

Select Portions of the Sex Offenders Registration Act (SORA), as amended by 2011 PAs 17 and 18

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Required Notice of Duties Under the SORA as Amended to Registered Sex Offenders

- ▶ With the exception of individuals in a state correctional facility, the department of state police must mail notice no later than July 1, 2011, to each individual registered under the SORA to explain the individual’s duties under the SORA as amended. MCL 28.725a(1). (*Note: MCL*

28.725a(1) is effective April 12, 2011. 2011 PA 17. All other provisions in MCL 28.725a are effective July 1, 2011. MCL 28.725a(11).)

- ▶ The notification of a registrant's duties under the SORA "shall contain a written statement that explains the duty of the individual being registered to provide notice of changes in his or her registration information, the procedures for providing that notice, and the verification procedures under [MCL 28.725a]." MCL 28.727(3). (*Note: The language in this subsection was amended by 2011 PA 18 to reflect a registrant's duty to report all changes in his or her registration information, not only changes in a registrant's address.*)

Offenders Required to Register Under the SORA

- ▶ 2011 PA 17 eliminated former time requirements from MCL 28.723(1), which required that an individual be domiciled, residing, working, or a student in Michigan for 14 or more consecutive days or 30 or more total days in a calendar year before the individual was required to register under the SORA.

Effective July 1, 2011, individuals who are domiciled in Michigan, who temporarily reside in Michigan, who work in Michigan with or without compensation, or who are students in Michigan must register under the SORA if they meet the conditions listed in MCL 28.723(1). 2011 PA 17 added the following individuals to the list of offenders who must register under the SORA:

- ▶ an individual previously convicted of a listed offense for which SORA registration was not required but who is convicted of any other felony on or after July 1, 2011. MCL 28.723(1)(e).
- ▶ a nonresident who is convicted on or after July 1, 2011 in Michigan for committing a listed offense who is not otherwise required to register under MCL 28.723(1). Notwithstanding the offender's duty to register under the SORA, the continued reporting requirements of the SORA do not apply to an offender while he or she is a nonresident and not otherwise required to report under the SORA. However, the nonresident must have his or her photograph taken as provided in MCL 28.725a. MCL 28.723(3).

Juvenile offenders. Juvenile offenders not convicted as adults must register under the SORA under two circumstances:

- ▶ a juvenile order of disposition was entered under MCL 712A.18, the order is open to the public under MCL 712A.28, and
 - ▶ the juvenile was at least 14 years of age when the offense was committed, and
 - ▶ the order of disposition is for an offense that would classify the juvenile as a tier III offender. MCL 28.722(b)(iii)(A)-(B); MCL 28.723(1).
- ▶ a juvenile order of disposition or other adjudication was entered in another state or country, and
 - ▶ the juvenile was at least 14 years of age when the offense was committed, and
 - ▶ the order of disposition or other adjudication is for an offense that would classify the juvenile as a tier III offender. MCL 28.722(b)(iv)(A)-(B); MCL 28.723(1).

Juvenile offenders are not included on the public internet website; juvenile offender information appears only on the law enforcement database. MCL 28.728(1); MCL 28.728(4)(a)-(b).

Juvenile offenders convicted as adults in circuit court are treated as adults for purposes of SORA registration. MCL 28.722(b)(i).

Youthful trainee status. Offenders assigned to Youthful Trainee Status are required to register under the following two circumstances:

- ▶ the offender was assigned to youthful trainee status under MCL 762.11 to MCL 762.15 before October 1, 2004, unless at any time a petition was granted under MCL 28.728c permitting the offender to discontinue registration under the SORA, including a reduced period of registration extending to or past July 1, 2011, regardless of the offender's tier designation on or after July 1, 2011. MCL 28.722(b)(ii)(A); MCL 28.723(1).
- ▶ the offender was assigned to youthful trainee status under MCL 762.11 to MCL 762.15 before October 1, 2004, if the offender is convicted of any other felony on or after July 1, 2011. MCL 28.722(b)(ii)(B); MCL 28.723(1).

Listed Offenses: Tier I, Tier II, and Tier III Offenses

- ▶ *The group of listed offenses for which SORA registration is required was completely restructured by 2011 PA 17. The single group of listed offenses formerly described in MCL 28.722(e)(iv) was eliminated.*

Offenses under the SORA are now grouped in three categories (tier I, tier II, and tier III) based on the seriousness of an offense. A *listed offense* for purposes of the SORA is a tier I, tier II, or tier III offense. MCL 28.722(k).

- ▶ *MCL 28.722, as amended by 2011 PA 17, does not include a third or subsequent violation of any combination of MCL 750.167(1)(f) (engaging in indecent/obscene conduct in public), MCL 750.335a(2)(a) (open or indecent exposure), or a substantially corresponding local ordinance of a municipality in the single group of listed offenses formerly appearing in MCL 28.722(e)(iv). Listed offenses added by 2011 PA 17 are noted when they appear in the tier I, tier II, or tier III categories discussed below.*
- ▶ *2011 PA 17 added the following definition to the list of definitions in MCL 28.722: "‘Immediately’ means within 3 business days." MCL 28.722(g). Wherever "immediately" appears in the text of this update, "within three business days" also appears to emphasize/clarify the meaning of "immediately" in the SORA, as amended.*

Tier I Offenses/Offenders

Tier I offender defined. A tier I offender is an individual who has been convicted of a tier I offense and who is not a tier II or tier III offender. MCL 28.722(r).

Tier I offenders are not listed on the public internet website. An offender registered under the SORA because of a single tier I conviction will only be listed on the law enforcement database; he or she will not appear on the public internet website. MCL 28.728(1); MCL 28.728(4)(c).

Required reporting. After his or her initial verification or registration, a tier I offender must report one time each year, no earlier than January 1 and no later than January 15. MCL 28.725a(3)(a). When reporting as required, an offender must review for accuracy all of his or her registration information. MCL 28.725a(4). An offender who reports under MCL 28.725a(3) and who has not already paid his or her registration fee, must pay the \$50 registration fee prescribed under MCL 28.727(1). MCL 28.725a(6). An indigent offender may obtain a 90-day waiver of the registration fee if the offender proves his or her indigence. MCL 28.725b(3). See MCL 28.722(h) for the definition of *indigent*.

Length of registration for tier I offenders. Unless otherwise provided in MCL 28.725 (providing for registration periods where offender was previously convicted of a listed offense, but was not required to register under the SORA before July 1, 2011, and who is convicted of a felony on or after July 1, 2011) or MCL 28.728c (allowing offender to petition to discontinue registration), a tier I offender must register under the SORA for 15 years. MCL 28.725(10). The registration period does not include any period of imprisonment for committing a crime or any period of civil commitment. MCL 28.725(13).

List of tier I offenses. Tier I offenses are listed in MCL 28.722(s)(i)-(ix):

- ▶ Violation of MCL 750.145c(4) (knowing possession of child sexually abusive material).
- ▶ Violation of MCL 750.335a(2)(b) (open or indecent exposure involving fondling) if the victim is a minor.
- ▶ Violation of MCL 750.349b (unlawful imprisonment) if the victim is a minor. (*Note: This listed offense was added by 2011 PA 17. It was not included in previous versions of the SORA's listed offenses.*)
- ▶ Violation of MCL 750.520e (CSC-IV) or MCL 750.520g(2) (assault with intent to commit CSC-II) if the victim is age 18 or older.
- ▶ Violation of MCL 750.539j (voyeurism) if the victim is a minor. (*Note: This listed offense was added by 2011 PA 17. It was not included in previous versions of the SORA's listed offenses.*)
- ▶ Any other violation of Michigan law or a local ordinance of a municipality, other than a tier II or tier III offense, that by its nature constitutes a sexual offense against a minor.
- ▶ Offense committed by a person who was a sexually delinquent person (MCL 750.10a) at the time the offense was committed.
- ▶ Attempt or conspiracy to commit a tier I offense.
- ▶ Offense substantially similar to a tier I offense that is specifically enumerated under federal law in 42 USC 16911, under the law of any state or any country, or under tribal or military law.

Tier II Offenses/Offenders

Tier II offender defined. A tier II offender is:

- ▶ an individual who is a tier I offender who is subsequently convicted of another tier I offense, or

- ▶ an individual who is convicted of a tier II offense and who is not a tier III offender. MCL 28.722(t)(i)-(ii).

Tier II offender information on the public website. A tier II offender will appear on the public internet website. See MCL 28.728(2); MCL 28.728(4).

Required reporting. After his or her initial verification or registration, a tier II offender must report two times each year—once in January (no earlier than January 1 and no later than January 15), and once in July (no earlier than July 1 and no later than July 15). MCL 28.725a(3)(b). When reporting as required, an offender must review for accuracy all of his or her registration information. MCL 28.725a(4). An offender who reports under MCL 28.725a(3) and who has not already paid his or her registration fee, must pay the \$50 registration fee prescribed under MCL 28.727(1). MCL 28.725a(6). An indigent offender may obtain a 90-day waiver of the registration fee if the offender proves his or her indigence. MCL 28.725b(3). See MCL 28.722(h) for the definition of *indigent*.

Length of registration. Unless otherwise provided in MCL 28.725 (providing for registration periods where offender was previously convicted of a listed offense, but was not required to register under the SORA before July 1, 2011, and who is convicted of a felony on or after July 1, 2011) or MCL 28.728c (allowing offender to petition to discontinue registration), a tier II offender must register under the SORA for 25 years. MCL 28.725(11). The registration period does not include any period of imprisonment for committing a crime or any period of civil commitment. MCL 28.725(13).

List of tier II offenses. Tier II offenses are listed in MCL 28.722(u)(i)-(xii):

- ▶ Violation of MCL 750.145a (soliciting a minor under the age of 16 for an immoral purpose).
- ▶ Violation of MCL 750.145b (soliciting a minor under the age of 16 for an immoral purpose, second offense).
- ▶ Violation of MCL 750.145c(2) (creation/production of child sexually abusive material) or MCL 750.145c(3) (distribution/promotion of child sexually abusive material).
- ▶ Violation of MCL 750.145d(1)(a) (use of the internet to commit specific crimes against a minor victim) except for a violation arising out of a violation of MCL 750.157c (person at least age 17 who induces a minor under the age of 17 to commit a felony). (*Note: This listed offense was added by 2011 PA 17. It was not included in previous versions of the SORA's listed offenses.*)
- ▶ Violation of MCL 750.158 (sodomy) if the victim is a minor, unless either of the following applies:
 - ▶ All of the following:
 - ▶ Victim consented to conduct constituting the violation.
 - ▶ Victim was at least age 13 but less than age 16 at the time of the violation.
 - ▶ Actor is not more than four years older than the victim.
 - ▶ All of the following:
 - ▶ Victim consented to conduct constituting the violation.
 - ▶ Victim was age 16 or age 17 at the time of the violation.
 - ▶ Victim was not under the custodial authority of the actor at the time of the violation.
- ▶ Violation of MCL 750.338 (gross indecency between males), MCL 750.338a (gross indecency between females), or MCL 750.338b (gross indecency between males and females) if the victim was at least age 13 but less than age 18 at the time of the violation. This provision does not apply if the court determines either:

- ▶ All of the following:
 - ▶ Victim consented to conduct constituting the violation.
 - ▶ Victim was at least age 13 but less than age 16 at the time of the violation.
 - ▶ Actor is not more than four years older than the victim.
- ▶ All of the following:
 - ▶ Victim consented to conduct constituting the violation.
 - ▶ Victim was age 16 or age 17 at the time of the violation.
 - ▶ Victim was not under the custodial authority of the actor at the time of the violation.
- ▶ Violation of MCL 750.448 (soliciting prostitution) if the victim is a minor.
- ▶ Violation of MCL 750.455 (pandering).
- ▶ Violation of MCL 750.520c (CSC-II), MCL 750.520e (CSC-IV), or MCL 750.520g(2) (assault with intent to commit CSC-II) if the victim is at least age 13 but under age 18.
- ▶ Violation of MCL 750.520c (CSC-II) if the victim is age 18 or older.
- ▶ Attempt or conspiracy to commit a tier II offense.
- ▶ Offense substantially similar to a tier II offense that is specifically enumerated under federal law in 42 USC 16911, under the law of any state or any country, or under tribal or military law.

Tier III Offenses/Offenders

Tier III offender defined. A tier III offender is:

- ▶ an individual who is a tier II offender who is subsequently convicted of a tier I or tier II offense, or
- ▶ an individual who is convicted of a tier III offense. MCL 28.722(v)(i)-(ii).

Tier III offender information on the public website. A tier III offender will appear on the public internet website. See MCL 28.728(2); MCL 28.728(4).

Required reporting. After his or her initial verification or registration, a tier III offender must report quarterly, between the first and fifteenth day of every April, July, October, and January. MCL 28.725a(3)(c). When reporting as required, an offender must review for accuracy all of his or her registration information. MCL 28.725a(4). An offender who reports under MCL 28.725a(3) and who has not already paid his or her registration fee, must pay the \$50 registration fee prescribed under MCL 28.727(1). MCL 28.725a(6). An indigent offender may obtain a 90-day waiver of the registration fee if the offender proves his or her indigence. MCL 28.725b(3). See MCL 28.722(h) for the definition of *indigent*.

Length of registration. Unless otherwise provided in MCL 28.725 (providing for registration periods where offender was previously convicted of a listed offense, but was not required to register under the SORA before July 1, 2011, and who is convicted of a felony on or after July 1, 2011) or MCL 28.728c (allowing offender to petition to discontinue registration), a tier III offender must register under the SORA for life. MCL 28.725(12).

List of tier III offenses. Tier III offenses are listed in MCL 28.722(w)(i)-(viii):

- ▶ Violation of MCL 750.338 (gross indecency between males), MCL 750.338a (gross indecency between females), or MCL 750.338b (gross indecency between males and females) if the victim is under age 13.

- ▶ Violation of MCL 750.349 (kidnapping) if the victim is a minor.
- ▶ Violation of MCL 750.350 (enticing a child under age 14 with intent to detain or conceal the child from his or her parent, guardian, or adoptive parent).
- ▶ Violation of MCL 750.520b (CSC-I), MCL 750.520d (CSC-III), or MCL 750.520g(1) (assault with intent to commit CSC involving penetration). This provision does not apply if the court determines that the victim consented to conduct constituting the offense, that the victim was at least age 13 but under age 16 at the time of the offense, and that the actor is not more than four years older than the victim.
- ▶ Violation of MCL 750.520c (CSC-II) or MCL 750.520g(2) (assault with intent to commit CSC-II) if the victim is under age 13.
- ▶ Violation of MCL 750.520e (CSC-IV) if the actor is age 17 or older, and the victim is under age 13.
- ▶ Attempt or conspiracy to commit a tier III offense.
- ▶ Offense substantially similar to a tier III offense that is specifically enumerated under federal law in 42 USC 16911, under the law of any state or any country, or under tribal or military law.

Registration Information Applicable to All Offenders

Registration fee. The registration fee under the SORA was increased from \$35 to \$50. MCL 28.727(1). Of the \$50 registration fee, \$30 must be forwarded to the department of state police for deposit into the sex offenders registration fund, and \$20 must be retained by the court, local law enforcement agency, sheriff's department, or department post. MCL 28.725b(1). The use of money deposited into the sex offenders registration fund is limited to "training concerning, and the maintenance and automation of, the law enforcement database, public internet website, information required under [MCL 28.728], or notification and offender registration duties under [MCL 28.724a]." MCL 28.725b(2). When an offender has paid the registration fee, the department of state police must revise the law enforcement database and public internet website as necessary and must include verification of the offender's payment in the law enforcement database. MCL 28.725b(4).

Verification of information. When an offender reports as required, the registering authority must verify the offender's residence or domicile and the information reported under MCL 28.724a (enrollment status at an institution of higher education). MCL 28.725a(5).

Verification of the offender's physical appearance. When an offender reports as required, the registering authority must determine whether the offender's appearance sufficiently matches the photograph taken of the offender as required by the SORA so that he or she could be properly identified from the photograph. MCL 28.725a(5). If the photograph does not sufficiently reflect the offender's appearance at the time of reporting, the registering authority must require the offender to immediately (within three business days) obtain a current photograph. *Id.* When the offender has provided the registering authority with all the required verification information, the registering authority must "review that information with the individual and make any corrections, additions, or deletions the [registering authority] determines are necessary based on the review." *Id.*

Offender to be given a receipt of verification. The registering authority must sign and date a verification receipt and provide the offender with a copy of the signed and dated receipt. MCL 28.725a(5). The registering authority must forward the verification information to the department of state

police, and the department of state police must update the law enforcement database and the public internet website as necessary. *Id.* The public internet website must show that the offender's information has been verified. *Id.*

Photograph of incarcerated offenders when released. An offender who is incarcerated and who required to register under the SORA must report to the secretary of state (SOS) immediately (within three business days) after his or her release to have his or her digital photograph taken. MCL 28.725a(8). Offenders who have had a digital photograph taken for an operator's or chauffeur's license or an official state personal identification card before January 1, 2000, or within two years before his or her release, do not need to report to the SOS "unless his or her appearance has changed from the date of that photograph." *Id.* For offenders who are Michigan residents, the new photograph shall be used on the offender's operator's or chauffeur's license or state personal identification card. *Id.* A new photograph must be taken of the offender whenever he or she renews the license or identification card or as otherwise provided in the SORA, and the SOS must make the photograph available to the department of state police for registration under the SORA. *Id.*

Registration: Substantive changes to MCL 28.724

Cases pending on July 1, 2011. "If a prosecution or juvenile proceeding is pending on July 1, 2011, whether the defendant in a criminal case or the minor in a juvenile proceeding is required to register under [the SORA] shall be determined on the basis of the law in effect on July 1, 2011." MCL 28.724(7).

Transferred probationers or parolees. A probation or parole agent must immediately (within three business days) register an individual whose probation or parole (for conviction of a listed offense on or before October 1, 1995) is transferred to Michigan after October 1, 1995. MCL 28.724(3)(b). (*Note: Formerly, the agent was permitted 14 days in which to register a transferred probationer or parolee.*)

Unregistered offenders convicted of any other felony on or after July 1, 2011. An offender who was previously convicted of a listed offense for which he or she was not required to register under the SORA and who is convicted of any other felony on or after July 1, 2011, must register before sentencing, before an order of disposition is entered, or before being assigned to youthful trainee status for the listed offense or for the other felony. MCL 28.724(5). "The probation agent or the family division of circuit court shall give the individual the registration form after the individual is convicted, explain the duty to register and accept the completed registration for processing under [MCL 28.726]. The court shall not impose sentence, enter the order of disposition, or assign the individual to youthful trainee status, until it determines that the individual's registration was forwarded to the department [of state police] as required under [MCL 28.726]." MCL 28.724(5).

Calculating the registration period for unregistered offenders convicted of any other felony on or after July 1, 2011. "For an individual who was previously convicted of a listed offense for which he or she was not required to register under [the SORA] but who is convicted of any felony on or after July 1, 2011, any period of time that he or she was not incarcerated for that listed offense or that other felony and was not civilly committed counts toward satisfying the registration period for that listed offense as described in [MCL 28.725]. If those periods equal or exceed the registration period described in [MCL 28.725], the individual has satisfied his or her registration period for the listed offense and is not required to register under [the SORA]. If

those periods are less than the registration period described in [MCL 28.725] for that listed offense, the individual shall comply with [MCL 28.725] for the period of time remaining.” MCL 28.725(14).

Offenders convicted of a listed offense in another state/country. Individuals specified in MCL 28.724(6)(a)-(d) must register with the appropriate registering authority immediately (within three business days) “after becoming domiciled or temporarily residing, working, or being a student in [Michigan.]” MCL 28.724(6). (*Note: Formerly, an individual subject to registration under MCL 28.724(6) was permitted 14 days in which to register with the appropriate registering authority.*)

2011 PA 17 added a class of offenders listed in MCL 28.724(6) who must register immediately (within three business days) after establishing their domicile, temporary residence, employment, or student status in Michigan. MCL 28.724(6)(c) requires an offender convicted of a listed offense in another state or country before October 1, 1995, and an offender convicted in another state or country of a listed offense added on September 1, 1999, who on or after July 1, 2011, is convicted of any other felony, to register immediately after establishing his or her domicile, temporary residence, employment, or student status in Michigan.

Information Required on or Excluded From SORA Registration/Law Enforcement Database/ Public Internet Website

2011 PA 18 significantly expanded the scope of information to be gathered and included on an offender’s SORA registration, the law enforcement database, and the public internet website. See MCL 28.727; MCL 28.728.

The information obtained on a SORA registration must be forwarded to the department of state police in a format prescribed by the department of state police. MCL 28.727(1). Unless the registering offender is indigent and qualifies for the 90-day waiver permitted under MCL 28.725b(3), the \$50 registration fee must accompany the offender’s original registration. MCL 28.727(1). The computerized law enforcement database of registrations and notices maintained by the department of state police must contain much of the same information required on an offender’s registration. See MCL 28.728. The public internet website contains a limited amount of the information found on an offender’s registration and on the law enforcement database. MCL 28.728(2). The following chart summarizes the information required for the SORA registration, the law enforcement database, and the public internet website.

TABLE 1: Information Appearing on Offender Registration, Law Enforcement Database, and Public Internet Website			
Description of Information	Offender Registration	Law Enforcement Database	Public Internet Website
Legal name. The registrant’s legal name, including “any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.” MCL 28.727(1)(a).	Yes MCL 28.727(1)(a).	Yes MCL 28.728(1)(a).	Yes MCL 28.728(2)(a).

TABLE 1: Information Appearing on Offender Registration, Law Enforcement Database, and Public Internet Website

Description of Information	Offender Registration	Law Enforcement Database	Public Internet Website
<p>Registrant in witness protection program. A registrant who is in a witness protection program need only provide the name and identifying information reflecting the registrant’s new identity. The registration and compilation databases must not include any information that would identify the registrant’s previous identity or location. MCL 28.727(1)(a). (Note: This information concerning registrants in witness protection programs was included in the statutory language before the amendments made by 2011 PA 18.)</p>	<p>Appears in MCL 28.727(1)(a) only.</p>	<p>---</p>	<p>---</p>
<p>Social security number. The registrant’s social security number, including any other social security numbers or alleged social security numbers the registrant previously used.</p>	<p>Yes MCL 28.727(1)(b).</p>	<p>Yes MCL 28.728(1)(b).</p>	<p>No (expressly prohibited from inclusion on public internet website) MCL 28.728(3)(b).</p>
<p>Date of birth. The registrant’s date of birth, including any other alleged dates of birth the registrant previously used.</p>	<p>Yes MCL 28.727(1)(c).</p>	<p>Yes MCL 28.728(1)(c).</p>	<p>Yes (However, the website requires only the “date of birth.”) MCL 28.728(2)(b).</p>
<p>Address. The address at which the registrant resides or will reside.</p>	<p>Yes MCL 28.727(1)(d).</p>	<p>Yes MCL 28.728(1)(d).</p>	<p>Yes, with variation in language. “The address where the individual resides. If the individual does not have a residential address, information . . . shall identify the village, city, or township used by the individual in lieu of a residence.” MCL 28.728(2)(c).</p>
<p>Registrant without residential address. A registrant without a residential address “shall identify the location or area used or to be used by the individual in lieu of a residence[.]” MCL 28.727(1)(d).</p>	<p>Yes MCL 28.727(1)(d).</p>	<p>Yes MCL 28.728(1)(d).</p>	
<p>Homeless registrant. If a registrant is homeless, he or she must identify “the village, city, or township where the person spends or will spend the majority of his or her time.” MCL 28.727(1)(d).</p>	<p>Yes MCL 28.727(1)(d).</p>	<p>Yes MCL 28.728(1)(d).</p>	
<p>Temporary address. If a registrant is away from, or expects to be away from, his or her residence for more than seven days, the registrant must provide the name and address of the temporary place of lodging, including the dates the registrant intends to use the lodging.</p>	<p>Yes MCL 28.727(1)(e).</p>	<p>Yes MCL 28.728(1)(e).</p>	<p>No</p>
<p>Name and address of employers. The name and address of each of the registrant’s employers. MCL 28.727(1)(f). <i>Employer</i>, for purposes of this subsection, includes a contractor and any person who has agreed to hire or contract with the registrant for his or her services. <i>Id.</i> The registrant must provide the address or location of his or her employment if the location differs from the employer’s address. <i>Id.</i> If there is no fixed employment location, the registrant must provide “the general areas where the individual works and the normal travel routes taken by the individual in the course of his or her employment.” <i>Id.</i></p>	<p>Yes MCL 28.727(1)(f).</p>	<p>Yes (However, the statute does not require the registrant to provide “general areas” of work and “normal travel routes taken . . . in the course of employment” if there is no fixed employment location.) MCL 28.728(1)(f).</p>	<p>Yes (However, the statute does not require the registrant to provide the name of the employer or the “general areas” of work and “normal travel routes taken . . . in the course of employment” if there is no fixed employment location.) MCL 28.728(2)(d).</p>

TABLE 1: Information Appearing on Offender Registration, Law Enforcement Database, and Public Internet Website

Description of Information	Offender Registration	Law Enforcement Database	Public Internet Website
<p>Name and address of school attended. The name and address of any school the registrant is attending and any school that accepted the registrant as a student and that the registrant plans to attend. <i>School</i>, for purposes of this subsection, is “a public or private postsecondary school or school of higher education, including a trade school.” MCL 28.727(1)(g).</p>	<p>Yes MCL 28.727(1)(g).</p>	<p>Yes MCL 28.728(1)(g).</p>	<p>Yes (However, the website does not include the name of school.) MCL 28.728(2)(e).</p>
<p>Telephone number. All telephone numbers registered to the offender or routinely used by the offender.</p>	<p>Yes MCL 28.727(1)(h).</p>	<p>Yes MCL 28.728(1)(h).</p>	<p>No</p>
<p>E-mail and other electronic identification. All e-mail addresses and instant message addresses assigned to the registrant, including addresses routinely used by the registrant, and all login names used by the registrant or other identifiers used by the registrant when he or she uses any e-mail address or instant messaging system.</p>	<p>Yes MCL 28.727(1)(i).</p>	<p>Yes MCL 28.728(1)(i).</p>	<p>No (expressly prohibited from inclusion on public internet website) MCL 28.728(3)(e).</p>
<p>Motor vehicles, aircraft, or vessels. License plate and registration numbers, and description of any motor vehicle, aircraft, or vessel owned or regularly operated by the registrant and the location where the motor vehicle, aircraft, or vessel is regularly stored or kept.</p>	<p>Yes MCL 28.727(1)(j).</p>	<p>Yes MCL 28.728(1)(j).</p>	<p>Yes (However, the website does not include the location at which the vehicle, aircraft, or vessel is regularly kept.) MCL 28.728(2)(f).</p>
<p>Driver license number. The registrant’s driver license or state personal identification card number.</p>	<p>Yes MCL 28.727(1)(k).</p>	<p>Yes MCL 28.728(1)(k).</p>	<p>No (expressly prohibited from inclusion on public internet website) MCL 28.728(3)(f).</p>
<p>Passport. “A digital copy of the individual’s passport and other immigration documents.” MCL 28.727(1)(l).</p>	<p>Yes MCL 28.727(1)(l).</p>	<p>Yes MCL 28.728(1)(l).</p>	<p>No (expressly prohibited from inclusion on public internet website) MCL 28.728(3)(d).</p>
<p>Occupational licenses. Information regarding the registrant’s occupational or professional licensing, “including any license that authorizes the [registrant] to engage in any occupation, profession, trade, or business.” MCL 28.727(1)(m).</p>	<p>Yes MCL 28.727(1)(m).</p>	<p>Yes MCL 28.728(1)(m).</p>	<p>No</p>
<p>Summary of convictions. A brief summary of the registrant’s convictions for listed offenses without regard to when the conviction occurred, including the place where the offense occurred, and the original charged offense if the registrant was convicted of a lesser offense.</p>	<p>Yes MCL 28.727(1)(n). (Note: This information was required in an offender’s registration before the amendments made by 2011 PA 18.)</p>	<p>Yes MCL 28.728(1)(n).</p>	<p>Yes (However, the website does not include information on where the offenses occurred.) MCL 28.728(2)(g).</p>
<p>Physical description. A complete physical description of the registrant.</p>	<p>Yes MCL 28.727(1)(o). (Note: This information was required in an offender’s registration before the amendments made by 2011 PA 18.)</p>	<p>Yes MCL 28.728(1)(o).</p>	<p>Yes MCL 28.728(2)(h).</p>

TABLE 1: Information Appearing on Offender Registration, Law Enforcement Database, and Public Internet Website

Description of Information	Offender Registration	Law Enforcement Database	Public Internet Website
<p>Photograph. A photograph of the registrant as required under MCL 28.725a.</p>	<p>Yes MCL 28.727(1)(p). (Note: This information was required in an offender’s registration before the amendments made by 2011 PA 18.)</p>	<p>Yes MCL 28.728(1)(p).</p>	<p>Yes If a photograph is not available, registrant’s arrest photograph or MDOC photograph to be used until photograph required by MCL 28.725a is available. MCL 28.728(2)(i).</p>
<p>Fingerprints and palm prints. The registrant’s fingerprints if they are not already on file with the department of state police, and the registrant’s palm prints. MCL 28.727(1)(q). Individuals required to register under the SORA must have their fingerprints or palm prints or both taken no later than September 12, 2011, if their fingerprints or palm prints are not already on file. <i>Id.</i> The department of state police must forward a copy of the registrant’s fingerprints and palm prints to the federal bureau of investigation (FBI), if the prints are not already on file with the FBI. <i>Id.</i></p>	<p>Yes MCL 28.727(1)(q). (Note: A registrant’s fingerprints were required under the SORA before the amendments made by 2011 PA 18, which added palm prints to the information required of the offender at registration.)</p>	<p>Yes MCL 28.728(1)(q).</p>	<p>No</p>
<p>Enrollment/student status. Information required under MCL 28.724a regarding the registrant’s status as a student or enrollee at an institution of higher education in Michigan.</p>	<p>Yes MCL 28.727(1)(r). (Note: This information was required in an offender’s registration before the amendments made by 2011 PA 18.)</p>	<p>No</p>	<p>No</p>
<p>Copy of license or identification card. Electronic copy of the registrant’s Michigan driver license or personal identification card, including a photograph of the registrant as required under the SORA.</p>	<p>Yes MCL 28.727(2)(a).</p>	<p>Yes MCL 28.728(1)(r).</p>	<p>No</p>
<p>Statutory language. Text of the statute defining the criminal offense for which sex offender registration is required.</p>	<p>Yes MCL 28.727(2)(b).</p>	<p>Yes MCL 28.728(1)(s).</p>	<p>Yes MCL 28.728(2)(j).</p>
<p>Warrant information. Information about any outstanding warrants for the registrant.</p>	<p>Yes MCL 28.727(2)(c).</p>	<p>Yes MCL 28.728(1)(t).</p>	<p>No</p>
<p>Tier classification. The registrant’s tier classification.</p>	<p>Yes MCL 28.727(2)(d).</p>	<p>Yes (and offender’s registration status) MCL 28.728(1)(u).</p>	<p>Yes MCL 28.728(2)(l). (and offender’s registration status) MCL 28.728(2)(k).</p>
<p>DNA sample/profile. Whether the registrant’s DNA sample was collected and an indication that any resulting DNA profile was entered into the federal combined DNA index system (CODIS).</p>	<p>Yes MCL 28.727(2)(e).</p>	<p>Yes MCL 28.728(1)(v).</p>	<p>No</p>
<p>Criminal history. A record of the registrant’s complete criminal history, including the dates of all arrests and convictions.</p>	<p>Yes MCL 28.727(2)(f).</p>	<p>Yes MCL 28.728(1)(w).</p>	<p>No</p>

TABLE 1: Information Appearing on Offender Registration, Law Enforcement Database, and Public Internet Website

Description of Information	Offender Registration	Law Enforcement Database	Public Internet Website
DOC number and status. The registrant’s Michigan Department of Corrections number and his or her parole, probation, or supervised release status.	Yes MCL 28.727(2)(g).	Yes MCL 28.728(1)(x).	No
FBI number. The registrant’s Federal Bureau of Investigation number.	Yes MCL 28.727(2)(h).	Yes MCL 28.728(1)(y).	No
Identity of any victim of the offense.	---	---	No (expressly prohibited from inclusion on public internet website) MCL 28.728(3)(a).
Any arrests not resulting in conviction.	---	---	No (expressly prohibited from inclusion on public internet website) MCL 28.728(3)(c).

Individuals excluded from the public internet website. According to MCL 28.728(4), in addition to the *identity of the victim of the offense* and *any arrests not resulting in conviction*, the following individuals are also prohibited from inclusion on the public internet website:

“(a) An individual registered solely because he or she had 1 or more dispositions for a listed offense under . . . MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under . . . MCL 712A.2d.

“(b) An individual registered solely because he or she was the subject of an order of disposition or other adjudication in a juvenile matter in another state or country.

“(c) An individual registered solely because he or she has been convicted of a single tier I offense.”

Miscellaneous Public Internet Website/Law Enforcement Database Information

Organization of public internet website and law enforcement database. The individuals on the public internet website and law enforcement database “shall be indexed alphabetically by village, city, township, and county, numerically by zip code area, and geographically as determined appropriate by the department [of state police].” MCL 28.728(5).

Updating the public internet website and the law enforcement database. The public internet website must be updated by the department of state police “with new registrations, deletions from registrations, and changes of address at the same time those changes are made to the law enforcement database[.]” MCL 28.728(6).

Computerized search of database and website based on college. The law enforcement database and the public internet website must be searchable by the name and campus location of a higher education institution. MCL 28.728(6).

Availability of law enforcement database information. The law enforcement database information must be made available by electronic, computerized, or similar means to a state police post, a local law enforcement agency, or a sheriff's department. MCL 28.728(7). The information must be searchable by name, village, city, township, county, zip code, and geographical area. *Id.*

Availability of public internet website information. The public internet website information must be made available to the public by electronic, computerized, or similar means. MCL 28.728(7). The information must be searchable by name, village, city, township, county, zip code, and geographical area. *Id.* "If a court determines that the public availability under [MCL 28.730] of any information concerning individuals registered under [the SORA] violates the constitution of the United States or this state, the department [of state police] shall revise the public internet website . . . so that it does not contain that information." MCL 28.728(8).

Removal of an offender's registration information from the law enforcement database and the public internet website. An offender's registration information must be removed from the law enforcement database and the public internet website within seven days after the department of state police makes any of the following determinations:

- ▶ an offender has completed his or her period of registration, including a period of registration that was reduced by law under provisions added by 2011 PA 18, or
- ▶ an offender is otherwise no longer required to register under the SORA. MCL 28.728(9).

Notice of expungement on the public internet website. If an offender provides the department of state police with documentation showing that the offense for which he or she was required to register under the SORA has been set aside under MCL 780.621 to MCL 780.624, or has otherwise been expunged, the department of state police must indicate on the public internet website that the offender's conviction was set aside or expunged. MCL 28.728(10).

Reporting Requirements

Resident and Nonresident Offenders Who Are Students in Michigan

MCL 28.724a, as amended, exclusively addresses the reporting requirements of resident and nonresident offenders who are required to register under the SORA and who are students attending institutions of higher education in Michigan. (*Note: Formerly, MCL 28.724a also addressed individuals who were full- or part-time employees, contractual providers, or volunteers at an institution of higher education in Michigan.*)

The report required by resident and nonresident students under MCL 28.724a must be made immediately (within three business days) after a resident or nonresident individual required to register under the SORA enrolls or discontinues his or her enrollment at a campus of higher education in Michigan, including study in Michigan, in another state, in a United States territory or possession, or in another country. MCL 28.724a(3)(b).

The reporting requirements for resident and nonresident student offenders in MCL 28.724a do not apply to students "whose enrollment and participation at an institution of higher education is solely through the mail or the internet from a remote location." MCL 28.724a(6).

Nonresident students. An individual who is required to register under the SORA and who is not a resident of Michigan must “report his or her status in person to the registering authority having jurisdiction over a campus of an institution of higher education” under either of the two following circumstances:

- ▶ the individual is a student or enrolls as a student, or the individual discontinues his or her enrollment as a student at that institution of higher education, or
- ▶ the individual, as part of a course of studies at an institution of higher education, is present at another location in Michigan, or in another state, or in a United States territory or possession, or he or she discontinues studies at that location. MCL 28.724a(1)(a)-(b). (*Note: Formerly, this provision also included students whose studies took them to another country for 14 or more consecutive days or 30 or more total days in a calendar year.*)

Resident students. An individual who is required to register under the SORA and who is a resident of Michigan must “report his or her status in person to the registering authority having jurisdiction where his or her new residence or domicile is located” under either of the two following circumstances:

- ▶ the individual is a student or enrolls as a student, or the individual discontinues his or her enrollment as a student at an institution of higher education, or
- ▶ the individual, as part of a course of studies at an institution of higher education, is present at another location in Michigan, or in another state, or in a United States territory or possession, or he or she discontinues studies at that location. MCL 28.724a(2). (*Note: Formerly, this provision also included students whose studies took them to another country for 14 or more consecutive days or 30 or more total days in a calendar year.*)

Offenders Who Are Michigan Residents

An offender required to register under the SORA who is a resident of Michigan must report in person and notify the registering authority with jurisdiction over the location of his or her residence or domicile immediately (within three business days) after any of the following:

- ▶ The offender changes or vacates his or her residence or domicile. MCL 28.725(1)(a).
- ▶ The offender changes or discontinues his or her employment. MCL 28.725(1)(b).
- ▶ The offender enrolls as a student, or discontinues his or her enrollment as a student, at an institution of higher education. MCL 28.725(1)(c).
- ▶ The offender changes his or her name. MCL 28.725(1)(d).
- ▶ The offender plans to temporarily stay for more than seven days at a place other than his or her residence. MCL 28.725(1)(e).
- ▶ The offender establishes an electronic mail address, instant messaging address, or any other designations used in internet communication or posting. MCL 28.725(1)(f).
- ▶ The offender buys any vehicle, begins to regularly operate any vehicle, or discontinues ownership or operation of the vehicle. MCL 28.725(1)(g).
- ▶ Any change for which reporting is required under MCL 28.724a (student or enrollment status at an institution of higher education). MCL 28.725(1)(h).

Offenders Who Are Nonresidents of Michigan But Work in Michigan

A nonresident individual who is required to register under the SORA and whose place of employment is in Michigan, must “report in person and notify the registering authority having jurisdiction where his or her place of employment is located or the department post of the individual’s place of employment immediately [(within three business days)] after the individual changes his or her place of employment or employment is discontinued.” MCL 28.725(2).

Resident Offenders Who Move Out of State

A resident offender who is required to register under the SORA must report in person and notify the registering authority with jurisdiction over the location of his or her domicile or residence immediately (within three business days) before the offender relocates his or her domicile or residence to another state. MCL 28.725(6). (*Note: Formerly, the registered offender was permitted to notify the department of state police of his or her relocation to another state by using a written form not later than 10 days before relocating to another state.*)

Resident Offenders Who Move Out of the Country

A resident offender who is required to register under the SORA must report in person and notify the registering authority with jurisdiction over the location of his or her domicile or residence not later than 21 days before he or she relocates his or her domicile or residence to another country or before he or she travels to another country for more than seven days. MCL 28.725(7). The registered offender must inform the registering authority of the new country of residence or country of travel and, if known, the address of the offender’s new place of domicile or residence or place of stay. *Id.* The department of state police must update its databases “and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority.” *Id.*

Offenders Released from Jail

If an offender who is incarcerated in a county jail and who is required to register under the SORA is due to be released, the sheriff’s department, before the offender is released from custody, must provide notice to the department of state police of the location of the offender’s proposed place of residence or domicile. MCL 28.725(4).

Correctional Facility Transfers

The Department of Corrections (DOC) must notify the appropriate law enforcement agency or sheriff’s department immediately (within three business days) after a registered offender is transferred to a community residential program or any kind of level 1 correctional facility, including a correctional or work camp. MCL 28.725(5)(a)-(b). (*Note: Formerly, the DOC was required to notify the registering authority of a prisoner’s transfer within 10 days after the transfer.*)

Offenders Released from Prison

When an individual registered under the SORA is released from a state correctional facility, the DOC must provide the individual with written notice explaining his or her duties under MCL 28.725a, and under the SORA as amended. MCL 28.725a(2). The DOC must inform the individual of the procedure for registration, notification, and verification, and payment of the registration fee required under MCL 28.725a(6) or MCL 28.727(1). The individual must sign and date the notice provided by the DOC, and the

DOC must keep a copy of the signed and dated notice in the individual's file. MCL 28.725a(2). The DOC must forward the original notice to the department of state police immediately (within three business days), even if the individual did not sign it. MCL 28.725a(2). (*Note: Formerly, the DOC was allowed 30 days in which to forward the original notice to the department of state police.*)

Failure to Report as Required

If an offender fails to report as required under MCL 28.725a or MCL 28.724a, the department of state police must notify all registering authorities as provided in MCL 28.728a, and must initiate enforcement action as indicated in MCL 28.728a. MCL 28.725a(9).

MCL 28.728a states:

“(1) If an individual fails to register or to update his or her registration information as required under [the SORA], the local law enforcement agency, sheriff’s office, or department [of state police] post responsible for registering the individual or for verifying and updating his or her registration information shall do all of the following immediately [(within three business days)] after the date the individual was required to register or to update his or her registration information:

“(a) Determine whether the individual has absconded or is otherwise unlocatable.

“(b) If the registering authority was notified by a registration jurisdiction that the individual was to appear in order to register or update his or her registration information in the jurisdiction of the registering authority, notify the department [of state police] in a manner prescribed by the department [of state police] that the individual failed to appear as required.

“(c) Revise the information in the registry to reflect that the individual has absconded or is otherwise unlocatable.

“(d) Seek a warrant for the individual’s arrest if the legal requirements for obtaining a warrant are satisfied.

“(e) Enter the individual into the national crime information center wanted person file if the requirements for entering information into that file are met.

“(2) If an individual fails to register or to update his or her registration information as required under [the SORA], the department [of state police] shall do all of the following immediately [(within three business days)] after being notified by the registering authority that the individual failed to appear as required:

“(a) Notify that other registration jurisdiction that the individual failed to appear as required.

“(b) Notify the United States marshal’s service in the manner required by the United States marshal’s service of the individual’s failure to appear as required.

“(c) Update the national sex offender registry to reflect the individual’s status as an absconder or as unlocatable.”

Other SORA Registration Violations

MCL 28.729 contains the penalties for violating the registration and reporting requirements of the SORA:

- ▶ With the exception of violations of MCL 28.725a (reporting requirements for registered offenders), MCL 28.727(4) (willful failure to sign a registration and notice), and MCL 28.725a(6) or MCL 28.727(1) (failure to pay the registration fee), a person required to register who willfully violates the SORA is guilty of a felony punishable as follows:
 - ▶ A person with no prior convictions for violating the SORA is punishable by not more than four years of imprisonment or a maximum fine of \$2,000, or both. MCL 28.729(1)(a).
 - ▶ A person with one prior conviction for violating the SORA is punishable by not more than seven years of imprisonment or a maximum fine of \$5,000, or both. MCL 28.729(1)(b).
 - ▶ A person with two or more prior convictions for violating the SORA is punishable by not more than ten years of imprisonment or a maximum fine of \$10,000, or both. MCL 28.729(1)(c).
- ▶ Other than payment of the registration fee required under MCL 28.725a(6), a person who fails to comply with MCL 28.725a (reporting requirements for registered offenders), is guilty of a misdemeanor punishable by not more than two years of imprisonment or a maximum fine of \$2,000, or both. MCL 28.729(2).
- ▶ *2011 PA 18 made no substantive changes to the remaining provisions of MCL 28.729.*

“Romeo & Juliet” Exceptions to Registration Under the SORA

Application of the Exceptions

The “Romeo & Juliet” exceptions in MCL 28.722(u)(v), MCL 28.722(u)(vi), and MCL 28.722(w)(iv) apply to criminal and juvenile cases pending on July 1, 2011, and to cases brought on or after July 1, 2011. MCL 28.723a(7).

Romeo & Juliet Exception for Select Tier II and Tier III Offenses

The listed offenses, as reorganized in the amended SORA, include specific circumstances under which offenders who engaged in conduct described in MCL 28.722(u)(v), MCL 28.722(u)(vi), and MCL 28.722(w)(iv), may avoid SORA registration. When the circumstances surrounding the enumerated crimes are satisfied, the conduct described in the statutory language does not qualify as a listed offense, and therefore, does not require the actor to register under the SORA. MCL 28.723a specifically outlines the process by which an individual accused of committing a crime described in MCL 28.722(u)(v), MCL 28.722(u)(vi), or MCL 28.722(w)(iv) may prove that he or she qualifies to be exempt from registering under the SORA.

Romeo & Juliet Exception for Select Tier II Offenses

Under two specific circumstances, an actor may claim an exception to the registration requirement for conviction of MCL 750.158 (sodomy) involving a minor. See MCL 28.722(u)(v). To successfully claim this exception, the actor must satisfy either of two conditions:

- ▶ All of the following:
 - ▶ The minor consented to the conduct that constituted the violation.
 - ▶ The minor was at least 13 years old but was less than 16 years old at the time of the violation.
 - ▶ The actor was not more than four years older than the minor. MCL 28.722(u)(v)(A)(I)-(III).

OR

- ▶ All of the following:
 - ▶ The minor consented to the conduct that constituted the violation.
 - ▶ The minor was age 16 or 17 at the time of the violation.
 - ▶ The minor was not under the custodial authority of the actor at the time of the violation. MCL 28.722(u)(v)(B)(I)-(III).

Under two specific circumstances, an actor may claim an exception to a violation of MCL 750.338 (gross indecency between males), MCL 750.338a (gross indecency between females), or MCL 750.338b (gross indecency between males and females) involving a minor who was at least age 13 but less than age 16 at the time of the violation. See MCL 28.722(u)(vi). To successfully claim this exception, the actor must satisfy either of two conditions:

- ▶ All of the following:
 - ▶ The minor consented to the conduct constituting the violation.
 - ▶ The minor was at least 13 years old but was less than 16 years old at the time of the violation.
 - ▶ The actor was not more than four years older than the victim. MCL 28.722(u)(vi)(A)(I)-(III).

OR

- ▶ All of the following:
 - ▶ The minor consented to the conduct constituting the violation.
 - ▶ The minor was age 16 or age 17 at the time of the violation.
 - ▶ The minor was not under the custodial authority of the actor at the time of the violation. MCL 28.722(u)(vi)(B)(I)-(III).

Romeo & Juliet Exception for Select Tier III Offenses

Under specific circumstances, an actor may claim an exception to a violation of MCL 750.520b (CSC-I), MCL 750.520d (CSC-III), or MCL 750.520g(1) (assault with intent to commit criminal sexual conduct involving penetration) involving a minor who was at least 13-years-old but less than 16-years-old at the time of the violation. See MCL 28.722(w)(iv). To successfully claim this exception, the actor must satisfy all of the following conditions:

- ▶ The minor consented to conduct constituting the offense.
- ▶ The minor was at least age 13 but under age 16 at the time of the offense.
- ▶ The actor was not more than four years older than the minor. MCL 28.722(w)(iv).

Procedure for Claiming a “Romeo & Juliet” Exception

Disposition of the Charged Listed Offense

MCL 28.723a(1) describes the process by which an individual may claim an exception to the charged offenses in MCL 28.722(u)(v), MCL 28.722(u)(vi), and MCL 28.722(w)(iv):

- ▶ An individual pleads guilty to or is found guilty of a listed offense, or
- ▶ A juvenile is adjudicated as being responsible for a listed offense.
- ▶ The individual or juvenile claims that one of the exceptions described in MCL 28.722(u)(v), MCL 28.722(u)(vi), or MCL 28.722(w)(iv) applies to the offense and that he or she is not required to register under the SORA. MCL 28.723a(1).

If the Prosecutor Disputes the Actor’s Claim to the Exception

- ▶ If the prosecutor disputes the individual’s or the juvenile’s claim to the exception, the court must hold a hearing on the matter.
- ▶ The hearing must occur before sentencing or disposition.
- ▶ The court must determine at the hearing whether the exception applies and whether the individual or juvenile is required to register under the SORA. MCL 28.723a(1).

Burden of proof

The individual or the juvenile must establish by a preponderance of the evidence at the hearing “that his or her conduct falls within the exceptions described in [MCL 28.722(u)(v), MCL 28.722(u)(vi), or MCL 28.722(w)(iv)] and that he or she is therefore not required to register under [the SORA].” MCL 28.723a(2).

Rules of Evidence

Except for the rules regarding privileges and protections provided in MCL 750.520j (Rape Shield Statute), the rules of evidence do not apply to the hearing. MCL 28.723a(3).

Hearing Procedure

- ▶ The prosecutor must notify the victim of the date, time, and place of the hearing. MCL 28.723a(4).
- ▶ The victim may exercise the following rights at the hearing:
 - ▶ The victim may submit a written statement to the court.
 - ▶ The victim may attend the hearing and make a written or oral statement at the hearing.
 - ▶ The victim may refuse to attend the hearing.
 - ▶ The victim may attend the hearing and refuse to testify or make a statement. MCL 28.723a(5)(a)-(d).
- ▶ “The court’s decision excusing or requiring the individual to register is a final order of the court and may be appealed by the prosecuting attorney or the individual as a matter of right.” MCL 28.723a(6).

Petitioning to Discontinue Registration

Authority to Petition

MCL 28.728c “is the sole means by which an individual may obtain judicial review of his or her registration requirements under [the SORA].” MCL 28.728c(4). A petition must be filed in the court where the individual was convicted of the listed offense. *Id.* “However, if the conviction occurred in another state or country and the individual is a resident of [Michigan], the individual may file a petition in the circuit court in the county of his or her residence for an order allowing him or her to discontinue registration under [the SORA] only.” *Id.* An individual is prohibited from filing a petition under MCL 28.728c “if a previous petition was filed . . . and was denied by the court after a hearing.” MCL 28.728c(4).

Contents of Petition

A petition made under MCL 28.728c must be made under oath and must contain all of the following information:

- ▶ The petitioner’s name and address.
- ▶ Identification of the offense for which the petitioner is requesting to discontinue registration.
- ▶ Whether the individual was previously convicted of a listed offense requiring registration under the SORA. MCL 28.728c(5)(a)-(c).

A petitioner who knowingly makes a false statement in a petition filed under MCL 28.728c is guilty of perjury under MCL 750.423. MCL 28.728c(6).

Petition Procedure

At least 30 days before a hearing is held on the petition, a copy of the petition must be filed with the prosecuting attorney’s office that prosecuted the case against the petitioner or, if the conviction occurred in another state or country, the petition must be filed with the prosecuting attorney’s office in the petitioner’s county of residence. MCL 28.728c(7). The prosecuting attorney may participate in all proceedings concerning the petition and may seek appellate review of a decision on the petition. *Id.*

Victim Notification of Petition

“If the name of the victim of the offense is known by the prosecuting attorney, the prosecuting attorney shall provide the victim with written notice that a petition has been filed and shall provide the victim with a copy of the petition. The notice shall be sent by first-class mail to the victim’s last known address. The petition shall include a statement of the victim’s rights under [MCL 28.728c(10)].” MCL 28.728c(8). “The victim has the right to attend all proceedings under [MCL 28.728c] and to make a written or oral statement to the court before any decision regarding the petition is made. A victim shall not be required to appear at any proceeding under [MCL 28.728c] against his or her will.” MCL 28.728c(10). (*Note: No substantive changes were made to these provisions by 2011 PA 18.*)

Hearing on the Petition

If the petition is properly filed with the court, the court must conduct a hearing on the petition as provided in MCL 28.728c. MCL 28.728c(9). (*Note: No substantive changes were made to this provision by 2011 PA 18.*)

Tier I Offenders Petitioning to Discontinue Registration

A person classified as a tier I offender who satisfies the requirements of MCL 28.728c(12) may petition the court for an order permitting him or her to discontinue registration under the SORA. MCL 28.728c(1). The court may grant a tier I offender's properly filed petition if all of the following apply:

- “(a) Ten or more years have elapsed since the date of [the petitioner's] conviction for the listed offense or from [the petitioner's] release from any period of confinement for that offense, whichever occurred last.
- “(b) The petitioner has not been convicted of any felony since the date described in subdivision (a).
- “(c) The petitioner has not been convicted of any listed offense since the date described in subdivision (a).
- “(d) The petitioner successfully completed his or her assigned periods of supervised release, probation, or parole without revocation at any time of that supervised release, probation, or parole.
- “(e) The petitioner successfully completed a sex offender treatment program certified by the United States attorney general under 42 USC 16915(b)(1), or another appropriate sex offender treatment program. The court may waive the requirements of this subdivision if successfully completing a sex offender treatment program was not a condition of the petitioner's confinement, release, probation, or parole.” MCL 28.728c(12).

Tier III Offenders Petitioning to Discontinue Registration

A person classified as a tier III offender who satisfies the requirements of MCL 28.728c(13) may petition the court for an order permitting him or her to discontinue registration under the SORA. MCL 28.728c(2). The court may grant a tier III offender's properly filed petition if all of the following apply:

- “(a) The petitioner is required to register based on an order of disposition entered under . . . MCL 712A.18, that is open to the general public under . . . MCL 712A.28.
- “(b) Twenty-five or more years have elapsed since the date of his or her adjudication for the listed offense or from his or her release from any period of confinement for that offense, whichever occurred last.
- “(c) The petitioner has not been convicted of any felony since the date described in subdivision (b).
- “(d) The petitioner has not been convicted of any listed offense since the date described in subdivision (b).
- “(e) The petitioner successfully completed his or her assigned periods of supervised release, probation, or parole without revocation at any time of that supervised release, probation, or parole.
- “(f) The court determines that the petitioner successfully completed a sex offender treatment program certified by the United States attorney general under 42 USC 16915(b)(1), or another appropriate sex offender treatment program. The court may waive the requirements of this subdivision if successfully completing a sex offender treatment program was not a condition of the petitioner's confinement, release, probation, or parole.” MCL 28.728c(13).

Court's Duty to Consider Information When Deciding on a Petition Under MCL 28.728c(12) or MCL 28.728c(13)

The court is required to consider the following information when determining whether to permit a petitioner to discontinue registration under MCL 28.728c(12) (tier I offenders) or MCL 28.728c(13) (tier III offenders), but the court “shall not grant the petition if the court determines that the individual is a continuing threat to the public[.]” MCL 28.728c(11). The court must consider:

- ▶ The petitioner’s age and level of maturity and the victim’s age and level of maturity at the time the offense was committed.
- ▶ The nature of the offense.
- ▶ The severity of the offense.
- ▶ The petitioner’s juvenile or criminal history.
- ▶ The likelihood that the petitioner will commit further listed offenses.
- ▶ Any impact statement submitted by a victim under the crime victim’s rights act or under MCL 28.728c.
- ▶ Any additional information the court considers relevant to its determination. MCL 28.728c(11).

Discontinuing Registration Under the Romeo & Juliet Provisions or for Juvenile Offenders Adjudicated for Offenses No Longer Requiring Registration

A person classified as a tier I, tier II, or tier III offender who satisfies the requirements of MCL 28.728c(14) (Romeo & Juliet provisions for petitioners already registered) or MCL 28.728c(15) (petitioners adjudicated as juveniles for offenses no longer requiring registration) may petition the court for an order permitting him or her to discontinue registration under the SORA. MCL 28.728c(3).

Romeo & Juliet provisions for registered offenders. MCL 28.728c(14) requires the court to grant a properly filed petition if the court determines that the petitioner’s conviction of the listed offense resulted from a consensual sexual act between the petitioner and the victim under any of the following circumstances:

- “(a) All of the following:
 - “(i) The victim was 13 years of age or older but less than 16 years of age at the time of the offense.
 - “(ii) The petitioner is not more than 4 years older than the victim.
- “(b) All of the following:
 - “(i) The individual was convicted of a violation of . . . MCL 750.158, [MCL] 750.338, [MCL] 750.338a, [or MCL] 750.338b.
 - “(ii) The victim was 13 years of age or older but less than 16 years of age at the time of the violation.
 - “(iii) The individual is not more than 4 years older than the victim.
- “(c) All of the following:
 - “(i) The individual was convicted of a violation of . . . MCL 750.158, [MCL] 750.338, [MCL] 750.338a, [MCL] 750.338b, [or MCL] 750.520c[(1)(i)].
 - “(ii) The victim was 16 years of age or older at the time of the violation.
 - “(iii) The victim was not under the custodial authority of the individual at the time of the violation.”

Juveniles adjudicated for offenses that no longer require registration. MCL 28.728c(15) requires the court to grant a properly filed petition if the court determines that either of the following apply:

- “(a) Both of the following:
 - “(i) The petitioner was adjudicated as a juvenile.
 - “(ii) The petitioner was less than 14 years of age at the time of the offense.
- “(b) The individual was registered under [the SORA] before July 1, 2011 for an offense that required registration but for which registration is not required on or after July 1, 2011.”

If a Petition to Discontinue Registration is Granted

If a court grants a petition filed under MCL 28.728c, the court must promptly provide a copy of the order to the department of state police and to the petitioner. MCL 28.728d. In addition, the department of state police must promptly remove the petitioner's registration from the computerized law enforcement database. *Id.*

Definitions Added or Modified by 2011 PA 17

“Convicted”

Convicted for purposes of the SORA means any of the following:

- ▶ a judgment of conviction or an order of probation entered in any court with jurisdiction over criminal offenses, including tribal and military courts. MCL 28.722(b)(i).
- ▶ a conviction set aside under MCL 780.621 to MCL 780.624. MCL 28.722(b)(i).
- ▶ assignment to youthful trainee status under MCL 762.11 to MCL 762.15 before October 1, 2004, unless the offender was permitted to discontinue his or her SORA registration as a result of a successful petition under MCL 28.728c, including a reduced period of registration extending to or past July 1, 2011, regardless of the tier designation on and after July 1, 2011. MCL 28.722(b)(ii)(A).
- ▶ assignment to youthful trainee status under MCL 762.11 to MCL 762.15 before October 1, 2004, if the offender is convicted of any other felony on or after July 1, 2011. MCL 28.722(b)(ii)(B).
- ▶ a juvenile order of disposition entered under MCL 712A.18, open to the public under MCL 712A.28, if the juvenile was at least 14 years of age when the offense was committed and the order of disposition is for an offense that would classify the juvenile as a tier III offender. MCL 28.722(b)(iii)(A)-(B).
- ▶ a juvenile order of disposition or other adjudication in another state or country if the juvenile was at least 14 years of age when the offense was committed and the order of disposition or other adjudication is for an offense that would classify the juvenile as a tier III offender. MCL 28.722(b)(iv)(A)-(B).

“Custodial Authority”

Custodial authority means one or more of the following apply:

- ▶ Actor was a member of the same household as the victim.
- ▶ Actor was related to the victim by blood or affinity to the fourth degree.
- ▶ Actor was in a position of authority over the victim and used the authority to coerce the victim's submission.
- ▶ Actor was a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which the victim was enrolled.
- ▶ Actor was an employee or contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which the victim was enrolled, or was a volunteer who was not a student at any public or nonpublic school, or was an employee of the state or of a local unit of government of this state or of the United States assigned to provide any service to that public or nonpublic school, school district, or intermediate school district, and the actor used his or her status as an employee, contractual worker, or volunteer status to gain access to, or to establish a relationship with, the victim.
- ▶ Victim was under the jurisdiction of the DOC and the actor was an employee or contractual employee of, or a volunteer with, the DOC who knew the victim was under the DOC's

jurisdiction and used his or her position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.

- ▶ Victim was under the jurisdiction of the DOC and the actor was an employee or a contractual employee of, or a volunteer with, a private vendor that operated a youth correctional facility under MCL 791.220g, who knew that the victim was under the jurisdiction of the DOC.
- ▶ Victim was a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor was an employee or contractual employee of, or a volunteer with, the county or the DOC who knew that the victim was under the county's jurisdiction and used his or her position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.
- ▶ Actor knew or had reason to know that a court had detained the victim in a facility while the victim awaited trial or a hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor was an employee or contractual employee of, or a volunteer with, the facility in which the victim was detained or committed. MCL 28.722(c)(i)-(ix).

“Employee”

Employee is a self-employed individual or a person who works for any other entity as a full- or part-time employee, contractual provider, or volunteer, without regard to whether he or she is financially compensated. MCL 28.722(e).

“Felony”

Felony means the term as it is defined in MCL 761.1. MCL 28.722(f).

“Immediately”

“Immediately’ means within 3 business days.” MCL 28.722(g).

“Indigent”

Indigent means a person to whom one or more of the following apply:

- ▶ A court has found the person to be indigent within the past six months.
- ▶ The person qualifies for and receives assistance from the department of human services food assistance program
- ▶ The person shows an annual income below the current federal poverty guidelines. MCL 28.722(h)(i)-(iii).

“Listed offense”

Listed offense means any tier I, tier II, or tier III offense. MCL 28.722(k).

“Minor”

Minor means a victim of a listed offense who was under age 18 at the time the offense was committed. MCL 28.722(l).

“Registering Authority”

Registering authority means the local law enforcement agency or sheriff's office with jurisdiction over the offender's residence, place of employment, or institution of higher education, or the nearest department

of state police post designated to receive or enter sex offender registration information within a registration jurisdiction. MCL 28.722(n).

“Registration Jurisdiction”

Registration jurisdiction means each of the 50 states, the district of Columbia, Puerto Rico, Guam, the northern Mariana islands, the United States Virgin Islands, American Samoa, and the Indian tribes within the United States that function as a registration jurisdiction. MCL 28.722(o).

“Residence”

Residence under SORA, for registration and voting purposes, means the place where a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If an individual has more than one residence or if one spouse has a residence separate from the other, the place where the person resides the greater part of the time is that person’s official residence. If an individual is homeless or otherwise does not have a fixed or temporary residence, residence means the village, city, or township where the person spends a majority of his or her time. This definition of *residence* applies only to the SORA and shall not be construed to affect any existing judicial interpretation of the term. MCL 28.722(p).

“Tier I Offender”

Tier I offender is an offender convicted of a tier I offense who is not a tier II or tier III offender. MCL 28.722(r).

“Tier II Offender”

Tier II offender is either (1) a tier I offender who is subsequently convicted of another tier I offense, or (2) an offender convicted of a tier II offense who is not a tier III offender. MCL 28.722(t)(i)-(ii).

“Tier III Offender”

Tier III offender is either (1) a tier II offender subsequently convicted of a tier I or tier II offense, or (2) an offender convicted of a tier III offense. MCL 28.722(w)(i)-(ii).