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**MICHIGAN'S SEX OFFENDER REGISTRATION ACT:
UPDATE ON CHANGES TO THE LAW AND ON
LEGAL CHALLENGES**

April 14, 2021

1. What is happening with the new law, and how does that relate to the *Does II* lawsuit?

In response to lawsuits challenging Michigan's Sex Offender Registration Act (SORA), the legislature has passed a [new law](#) which went into effect on March 24, 2021. The Michigan State Police (MSP) has sent out [notices](#) to non-incarcerated registrants about the new law. The notices are very confusing. Many local police officers do not understand the new law and are providing incorrect information. Some things about the new law are still unclear, but this update provides the best information we have right now.

THE COURTS HAVE NOT YET DECIDED WHETHER THE NEW SORA LAW IS CONSTITUTIONAL. THE *DOES II* CASE IS ABOUT THE OLD LAW. THE STATE CAN THEREFORE MAKE YOU FOLLOW THE NEW LAW UNTIL THERE ARE COURT DECISIONS ABOUT THE NEW LAW.

The ACLU does not think the new law is constitutional. We believe that the new law has done little to fix Michigan's bloated and ineffective registry and, in some ways, has made the problem worse. We are actively working to figure out how best to challenge the new SORA. Please be patient. It takes time to develop a strong legal challenge. We will provide updates as they are available.

2. What is happening in the *Does #1-6 v. Snyder (Does II)* lawsuit?

[Does II](#) is a federal class action lawsuit challenging SORA. If you are required to register as a sex offender in Michigan, you are automatically part of the case.

In an earlier lawsuit ([Does I](#)) brought for six registrants, the Sixth Circuit Court of Appeals [ruled](#) that it is unconstitutional to apply SORA's 2006 and 2011 amendments retroactively, and the district court said that some other parts of SORA are unconstitutional. In the *Does II* case, the district court in a [decision](#) on February 14, 2020, applied those same rulings to all Michigan registrants. The district court said that parts of SORA are unconstitutional and that the law cannot be applied at all to anyone whose underlying sex offense was before April 12, 2011. However, the district court order did not go into effect right away. The court gave the legislature time to pass a new law.

On April 6, 2020, the district court issued an [interim order](#) preventing the state from enforcing any registration, verification, school zone, and fee violations of SORA from February 14, 2020, during the public health crisis caused by the COVID-19 pandemic and thereafter until registrants get notice of their duties. The court may soon end the interim order. However, if you are prosecuted for SORA violations that happened between February 14, 2020, and before you got notice of the new SORA law, you can raise the interim order as a defense.

The ACLU has now asked the court for a final judgment. Because the *Does II* lawsuit is about the old SORA law, the final judgment will not address the new law. Rather, we are asking the court to prevent the state from prosecuting people for any past SORA violations (generally before March 24, 2021, or before you received notice of the new statute), under the unconstitutional portions of the old law. If you are or have been prosecuted for a SORA violation before March 24, 2021, please share this letter with your defense attorney.

We will provide an update when we have a decision from the court.

3. How is the new SORA different from the old SORA?

We do not believe the new law solves the constitutional problems with SORA. It remains a conviction-based law, it still has a three-tier system (although the tiers are not public), and it does not change the 15-year, 25-year, and lifetime reporting requirements. It continues the retroactive extension of pre-2011 registrants' registration terms (e.g., lengthening the 25-year registration period to life). It continues to require extensive reporting of all sorts of information, often within three business days. Tier II and III registrants remain on the public registry, which now can include posting of a person's email and internet information. There is no individualized review nor any path off the registry in most cases. In other words, the basic structure of SORA remains unchanged.

While we are very disappointed with the new law, it does contain three important wins for registrants that we would not have gotten but for the lawsuits. First, it eliminates the "school exclusion zones." Under the new law, it is no longer a crime for registrants to live, work or "loiter" within 1,000 feet of a school. (Parole, probation, and similar restrictions can still apply.) Registrants are now allowed under state law to go to their children's events at school, although schools can make their own policies.

Second, the new law makes clear that no one can be prosecuted for an unintentional or mistaken violation of SORA. Under the new law, the prosecution must prove that the violation was "willful" before convicting someone of violating SORA. This could help you if you are prosecuted for violating a part of SORA you do not understand.

Third, the new law removes from the registry certain people whose offense is later expunged or set aside, or who successfully complete a term of supervision under the Holmes Youthful Trainee Act.

There are some other smaller changes, as described below.

4. My registrable offense occurred before April 12, 2011. Do I have to register under the new SORA?

Yes, at least until there are further challenges to the new SORA law. The district court's order in *Does II* does not apply to the new law.

5. When do I have to report under the new SORA?

Like the old law, the new SORA requires regular in-person reporting. Some law enforcement agencies are changing the days and hours when you can report. Call the law enforcement agency where you normally report to find out when they are open and if you need an appointment.

If you are a **Tier I registrant**, you must report once a year during your month of birth.

If you are a **Tier II registrant**, you must report twice each year according to the following schedule:

Birth Month	Reporting Months
January	January and July
February	February and August
March	March and September
April	April and October
May	May and November
June	June and December
July	January and July
August	February and August
September	March and September
October	April and October
November	May and November
December	June and December

If you are a **Tier III registrant**, you must report four times each year according to the following schedule:

Birth Month	Reporting Months
January	January, April, July, and October
February	February, May, August, and November
March	March, June, September, and December
April	April, July, October, and January

May	May, August, November, and February
June	June, September, December, and March
July	July, October, January, and April
August	August, November, February, and May
September	September, December, March, and June
October	October, January, April, and July
November	November, February, May, and August
December	December, March, June, and September

6. What information do I have to report when I go to register?

The information you must report is similar but not exactly the same as under the old law. The law is very complicated, so if you are unsure about what information you have to report, ask when you go to register.

The basic information you must provide is:

- Your legal name and any aliases or other names.
- Your social security number and any other social security numbers you have used.
- Your date of birth and any other date of births you have used.
- Your address. If you are homeless, you can list the city, township, or village where you will spend most of your time.
- The name and address for any temporary residence if you leave your home for more than seven days, and the dates you will be at the temporary residence.
- The name and address of each of your employers. If you lack a fixed employment location, you can list the general areas where you work and the normal travel routes you take during your employment.
 - **NOTE – Because the law is unclear about whether you must report volunteer work, if you volunteer, check when you register whether you must report it.**
- The name and address of any school you attend or any school that has accepted you that you plan to attend.
- All telephone numbers registered or used by you, including your home, work and mobile numbers.
 - **NOTE – Because this requirement is very broad and unclear, check when you register about what you should report.**
- All electronic mail addresses and internet identifiers registered or used by you:
 - **NOTE – Because this requirement is very broad and unclear, check when you register about what you should report.**
 - **NOTE – This requirement does not apply if your offense was committed before July 1, 2011.**
- Your license plate number and a description of any vehicle owned or operated by you.
- Your driver license number or state personal identification card number.
- Your passport and other immigration documents.

- All occupational and professional licensing information.

Your registration file also includes a brief summary of your convictions, a complete physical description, a photograph, and copies of your fingerprints and palm prints.

7. How and when do I report changes to my information?

The new SORA law continues to require that when certain information changes, you update that information **within three business days**. The new law allows the Michigan State Police more flexibility in deciding how changes in information are reported. Unfortunately, the notice sent by the MSP says that they will still require most changes to be reported in person.

Changes you must report in person within three business days:

- Residence changes (your home address), including if you move to another state;
- Employment changes (if you get a new job or stop working at a job; it is unclear in the law whether this covers volunteer work, but MSP says it does);
- Changes in enrollment as a student in higher education (including if you study at a different location or if you stop your enrollment); and
- Name changes.

Changes to where you live, work, attend school, or to your name **MUST** be reported in person. You cannot mail in a form to report these changes.

Changes you can report in person, by first class mail or by dropping off the required form:

- Changes in vehicle information;
- Changes to telephone numbers; and
- Changes to electronic mail addresses or internet identifiers. (This only applies to individuals with offenses on or after July 1, 2011.)

Changes to your vehicle, phone or internet information can be reported in person, or you can use Form RI-004A, Michigan Sex Offender Registry Mail-In Update. You can get the form at www.Michigan.gov/MSPforms. If you use the form, you can drop it off or you can mail it. If you mail it, make sure to send it to the local police station or MSP post where you register. And make sure your letter is postmarked no later than three business days after the information changed. Keep a copy of the form for your records and write down when and where you mailed it.

Reporting travel or time spent away from home:

- If you are going to be away from your home address for more than seven days, you have to report your travel, including the name and address of where you will stay and the dates you will be away. You can report **in person, by first class mail or by dropping off the required form within three business days**.
- If you are traveling outside the U.S. for more than seven days, you must report **in person at least 21 business days** before traveling to another country.

Reporting moves out-of-state or internationally.

- You must report **in person at least three business days** before moving to another state; and
- You must report **in person at least 21 business days** before moving to another country.

Because the state has flexibility in how information changes may be reported, please regularly check any updated information you receive from your registering authority on how to report changes in registry information.

8. How can I get more information?

The new law is complicated, and the information here is just a start at answering the questions you have. We encourage you to talk to your criminal defense attorney about the specifics of your case.

The ACLU legal team is working on challenging the law for everyone, so we cannot answer individual questions for each of the 44,000 people on the registry. However, more information is available at aclumich.org/SORA. You can email us at intern@aclumich.org or call 231-590-1602 for basic information. You can also ask to get added to an email list where we send out updates like this one.

We will share more information once we have a decision from the court.