	Rape, Aggravated Sodomy, Aggravated Child Molestation, Aggravated Sexual Battery
Illinois	15	Aggravated Criminal Sexual Assault
Indiana	16	Rape
Iowa	16	Sexual Abuse
Louisiana	15	Aggravated Rape
Maryland	14	Rape in the First Degree, Sexual Offense in the First Degree
	16	Rape in the Second Degree, Sexual Offense in the Second Degree, Rape in the Third Degree
Mississippi	13	Forcible Rape
Montana	17	Sexual Intercourse without Consent
New York	13	Any "Sexually Motivated Felony"
	14	Rape in the First Degree, Criminal Sexual Act in the First Degree, Aggravated Sexual Abuse in the First Degree
North Dakota	14	Gross Sexual Imposition
Oklahoma	16	Rape in the First Degree, Rape by Instrumentation, Sodomy
Oregon	15	Rape, Sodomy, Object Sexual Penetration, Sexual Abuse
South Carolina	16	Most serious felony sex offenses
South Dakota	16	Rape
Vermont	14	Sexual Assault; Aggravated Sexual Assault
Washington	16	Rape

Appendix Two: Prosecutorial Waiver

State	Minimum Age	Charges
Arkansas	14	Rape
	16	Any felony
Arizona	14	Serious sex offenses
California	14	Rape, Continuous Sexual Abuse of a Child
	16	Most forcible sexual assaults or contact sexual assaults with a child
Colorado	16	Most serious sexual assaults
Florida	14	Sexual Battery, Aggravated Child Abuse
	16	Any felony
Louisiana	15	Forcible Rape, Simple Rape
Michigan	14	Criminal Sexual Conduct, First Degree
Montana	12	Sexual Intercourse without Consent
	16	Sexual Assault
Nebraska	14	First Degree Sexual Assault, First Degree Sexual Assault of a Child
Nevada	16	Sexual Assault using Force or Violence
New Jersey	16	Aggravated Sexual Assault or Sexual Assault
Vermont	16	Any sex offense
Virginia	14	Rape, Sodomy, Object Sexual Penetration
West Virginia	14	Sexual Assault in the First Degree
Wyoming	14	Sexual Assault; Sexual Abuse of a Minor

Appendix Three: Judicial Waiver

State	Minimum Age	Charges
Alabama	14	Any criminal offense
Alaska	No minimum age	Any criminal offense
Arizona	14	All "Sexual Offenses" in the Arizona Criminal Code
Arkansas	16	Any felony
	14	Rape
California	16	Any criminal offense
	14	Presumptive discretionary transfer; most serious contact sex offenses
Colorado	12	Violent sex offenses
	14	Any felony
Connecticut	14	All other felony sex offenses not covered by automatic transfer provision
Delaware	14	Any criminal offense
D.C.	15	Any felony
	15	Presumptive discretionary transfer if charged with First Degree Sexual Abuse
Florida	14	Any criminal offense
Georgia	15	Any felony
Hawaii	16	Any felony
	14	First Degree Sexual Assault and Continuous Sexual Assault of a Child
Idaho	14	Any crime
	No minimum	Forcible penetration offenses
Illinois	13	Any crime
Indiana	16	Most serious sex offenses
Iowa	14	Any crime
Kansas	12	Any crime
	14	Presumptive discretionary transfer for nearly all felony sex offenses
Kentucky	14	Rape or Sodomy
Louisiana	14	Aggravated Rape, Forcible Rape
Maine	No minimum	Most serious sex offenses

Appendix Three: Judicial Waiver

State	Minimum Age	Charges
Maryland	Under 15	Rape in the First Degree, Sexual Offense in the First Degree
	15	Any crime
Michigan	14	Any felony
Minnesota	14	Any felony
	16	Presumptive discretionary transfer for some serious contact sex offenses
Mississippi	13	Any crime
Missouri	12	Any offense
Nebraska	14	First Degree Sexual Assault, First Degree Sexual Assault of a Child
Nevada	14	Any felony
New Hampshire	No minimum	Any felony
	15	Presumptive Transfer if charged with Aggravated Felony Sexual Assault
New Jersey	14	Aggravated Sexual Assault or Sexual Assault
North Carolina	13	Any felony
North Dakota	14	Any offense involving serious bodily harm
	16	Any offense
Ohio	14	Any felony
Oklahoma	No minimum	Any felony
Oregon	15	Rape, Sodomy, Object Sexual Penetration, Sexual Abuse
Pennsylvania	14	Any felony
Rhode Island	No minimum	First Degree Sexual Assault; First Degree Child Molestation
	16	Any felony
South Carolina	No minimum	Criminal Sexual Conduct
	14	Most serious felony offenses

Appendix Three: Judicial Waiver

State	Minimum Age	Charges
South Dakota	No minimum	Any felony
Tennessee	No minimum	Rape; Aggravated Rape; Rape of a Child; Aggravated Rape of a Child
	16	Any felony
Texas	14	Aggravated Sexual Assault
	15	Indecency with a Child; Sexual Assault
Utah	14	Any crime
	16	Hearing mandated when charged with Ag- gravated Sexual Assault
Vermont	10-13	Sexual Assault; Aggravated Sexual Assault
Virginia	14	Any felony
Washington	No minimum	Any offense
	16	Mandatory Hearing for Rape, Rape of a Child, Indecent Liberties (Class A), Child Molestation (First Degree)
	17	Mandatory Hearing for Indecent Liberties, Child Molestation in the Second Degree
West Virginia	Under 14	Sexual Assault in the First Degree
	14	Any offense involving violence to the person
Wisconsin	14	First or Second Degree Sexual Assault
	15	Any offense
Wyoming	13	Any offense

Appendix Four: Mandatory Registration

State	Minimum Age	Duration	When Eligible for Removal
Alabama	14	Life	After 25 years
Colorado	None	Life	After successful completion of sentence and probation
Delaware	14	Life	After 25 years
Florida	None	Life	After 25 years
Idaho	14	Until Age 21	DA may petition for extension of registration after age 21
Illinois	None	Life	After 5 years
Iowa	14	Life	After 5 years
Kansas	None	Life	n/a
Louisiana	14	Life	After 25 years
Maryland	14	Terminates at end of juvenile court jurisdiction	May be extended in certain circumstances
Michigan	14	Life	After 25 years
Minnesota	None	Life	n/a
Mississippi	14	Life	After 25 years
Missouri	None	Life	n/a
Nevada	14	Life	After 25 years
New Jersey	None	Life	After 15 years
North Dakota	None	Life	n/a
Ohio	16	Varies depending on tier determination	Varies depending on tier determination
Oregon	None	Life	May petition 2 years after juvenile court jurisdiction ends
Pennsylvania	14	Life	After 25 years
Rhode Island	None	15 Years (max)	n/a
South Carolina	None	Life	n/a
South Dakota	14	Life	n/a
Tennessee	14	Life	After 25 years
Washington	None	Life	May petition after 5 years
Wisconsin	None	Life	n/a
Wyoming	None	Life	May petition for removal after 10 years

* These provisions are applicable to the *most serious sex offense(s)* in a state. Adjudications of delinquency for less serious sex offenses may not be subject to mandatory registration.

Appendix Five: Discretionary Registration

State	Minimum Age	Duration	When Eligible for Removal
Arizona	None	All registration ends at age 25	Court may terminate at the successful completion of probation
Arkansas	None	10 years	May petition for removal at age 21 or at any time when juvenile court has jurisdiction
Indiana	14	Life	n/a
Massachusetts	None	20 year maximum	May petition for removal after 10 years
Montana	None	Life	May petition for removal after 10 years or 25 years if risk assessed as level 1 or level 2
New Hampshire	None	Until age 17	May be extended to age 21
North Carolina	11	Until age 18 or end of juvenile court jurisdiction, whichever occurs first	n/a
Ohio	14	Varies depending on tier determination	Varies depending on tier determination
Oklahoma	14	Until Age 21	DA may petition to extend registration requirements past age 21
Texas	None	10 years	May petition for removal at any time
Virginia	13	Life	n/a

* These provisions are applicable to the *most serious sex offense(s)* in a state. Adjudications of delinquency for less serious sex offenses may not be subject to registration.

Appendix Six: Statutory References

State	Legislative Waiver	Prosecutorial Waiver	Judicial Waiver	Registration	Public Website Posting
Alabama	Ala. Code § 12-15-204		Ala. Code § 12-15-203	Ala. Code § 15-20A-3(c) <i>et. seq.</i>	Ala. Code § 15-20A-8
Alaska	Alaska Stat. § 47.12.030		Alaska Stat. § 47.12.100; Alaska Court Delinquency Rules, Part VI, Rule 20		
Arizona	Ariz. Rev. Stat. § 13-501(A)	Ariz. Rev. Stat. § 13-501(B)	Ariz. Rev. Stat. § 8-327	Ariz. Rev. Stat. § 13-3821(D)	Ariz. Rev. Stat. § 13-3825(K)
Arkansas		Ark. Code Ann. § 9-27-318	Ark. Code Ann. § 9-27-318	Ark. Code Ann. § 9-27-356	
California		Cal. Welf. & Inst. Code § 707(d)	Cal. Welf. & Inst. Code § 707(a)	Cal. Penal Code § 290.008(a)	Cal. Penal Code § 290.46
Colorado		Colo. Rev. Stat. § 19-2-518	Colo. Rev. Stat. § 19-2-518	Colo. Rev. Stat. § 16-22-102(3)	
Connecticut	Conn. Gen. Stat. § 46b-127		Conn. Gen. Stat. § 46b-127		
D.C.	D.C. Code § 16-2301		D.C. Code § 16-2307		
Delaware	Del. Code, tit. 10, § 921		Del. Code, tit. 10, §§ 921 & 1010	Del. Code, tit. 11, § 4123	Del. Code, tit. 11, § 4123
Florida		Fla. Stat. § 985.557	Fla. Stat. § 985.556, Fla. Rules of Juv. Proc. 8.105	Fla. Stat. § 943.0435(a)(1)(d)	Fla. Stat. § 943.043
Georgia	Ga. Code Ann. § 15-11-560(b)	Ga. Code Ann. § 15-11-560(a)	Ga. Code Ann. § 15-11-561		
Hawaii			Haw. Rev. Stat. § 571-22		
Idaho			Idaho Code Ann. § 20-508	Idaho Code Ann. § 18-8403 <i>et. seq.</i>	

Appendix Six: Statutory References

State	Legislative Waiver	Prosecutorial Waiver	Judicial Waiver	Registration	Public Website Posting
Illinois	705 ILCS 405/5-130		705 ILCS 405/5-805(3)	730 ILCS 150/2(A)(5) & 150/3-5	
Indiana	Ind. Code Ann. § 31-30-1-4	Ind. Code Ann. § 31-30-3-5	Ind. Code Ann. § 31-30-3-3	Ind. Code Ann. § 11-8-8-4.5(b)	Ind. Code Ann. § 36-2-13-5.5
Iowa	Iowa Code § 232.8		Iowa Code § 232.45	Iowa Code § 692A.103(4)	Iowa Code § 692A.121
Kansas			Kan. Stat. Ann. § 38-2347	Kan. Stat. Ann. § 22-4906(h)	Kan. Stat. Ann. § 22-4909
Kentucky			Kent. Rev. Stat. § 635.020		
Louisiana	La. Child Code Ann. art. 305	La. Child Code Ann. art. 305	La. Child Code Ann. art. 857	La. Rev. Stat. § 15:542(A)(3)	La. Rev. Stat. § 15:542.1.5
Maine			Me. Rev. Stat. tit. 15, § 3101(4)		
Maryland	Md. Cts. & Jud. Proc. Code Ann. § 3-8A-03		Md. Cts. & Jud. Proc. Code Ann. § 3-8A-06	Md. Code Ann., Crim. Proc. § 11-704.1	
Massachusetts				ALM GL c.6 § 178(e)	ALM GL c.6 § 178K
Michigan		MCLS § 712A.2	MCLS § 712A.4	MLCS § 28.722(b)	
Minnesota			Minn. Stat. § 260B.125	Minn. Stat. § 243.166(1b)	
Mississippi	Miss. Code Ann. § 43-21-151		Miss. Code Ann. § 43-21-157	Miss. Code Ann. § 45-33-47(g)	Miss. Code Ann. § 45-33- 39(4)(b)(i)
Missouri			R.S. Mo. § 211.070	R.S. Mo. § 589.400	R.S. Mo. § 589.402
Montana	MCA § 41-5-206	MCA § 41-5-206		MCA §§ 46-23-502(10) & 41-5-153(1)(d)	MCA § 46-23-508
Nebraska		Neb. R.R.S. § 29-1816	Neb. R.R.S. § 43-274	*	*
Nevada			NRS § 62B.390	NRS § 179D.095	NRS § 179B.250
New Hampshire			N.H. RSA § 169-B:24	N.H. RSA § 169-B:19	N.H. RSA § 651-B:7

Appendix Six: Statutory References

State	Legislative Waiver	Prosecutorial Waiver	Judicial Waiver	Registration	Public Website Posting
New Jersey		NJ Stat. § 2A:4A-26	NJ Stat. § 2A:4A-26	NJ Stat. § 2C:7-2(a)(1)	NJ Stat. § 2C:7-13
New Mexico				N.M. Stat. § 29-11A-5.1	
New York	NY CLS CPL § 1.20(42)				
North Carolina			NC Gen. Stat. § 7B-2200	NC Gen. Stat. §§ 7B-2509 & 14-208.26	NC Gen. Stat. § 14-208.29
North Dakota	ND Cent. Code. § 27-20-34		ND Cent. Code. § 27-20-34	ND Cent. Code § 12.1-32-15	ND Cent. Code § 12.1-32-15
Ohio			ORC § 2152.12	ORC § 2152.86	ORC § 2152.86
Oklahoma	10A Okla. St. § 2-5-101		10A Okla. Stat. § 2-2-403	10 Okla. Stat. § 2-8-102	
Oregon	ORS § 137.707		ORS § 419C.349 (superseded)	ORS § 181.809	ORS § 181.835
Pennsylvania			42 Pa.C.S. § 6355	Pa.C.S. § 9799.12	
Rhode Island	RI Gen. Laws § 14-1-3		RI Gen. Laws § 14-1-7	RI Gen. Laws § 11-37.1-2	
South Carolina	SC Code Ann. § 63-19-20		SC Code Ann. § 63-19-1210	SC Code Ann. § 23-3-340	SC Code Ann. § 23-3-490
South Dakota	SD Cod. Laws § 26-11-3.1		SD Cod. Laws § 26-11-4	SD Cod. Laws § 22-24B-2	SD Cod. Laws § 22-24B-21
Tennessee			Tenn. Code Ann. § 37-1-134	Tenn. Code Ann. § 40-39-202(27)	
Texas			Tex. Fam. Code § 54.02	Tex. Code Crim. Proc. §§ 62.001(5) & 62.352	
Utah			Utah Code Ann. §§ 78A-6-702 & -703	Utah Code Ann. §§ 77-41-102(9)(f) & (16)(f)	
Vermont	33 VSA § 5201	33 VSA § 5203(c)	33 VSA § 5204		

Appendix Six: Statutory References

State	Legislative Waiver	Prosecutorial Waiver	Judicial Waiver	Registration	Public Website Posting
Virginia		Va. Code Ann. § 16.1-269.1	Va. Code Ann. § 16.1-269.1	Va. Code Ann. § 9.1-902(G)	Va. Code Ann. § 9.1-913
Washington	Rev. Code Wash. § 13.04.030		Rev. Code Wash. § 13.30.110	Rev. Code Wash. § 9A.44.128(2)	Rev. Code Wash. § 4.24.550(5)
West Virginia		W. Va. Code § 49-5-10	W. Va. Code § 49-5-10		
Wisconsin			Wis. Stat. § 938.18	Wis. Stat. § 301.45(1g)(a)	
Wyoming		Wyo. Code § 14-6-203	Wyo. Code § 14-6-237	Wyo. Code § 7-19-301(a)(iii)	

* Nebraska will only register a juvenile if they required to register by another jurisdiction within the United States. See <https://sor.nebraska.gov/FAQ>.