

ADAM WALSH REAUTHORIZATION ACT OF 2017

MAY 22, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLATTE, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1188]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1188) to reauthorize certain programs established by the Adam Walsh Child Protection and Safety Act of 2006, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The Amendment

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Adam Walsh Reauthorization Act of 2017”.

SEC. 2. SEX OFFENDER MANAGEMENT ASSISTANCE (SOMA) PROGRAM REAUTHORIZATION.

Section 126(d) of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16926(d)) is amended to read as follows:

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General \$20,000,000 for each of the fiscal years 2018 through 2022, to be available only for the SOMA program.”.

SEC. 3. REAUTHORIZATION OF FEDERAL ASSISTANCE WITH RESPECT TO VIOLATIONS OF REGISTRATION REQUIREMENTS.

Section 142(b) of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16941(b)) is amended to read as follows:

“(b) For each of fiscal years 2018 through 2022, of amounts made available to the United States Marshals Service, not less than \$60,000,000 shall be available to carry out this section.”.

SEC. 4. DURATION OF SEX OFFENDER REGISTRATION REQUIREMENTS FOR CERTAIN JUVENILES.

Subparagraph (B) of section 115(b)(2) of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16915(b)(2)) is amended by striking “25 years” and inserting “15 years”.

SEC. 5. PUBLIC ACCESS TO JUVENILE SEX OFFENDER INFORMATION.

Section 118(c) of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16918(c)) is amended—

(1) by striking “and” after the semicolon in paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

“(4) any information about a sex offender for whom the offense giving rise to the duty to register was an offense for which the offender was adjudicated delinquent; and”.

SEC. 6. PROTECTION OF LOCAL GOVERNMENTS FROM STATE NONCOMPLIANCE PENALTY UNDER SORNA.

Section 125 of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16925(a)) is amended—

(1) by striking “jurisdiction” each place it appears and inserting “State”;

(2) in subsection (a)—

(A) by striking “subpart 1 of part E” and inserting “section 505(c)”; and

(B) by striking “(42 U.S.C. 3750 et seq.)” and inserting “(42 U.S.C. 3755(c))”; and

(3) by adding at the end the following:

“(e) CALCULATION OF ALLOCATION TO UNITS OF LOCAL GOVERNMENT.—Notwithstanding the formula under section 505(c) of the Omnibus Crime Control and Safe Streets Act 1968 (42 U.S.C. 3755(c)), a State which is subject to a reduction in funding under subsection (a) shall—

“(1) calculate the amount to be made available to units of local government by the State pursuant to the formula under section 505(c) using the amount that would otherwise be allocated to that State for that fiscal year under section 505(c) of that Act, and make such amount available to such units of local government; and

“(2) retain for the purposes described in section 501 any amount remaining after the allocation required by paragraph (1).”.

SEC. 7. ADDITIONAL INFORMATION TO BE INCLUDED IN ANNUAL REPORT ON ENFORCEMENT OF REGISTRATION REQUIREMENTS.

Section 635 of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16991) is amended—

(1) by striking “Not later than July 1 of each year” and inserting “On January 1 of each year.”;

(2) in paragraph (3), by inserting before the semicolon at the end the following: “, and an analysis of any common reasons for noncompliance with such Act”;

(3) in paragraph (4), by striking “and” at the end;

(4) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(5) by adding after paragraph (5) the following:

“(6) the number of sex offenders registered in the National Sex Offender Registry;

“(7) the number of sex offenders registered in the National Sex Offender Registry who—

“(A) are adults;

“(B) are juveniles; and

“(C) are adults, but who are required to register as a result of conduct committed as a juvenile; and

“(8) to the extent such information is obtainable, of the number of sex offenders registered in the National Sex Offender Registry who are juveniles—

“(A) the percentage of such offenders who were adjudicated delinquent;

and

“(B) the percentage of such offenders who were prosecuted as adults.”.

SEC. 8. ENSURING SUPERVISION OF RELEASED SEXUALLY DANGEROUS PERSONS.

(a) PROBATION OFFICERS.—Section 3603 of title 18, United States Code, is amended in paragraph (8)(A) by striking “or 4246” and inserting “, 4246, or 4248”.

(b) PRETRIAL SERVICES OFFICERS.—Section 3154 of title 18, United States Code, is amended in paragraph (12)(A) by striking “or 4246” and inserting “, 4246, or 4248”.

SEC. 9. CIVIL REMEDY FOR SURVIVORS OF CHILD SEXUAL EXPLOITATION AND HUMAN TRAFFICKING.

Section 2255(b) of title 18, United States Code, is amended—

(1) by striking “three years” and inserting “10 years”; and

(2) by inserting “ends” before the period at the end.

SEC. 10. TRIBAL ACCESS PROGRAM.

The Attorney General is authorized to provide technical assistance, including equipment, to tribal governments for the purpose of enabling such governments to access, enter information into, and obtain information from, Federal criminal information databases, as authorized under section 534(d) of title 28, United States Code. The Department of Justice Working Capital Fund (established under section 527 of title 28, United States Code) may be reimbursed by federally recognized tribes for technical assistance provided pursuant to this section.

SEC. 11. ALTERNATIVE MECHANISMS FOR IN-PERSON VERIFICATION.

Section 116 of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16916) is amended—

(1) by striking “A sex offender shall” and inserting the following:

“(a) IN GENERAL.—Except as provided in subsection (b), a sex offender shall”; and

(2) by adding at the end the following:

“(b) ALTERNATIVE VERIFICATION METHOD.—A jurisdiction may allow a sex offender to comply with the requirements under subsection (a) by an alternative verification method approved by the Attorney General, except that each offender shall appear in person not less than one time per year. The Attorney General shall approve an alternative verification method described in this subsection prior to its implementation by a jurisdiction in order to ensure that such method provides for verification that is sufficient to ensure the public safety.”.

SEC. 12. CLARIFICATION OF AGGRAVATED SEXUAL ABUSE.

Section 111(8) of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16911(8)) is amended by inserting “subsection (a) or (b) of” before “section 2241 of title 18, United States Code”.

SEC. 13. COMPREHENSIVE EXAMINATION OF SEX OFFENDER ISSUES.

Section 634(c) of the Adam Walsh Child Protection and Safety Act of 2006 is amended by adding at the end the following:

“(3) ADDITIONAL REPORT.—Not later than one year after the date of enactment of the Adam Walsh Reauthorization Act of 2017, the National Institute of Justice shall submit to Congress a report on the public safety impact, recidivism, and collateral consequences of long-term registration of juvenile sex offenders, based on the information collected for the study under subsection (a) and any other information the National Institute of Justice determines necessary for such report.”.

Purpose and Summary

H.R. 1188, the Adam Walsh Reauthorization Act of 2017, would reauthorize the two primary programs of the Adam Walsh Act for five years: the Sex Offender Management Assistance Program and the Sex Offender Registration and Notification Act (“SORNA”)—for five years. H.R. 1188 also makes targeted changes to the SORNA requirements to encourage SORNA implementation, such as lowering the length of time certain juveniles must register, allowing non-public registry of juveniles, providing additional aid to tribal programs in supervising offenders, and allowing alternate verification methods for those in rural areas. H.R. 1188 also requires adequate supervision of dangerous sex offenders by pretrial services and parole officers, and amends the statute of limitations to allow individuals who were victims of exploitation or trafficking as juveniles to have 10 years after becoming an adult to file suit for a civil remedy.

Background and Need for the Legislation

In 1994, Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. This legislation mandated that states track violent sex offenders and established guidelines for tracking those offenders. Over the years, Congress continued its vigilance in tracking sex offenders, which ultimately culminated in a comprehensive piece of legislation titled the Adam Walsh Child Protection and Safety Act of 2006 (“the Adam Walsh Act”). The Adam Walsh Act created a new baseline standard for jurisdictions to implement regarding sex offender registration and notification, and expanded the number of sex offenses that must be captured by registration jurisdictions. Additionally, it created the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (“SMART Office”) within the Department of Justice’s Office of Justice Programs, to administer the standards for sex offender notification and registration, administer the grant programs authorized by the Adam Walsh Act, and coordinate related training and technical assistance.

Title I of the Adam Walsh Act, the Sex Offender Registration and Notification Act (“SORNA”),¹ establishes minimum national standards for sex offender registration and notification in the jurisdictions to which it applies. The class of offenders required to register includes anyone found in the United States and previously convicted of a Federal, State, local, tribal, military, or foreign “qualifying offense,” although, strictly speaking, violations of the laws of the District of Columbia or U.S. territories are not specifically mentioned as qualifying offenses. Offenders must register in each state or territory in which they live, work, or attend school. There are five classes of qualifying offenses: (1) crimes identified as one of the specific offenses against a minor; (2) crimes in which some sexual act or sexual conduct is an element; (3) designated federal sex offenses; (4) specified military offenses; and (5) attempts or conspiracy to commit any offense in the other four classes of qualifying offenses. The inventory of qualifying offenses is subject to exception. Conviction for an otherwise qualifying foreign offense does not

¹ 42 U.S.C. § 16901 *et seq.*

necessitate registration if it was not secured in a manner that satisfies minimal due process requirements under guidelines or regulations promulgated by the Attorney General. Nor does conviction of a consensual sex offense require registration if the victim is an adult not in the custody of the offender, or if the victim is 13 years of age or older and the offender is no more than four years older. Finally, juvenile delinquency adjudications do not constitute qualifying convictions unless the offender is 14 years of age or older at the time of the misconduct and the misconduct adjudicated is comparable to, or more severe than, aggravated sexual assault or attempt or conspiracy to commit such an offense.

Those required to register must provide their name, Social Security number, the name and address of their employer(s), the name and address of places where they attend school, and the license plate numbers and descriptions of vehicles they own or operate. The jurisdiction of registration must also include a physical description and current photograph of the registrant and a copy of his driver's license or government issued identification card; a set of fingerprints, palm prints, and a DNA sample; the text of the law under which he was convicted; a criminal record that includes the dates of any arrests and convictions, any outstanding warrants, as well as parole, probation, supervisory release, and registration status; and any other information required by the Attorney General. The regularity with which registrants must appear for new photographs and to verify their registration information depends upon their status. It is at least every three months for Tier III offenders. Tier II offenders must reappear no less frequently than every six months. Tier I offenders must reappear for new photographs and verification at least once a year. Tier I offenders must maintain their registration for 15 years, which can be reduced to 10 years. Tier II offenders must maintain their registration for 25 years. Tier III offenders must maintain their registration for life, which can be reduced to 25 years in certain cases.²

The Act makes failure to register a federal crime for offenders convicted of a federal qualifying offense, or who travel in interstate commerce, or who travel in Indian country, or who live in Indian country. Violations are punishable by imprisonment for not more than 10 years and by an additional penalty, to be served consecutively, of not less than five or more than 30 years if the offender commits a crime of violence. Moreover, violation exposes an offender to a term of supervised release for not less than five years

²Tier III offenders are those convicted of a felony constituting or at least comparable in severity to kidnaping (other than by a parent or guardian); or to the felonious commission of, or attempt or conspiracy to commit, abusive sexual contact against a child under 13 years of age, or sexual abuse or aggravated sexual abuse; or those who have previously qualified as Tier II offenders at the time of conviction. They must appear to verify registration every three months. Tier II offenders must reappear no less frequently than every six months. Tier II offenders are those with a felony conviction for violation of either: one of several designated federal sex offenses (or at least its equivalent in severity), or one of three generically described sex offenses. The federal offenses are violations of 18 U.S.C. §§ 1591 (sex trafficking), 2422(b) (use of a facility in interstate or foreign commerce to coerce or entice a child to engage in illicit sexual activity), 2423(a) (interstate transportation of a child for illicit sexual purposes), 2244 (abusive sexual contact). The generic offenses are use of a child in a sexual performance, solicitation of a child to practice prostitution, and production or distribution of child pornography. An offender is also a Tier II offender who prior to the conviction triggering the registration requirement was already been classified as a Tier I offender. Tier I offenders are those required to register who are neither Tier II nor Tier III offenders, and must reappear for new photographs and verification at least once a year.

or for life. If the offender is a foreign national, he becomes deportable upon conviction.

The Act establishes, reinforces, and revives several grant programs devoted to child and community safety. It also includes a wide assortment of other provisions designed to prevent, prosecute, or punish the victimization of children. Among them are sections that broaden access to federal criminal records information systems, create a national child abuse registry, expand recordkeeping requirements for those in the business of producing sexually explicit material, immunize officials from civil liability for activities involving sexual offender registration, and authorize and direct the Department of Justice to establish and maintain a number of child protective activities.

1. Challenges in the implementation of SORNA

SORNA provides a financial incentive for eligible jurisdictions to adopt its standards by requiring a 10 percent reduction of federal justice assistance funding to an eligible jurisdiction if the Attorney General determines that the jurisdiction has failed to “substantially implement” the program. SORNA also directs the Attorney General to issue guidelines and regulations to interpret and implement SORNA. The SMART Office assists all jurisdictions in their SORNA implementation efforts and determines whether the jurisdiction has substantially implemented SORNA’s requirements in their registration and notification programs. “Jurisdictions” in the relevant sense are the 50 states, the District of Columbia, the five principal U.S. territories, and federally recognized Indian tribes that satisfy certain criteria.³

Initially, states had until July 27, 2009, to comply with provisions of the Act or face a 10 percent reduction to Byrne law enforcement assistance grants. A one-year blanket extension was granted by the Attorney General in May 2009. In 2010, another extension was granted by the Attorney General to all states that requested one; therefore, in order to receive funding, states were to comply by July 2011.

To date, 128 jurisdictions (17 states, 108 tribes and 3 territories) have substantially implemented SORNA’s requirements. States that are not in substantial compliance cite trouble complying with the retroactivity of the law; a stated preference toward individualized assessment versus a system based on crime of the offense; and a reluctance to place juveniles on the registry, as hurdles toward coming into compliance. Historically, the juvenile registration system has faced the most scrutiny as the federal government attempts to implement SORNA requirements across all jurisdictions. However, the guidelines issued by the SMART office in August 2016 significantly allay the concerns jurisdictions had previously expressed and allow jurisdictions with discretionary systems for juveniles to be considered “in compliance.”

2. Juvenile registration

Historically, one asserted problem for jurisdictions declining to implement SORNA guidelines is the juvenile registration requirement. Despite the guidelines yielding a great deal of discretion in

³ 42 U.S.C. § 16911(10).

this arena, states are reporting a large amount of push-back in placing juveniles on sex-offender lists. In addition to requiring registration based on adult convictions for sex offenses, SORNA includes as covered “sex offender[s]” juveniles at least 14 years old who have been adjudicated delinquent for particularly serious sex offenses.⁴ In relation to the juvenile registration requirement, as in other contexts, the SMART Office “consider[s] on a case-by-case basis whether jurisdictions’ procedures that do not exactly follow the provisions of SORNA . . . ‘substantially’ implement SORNA, assessing whether the departure from a SORNA requirement will or will not substantially disserve the objectives of the requirement.”⁵

The SORNA Guidelines, implemented in 2008, explained in particular that substantial implementation of SORNA need not include registration of juveniles adjudicated delinquent for certain lesser offenses within the scope of SORNA’s juvenile registration provisions. The Guidelines stated that jurisdictions can achieve substantial implementation if they cover offenses by juveniles, at least 14 years old, that consist of engaging (or attempting or conspiring to engage) in a sexual act with another by force, the threat of serious violence, or by rendering unconscious or drugging the victim.⁶ This interpretation of substantial implementation addressed concerns about the potential registration of juveniles in some circumstances based on consensual sexual activity with other juveniles, which is outside the scope of the coverage required by the Guidelines.⁷

The Supplemental Guidelines, implemented in 2011, noted that the SORNA Guidelines had endeavored to facilitate jurisdictions’ compliance with SORNA’s registration requirement for “juveniles at least 14 years old who are adjudicated delinquent for particularly serious sex offenses,” but that “resistance by some jurisdictions to public disclosure of information about sex offenders in this class has continued to be one of the largest impediments to SORNA implementation.”⁸ The Attorney General accordingly exercised his exemption authority “to allow jurisdictions to exempt from public . . . disclosure information concerning sex offenders required to register on the basis of juvenile delinquency adjudications.”⁹ This exemption did not change the requirement that such juveniles be registered and that information about them be transmitted or made available “to the national (non-public) databases of sex offender information, to law enforcement and supervision agencies.”

Most recently, the Juvenile Supplemental Guidelines, effective August 1, 2016, asserted that if a jurisdiction does not register juveniles at least 14 years old who are adjudicated delinquent for particularly serious sex offenses in exact conformity with SORNA’s provisions—for example, because the jurisdiction uses a discretionary process for determining such registration—the SMART Office will examine the following factors when assessing whether the jurisdiction has nevertheless substantially implemented SORNA’s juvenile registration requirements: (i) policies and practices to prosecute as adults juveniles who commit serious sex offenses; (ii) poli-

⁴ 42 U.S.C. § 16911(1), (8); *see id.* 16913 (setting forth registration requirements).

⁵ 73 FR at 38048.

⁶ *Id.* at 38050.

⁷ *See id.* at 38040–41.

⁸ 76 FR at 1636.

⁹ *Id.*

cies and practices to register juveniles adjudicated delinquent for serious sex offenses; and (iii) other policies and practices to identify, track, monitor, or manage juveniles adjudicated delinquent for serious sex offenses who are in the community and to ensure that the records of their identities and sex offenses are available as needed for public safety purposes.

Thus, a state may be in substantial compliance with SORNA even if it adopts an alternative process for dealing with juvenile registration.

A. Legislation

H.R. 1188, the Adam Walsh Reauthorization Act of 2017, would reauthorize the two primary programs of the Adam Walsh Act—the Sex Offender Management Assistance Program and SORNA—for five years. As explained, SORNA sets minimum guidelines for state sex offender registries and establishes the Dru Sjodin National Sex Offender Public Website, which is a comprehensive national system for the registration and notification to the public of sex offenders. The Sex Offender Management Assistance Program provides funding to the states, tribes, and other jurisdictions to offset the costs of implementing and enhancing SORNA, and funding for the U.S. Marshals Service and other law enforcement agencies to assist jurisdictions in locating and apprehending sex offenders who violate registration requirements.

H.R. 1188 also makes targeted changes to the SORNA requirements, in order to encourage the implementation of the Act. Notably, it gives states more flexibility in classifying sex offenders on their registry, lowering the period that juveniles must register from lifetime registration for a Tier III offense to 15 years where the juvenile had maintained a clean record. It would also permit states to limit public access to juvenile sex offender information. The bill also authorizes the Attorney General to provide technical assistance to tribal governments so they can access, enter information into, and obtain information from, Federal criminal information databases. Furthermore, it provides an alternative verification mechanism for in-person check-in, which would ease the burden on some jurisdictions that must expend time and money keeping track of offenders in rural areas.

Finally, H.R. 1188 amends the statute of limitations to allow individuals who were victims of exploitation or trafficking as juveniles to have 10 years after becoming an adult to file suit for a civil remedy. The current statute of limitations is 10 years. Children under 18, however, are unable to bring a lawsuit, and the law currently gives these individuals only three years after turning 18 to begin a lawsuit. This provision would give individuals who were abused as children a full 10 years from the time they are legally allowed to bring suit to pursue civil remedies against their abuser or trafficker.

Hearings

The Committee on the Judiciary held no hearings on H.R. 1188, but held a hearing on the subject of child exploitation generally on March 16, 2017.

Committee Consideration

On March 22, 2017, the Committee met in open session and ordered the bill H.R. 1188 favorably reported, an amendment, by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 1188.

1. An Amendment, offered by Mr. Conyers to give states discretion in determining whether juveniles who have committed aggravated sexual abuse should be placed on a sex offender registry. The amendment was defeated by a roll call vote of 11 to 15.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman		X	
Mr. Sensenbrenner, Jr. (WI)		X	
Mr. Smith (TX)			
Mr. Chabot (OH)			
Mr. Issa (CA)		X	
Mr. King (IA)			
Mr. Franks (AZ)		X	
Mr. Gohmert (TX)		X	
Mr. Jordan (OH)			
Mr. Poe (TX)		X	
Mr. Chaffetz (UT)		X	
Mr. Marino (PA)		X	
Mr. Gowdy (SC)		X	
Mr. Labrador (ID)			
Mr. Farenthold (TX)			
Mr. Collins (GA)			
Mr. DeSantis (FL)		X	
Mr. Buck (CO)		X	
Mr. Ratcliffe (TX)		X	
Ms. Roby (AL)		X	
Mr. Gaetz (FL)			
Mr. Johnson (LA)		X	
Mr. Biggs (AZ)		X	
Mr. Conyers, Jr. (MI), Ranking Member	X		
Mr. Nadler (NY)	X		
Ms. Lofgren (CA)			
Ms. Jackson Lee (TX)	X		
Mr. Cohen (TN)	X		
Mr. Johnson (GA)	X		
Mr. Deutch (FL)	X		
Mr. Gutierrez (IL)			
Ms. Bass (CA)			
Mr. Richmond (LA)			
Mr. Jeffries (NY)			
Mr. Cicilline (RI)			

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Swalwell (CA)	X		
Mr. Lieu (CA)	X		
Mr. Raskin (MD)	X		
Ms. Jayapal (WA)	X		
Mr. Schneider (IL)	X		
Total	11	15	

2. An Amendment, offered by Ms. Jackson Lee to give judicial discretion in determining whether juveniles over 14 adjudicated delinquent for aggravated sexual abuse should be placed on a sex offender registry. The amendment was defeated by a roll call vote of 11 to 17.

ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman		X	
Mr. Sensenbrenner, Jr. (WI)		X	
Mr. Smith (TX)		X	
Mr. Chabot (OH)		X	
Mr. Issa (CA)		X	
Mr. King (IA)			
Mr. Franks (AZ)			
Mr. Gohmert (TX)		X	
Mr. Jordan (OH)			
Mr. Poe (TX)		X	
Mr. Chaffetz (UT)		X	
Mr. Marino (PA)		X	
Mr. Gowdy (SC)		X	
Mr. Labrador (ID)			
Mr. Farenthold (TX)			
Mr. Collins (GA)			
Mr. DeSantis (FL)		X	
Mr. Buck (CO)		X	
Mr. Ratcliffe (TX)		X	
Ms. Roby (AL)		X	
Mr. Gaetz (FL)			
Mr. Johnson (LA)		X	
Mr. Biggs (AZ)		X	
Mr. Conyers, Jr. (MI), Ranking Member	X		
Mr. Nadler (NY)	X		
Ms. Lofgren (CA)			
Ms. Jackson Lee (TX)	X		
Mr. Cohen (TN)	X		
Mr. Johnson (GA)	X		
Mr. Deutch (FL)	X		
Mr. Gutierrez (IL)			
Ms. Bass (CA)			
Mr. Richmond (LA)			

ROLLCALL NO. 2—Continued

	Ayes	Nays	Present
Mr. Jeffries (NY)			
Mr. Cicilline (RI)	X		
Mr. Swalwell (CA)		X	
Mr. Lieu (CA)	X		
Mr. Raskin (MD)	X		
Ms. Jayapal (WA)	X		
Mr. Schneider (IL)	X		
Total	11	17	

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 1188, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 5, 2017.

Hon. BOB GOODLATTE, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1188, the Adam Walsh Reauthorization Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

KEITH HALL.

Enclosure

cc: Honorable John Conyers Jr.
Ranking Member

Duplication of Federal Programs

H.R. 1188—Adam Walsh Reauthorization Act of 2017

As ordered reported by the House Committee on the Judiciary on
March 22, 2017

Summary: H.R. 1188 would authorize the appropriation of \$80 million annually over the 2018–2022 period for Department of Justice (DOJ) activities related to the registration of sex offenders. Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 1188 would cost \$353 million over the 2018–2022 period.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 1188 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1188 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1188 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By fiscal year, in millions of dollars—					
	2018	2019	2020	2021	2022	2018–2022
Increases in spending subject to appropriation						
Authorization Level	80	80	80	80	80	400
Estimated Outlays	55	67	74	77	80	353

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted by the end of fiscal year 2017, the authorized amounts will be appropriated each year, and outlays will follow the historical rate of spending for the programs authorized by the legislation. Specifically, the bill would:

- Authorize the appropriation of \$20 million annually over the 2018–2022 period for DOJ to assist state and local governments with registering and monitoring sex offenders; and
- Authorize the appropriation of \$60 million annually over the 2018–2022 period for the U.S. Marshals Service to help local authorities locate and apprehend sex offenders who do not comply with the registration requirements.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 1188 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private-sector impact: H.R. 1188 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Mark Grabowicz; Impact on state, local, and tribal governments: Rachel Austin; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

Duplication of Federal Programs

No provision of H.R. 1188 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Disclosure of Directed Rule Makings

The Committee estimates that H.R. 1188 specifically directs to be completed no specific rule makings within the meaning of 5 U.S.C. § 551.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 1188 reauthorizes the Sex Offender Management Assistance program and enforcement of the Sex Offender Registration and Notification Act, and makes changes designed to encourage state and tribal implementation of the Adam Walsh Act.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1188 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

Section 1—Short Title. This section cites the short title of the bill as the “Adam Walsh Reauthorization Act of 2017”.

Section 2—Authorization of Sex Offender Management Assistance (SOMA). This section authorizes \$20 million annually for the SOMA program through Fiscal Year 2022. While a number of other programs existed under the original Adam Walsh Act, this is the only program which has ever been funded on an annual basis.

Section 3—Reauthorization of Federal Assistance with Respect to Violations of Registration Requirements. This section reauthorizes funding for federal law enforcement, including the United States Marshals Service, to assist local jurisdictions in locating and apprehending sex offenders who violate the registration requirements of their state. It removes language authorizing “such sums as may be necessary” and authorizes \$66.3 million annually through FY 2021. This is consistent with recent appropriations for this program.

Section 4—Duration of Sex Offender Registration Requirements for Certain Juveniles. In order for the states to receive full funding under the law, they must be in “substantial compliance” with the standards Congress has set. The Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office at Department of Justice works with the states to help them shape policy that substantially complies with the Act’s standards.

One of the standards Congress put in the original Act was a requirement for a tiered system of classifying offenders. Tier I offenders have to register for 15 years, Tier II for 25, and Tier III for life. The law also allowed states to reduce those requirements in certain cases. One such reduction was that a juvenile adjudicated for a Tier III offense could petition for de-registration at 25 years, if the offender kept a clean record. This section reduces that time to 15 years.

This section would not apply to cases in which the minor was prosecuted as an adult; it applies only to cases in which a prosecutor decided to adjudicate the charge in the juvenile system.

Section 5—Public Access to Juvenile Sex Offender Information. This section adds an optional exemption to the requirements of what needs to be made available on each state’s sex offender registry. Specifically, it gives states the option to not list certain information about a juvenile offender who was adjudicated delinquent. Similar to Section 4, this section applies only to juveniles who are adjudicated delinquent, not anyone prosecuted as an adult.

Section 6—Protection of Local Governments from State Non-compliance Penalty under SORNA. This section makes technical changes to the provision that encourages states to comply with the Adam Walsh Act, to clarify that the Byrne JAG money that is withheld is reserved for reallocation in accordance with 42 U.S.C. § 16925(c).

Section 7—Comprehensive Examination of Sex Offender Issues. This section requires reporting to Congress by January 1 of each year on implementation of the Adam Walsh Act. It requires the report to include common reasons for noncompliance across states as well as the number of adults and juveniles (and those who are adults but registered for conduct committed as a juvenile) registered in the National Sex Offender Registry.

Section 8—Ensuring Supervision of Released Sexually Dangerous Persons. This section requires parole officers and pretrial service officers to stay informed as to the conduct and provide supervision of “sexually dangerous persons” released into their supervision pursuant to 18 U.S.C. § 4248.

Section 9—Civil Remedy for Survivors of Exploitation and Trafficking. This section amends the statute of limitations to allow individuals who were victims of exploitation or trafficking as juveniles to have 10 years after becoming an adult to file suit for a civil remedy.

The current statute of limitations is 10 years. Children under 18, however, are unable to bring a lawsuit, and the law currently gives them three years after turning 18 to begin a lawsuit. This provision would give individuals abused as children a full 10 years from the time they are legally allowed to bring suit, to pursue a civil remedy against their abuser or trafficker.

Section 10—Tribal Access Program. This section authorizes the Department of Justice to provide technical assistance to Tribal law enforcement agencies for the purpose of obtaining information from Federal criminal information databases, pursuant to existing law.

Section 11—Alternative Mechanisms for In-Person Verification. This section allows jurisdictions to establish alternative means to comply with the in-person check in requirement, provided that the

Attorney General approves the verification mechanism and every offender must appear in person at least once per year.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF
2006**

* * * * *

**TITLE I—SEX OFFENDER
REGISTRATION AND NOTIFICATION ACT**

* * * * *

**Subtitle A—Sex Offender Registration and
Notification**

**SEC. 111. RELEVANT DEFINITIONS, INCLUDING AMIE ZYLA EXPANSION
OF SEX OFFENDER DEFINITION AND EXPANDED INCLU-
SION OF CHILD PREDATORS.**

In this title the following definitions apply:

(1) **SEX OFFENDER.**—The term “sex offender” means an individual who was convicted of a sex offense.

(2) **TIER I SEX OFFENDER.**—The term “tier I sex offender” means a sex offender other than a tier II or tier III sex offender.

(3) **TIER II SEX OFFENDER.**—The term “tier II sex offender” means a sex offender other than a tier III sex offender whose offense is punishable by imprisonment for more than 1 year and—

(A) is comparable to or more severe than the following offenses, when committed against a minor, or an attempt or conspiracy to commit such an offense against a minor:

(i) sex trafficking (as described in section 1591 of title 18, United States Code);

(ii) coercion and enticement (as described in section 2422(b) of title 18, United States Code);

(iii) transportation with intent to engage in criminal sexual activity (as described in section 2423(a) of title 18, United States Code);

(iv) abusive sexual contact (as described in section 2244 of title 18, United States Code);

(B) involves—

(i) use of a minor in a sexual performance;

(ii) solicitation of a minor to practice prostitution; or

(iii) production or distribution of child pornography;

or

- (C) occurs after the offender becomes a tier I sex offender.
- (4) TIER III SEX OFFENDER.—The term “tier III sex offender” means a sex offender whose offense is punishable by imprisonment for more than 1 year and—
- (A) is comparable to or more severe than the following offenses, or an attempt or conspiracy to commit such an offense:
- (i) aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code); or
 - (ii) abusive sexual contact (as described in section 2244 of title 18, United States Code) against a minor who has not attained the age of 13 years;
- (B) involves kidnapping of a minor (unless committed by a parent or guardian); or
- (C) occurs after the offender becomes a tier II sex offender.
- (5) AMIE ZYLA EXPANSION OF SEX OFFENSE DEFINITION.—
- (A) GENERALLY.—Except as limited by subparagraph (B) or (C), the term “sex offense” means—
- (i) a criminal offense that has an element involving a sexual act or sexual contact with another;
 - (ii) a criminal offense that is a specified offense against a minor;
 - (iii) a Federal offense (including an offense prosecuted under section 1152 or 1153 of title 18, United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of title 18, United States Code;
 - (iv) a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or
 - (v) an attempt or conspiracy to commit an offense described in clauses (i) through (iv).
- (B) FOREIGN CONVICTIONS.—A foreign conviction is not a sex offense for the purposes of this title if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established under section 112.
- (C) OFFENSES INVOLVING CONSENSUAL SEXUAL CONDUCT.—An offense involving consensual sexual conduct is not a sex offense for the purposes of this title if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.
- (6) CRIMINAL OFFENSE.—The term “criminal offense” means a State, local, tribal, foreign, or military offense (to the extent specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note)) or other criminal offense.
- (7) EXPANSION OF DEFINITION OF “SPECIFIED OFFENSE AGAINST A MINOR” TO INCLUDE ALL OFFENSES BY CHILD PREDA-

TORS.—The term “specified offense against a minor” means an offense against a minor that involves any of the following:

(A) An offense (unless committed by a parent or guardian) involving kidnapping.

(B) An offense (unless committed by a parent or guardian) involving false imprisonment.

(C) Solicitation to engage in sexual conduct.

(D) Use in a sexual performance.

(E) Solicitation to practice prostitution.

(F) Video voyeurism as described in section 1801 of title 18, United States Code.

(G) Possession, production, or distribution of child pornography.

(H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.

(I) Any conduct that by its nature is a sex offense against a minor.

(8) CONVICTED AS INCLUDING CERTAIN JUVENILE ADJUDICATIONS.—The term “convicted” or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in *subsection (a) or (b) of section 2241 of title 18, United States Code*), or was an attempt or conspiracy to commit such an offense.

(9) SEX OFFENDER REGISTRY.—The term “sex offender registry” means a registry of sex offenders, and a notification program, maintained by a jurisdiction.

(10) JURISDICTION.—The term “jurisdiction” means any of the following:

(A) A State.

(B) The District of Columbia.

(C) The Commonwealth of Puerto Rico.

(D) Guam.

(E) American Samoa.

(F) The Northern Mariana Islands.

(G) The United States Virgin Islands.

(H) To the extent provided and subject to the requirements of section 127, a federally recognized Indian tribe.

(11) STUDENT.—The term “student” means an individual who enrolls in or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.

(12) EMPLOYEE.—The term “employee” includes an individual who is self-employed or works for any other entity, whether compensated or not.

(13) RESIDES.—The term “resides” means, with respect to an individual, the location of the individual’s home or other place where the individual habitually lives.

(14) MINOR.—The term “minor” means an individual who has not attained the age of 18 years.

* * * * *

SEC. 115. DURATION OF REGISTRATION REQUIREMENT.

(a) **FULL REGISTRATION PERIOD.**—A sex offender shall keep the registration current for the full registration period (excluding any time the sex offender is in custody or civilly committed) unless the offender is allowed a reduction under subsection (b). The full registration period is—

- (1) 15 years, if the offender is a tier I sex offender;
- (2) 25 years, if the offender is a tier II sex offender; and
- (3) the life of the offender, if the offender is a tier III sex offender.

(b) **REDUCED PERIOD FOR CLEAN RECORD.**—

(1) **CLEAN RECORD.**—The full registration period shall be reduced as described in paragraph (3) for a sex offender who maintains a clean record for the period described in paragraph (2) by—

- (A) not being convicted of any offense for which imprisonment for more than 1 year may be imposed;
- (B) not being convicted of any sex offense;
- (C) successfully completing any periods of supervised release, probation, and parole; and
- (D) successfully completing of an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General.

(2) **PERIOD.**—In the case of—

- (A) a tier I sex offender, the period during which the clean record shall be maintained is 10 years; and
- (B) a tier III sex offender adjudicated delinquent for the offense which required registration in a sex registry under this title, the period during which the clean record shall be maintained is **[25 years]** *15 years*.

(3) **REDUCTION.**—In the case of—

- (A) a tier I sex offender, the reduction is 5 years;
- (B) a tier III sex offender adjudicated delinquent, the reduction is from life to that period for which the clean record under paragraph (2) is maintained.

SEC. 116. PERIODIC IN PERSON VERIFICATION.

[A sex offender shall] (a) *IN GENERAL.*—*Except as provided in subsection (b), a sex offender shall appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which that offender is required to be registered not less frequently than—*

- (1) each year, if the offender is a tier I sex offender;
 - (2) every 6 months, if the offender is a tier II sex offender;
- and
- (3) every 3 months, if the offender is a tier III sex offender.

(b) *ALTERNATIVE VERIFICATION METHOD.*—*A jurisdiction may allow a sex offender to comply with the requirements under subsection (a) by an alternative verification method approved by the Attorney General, except that each offender shall appear in person not less than one time per year. The Attorney General shall approve an alternative verification method described in this subsection prior to its implementation by a jurisdiction in order to ensure that such*

method provides for verification that is sufficient to ensure the public safety.

* * * * *

SEC. 118. PUBLIC ACCESS TO SEX OFFENDER INFORMATION THROUGH THE INTERNET.

(a) **IN GENERAL.**—Except as provided in this section, each jurisdiction shall make available on the Internet, in a manner that is readily accessible to all jurisdictions and to the public, all information about each sex offender in the registry. The jurisdiction shall maintain the Internet site in a manner that will permit the public to obtain relevant information for each sex offender by a single query for any given zip code or geographic radius set by the user. The jurisdiction shall also include in the design of its Internet site all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General.

(b) **MANDATORY EXEMPTIONS.**—A jurisdiction shall exempt from disclosure—

- (1) the identity of any victim of a sex offense;
- (2) the Social Security number of the sex offender;
- (3) any reference to arrests of the sex offender that did not result in conviction; and
- (4) any other information exempted from disclosure by the Attorney General.

(c) **OPTIONAL EXEMPTIONS.**—A jurisdiction may exempt from disclosure—

- (1) any information about a tier I sex offender convicted of an offense other than a specified offense against a minor;
- (2) the name of an employer of the sex offender;
- (3) the name of an educational institution where the sex offender is a student; **[and]**
- (4) *any information about a sex offender for whom the offense giving rise to the duty to register was an offense for which the offender was adjudicated delinquent; and*
- [(4)] (5)** any other information exempted from disclosure by the Attorney General.

(d) **LINKS.**—The site shall include, to the extent practicable, links to sex offender safety and education resources.

(e) **CORRECTION OF ERRORS.**—The site shall include instructions on how to seek correction of information that an individual contends is erroneous.

(f) **WARNING.**—The site shall include a warning that information on the site should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported address. The warning shall note that any such action could result in civil or criminal penalties.

* * * * *

SEC. 125. FAILURE OF JURISDICTION TO COMPLY.

(a) **IN GENERAL.**—For any fiscal year after the end of the period for implementation, a **[jurisdiction]** *State* that fails, as determined by the Attorney General, to substantially implement this title shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the **[jurisdiction]** *State* under **[subpart**

1 of part E] *section 505(c)* of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [(42 U.S.C. 3750 et seq.)] (42 U.S.C. 3755(c)).

(b) STATE CONSTITUTIONALITY.—

(1) IN GENERAL.—When evaluating whether a [jurisdiction] *State* has substantially implemented this title, the Attorney General shall consider whether the [jurisdiction] *State* is unable to substantially implement this title because of a demonstrated inability to implement certain provisions that would place the [jurisdiction] *State* in violation of its constitution, as determined by a ruling of the jurisdiction's highest court.

(2) EFFORTS.—If the circumstances arise under paragraph (1), then the Attorney General and the [jurisdiction] *State* shall make good faith efforts to accomplish substantial implementation of this title and to reconcile any conflicts between this title and the jurisdiction's constitution. In considering whether compliance with the requirements of this title would likely violate the jurisdiction's constitution or an interpretation thereof by the jurisdiction's highest court, the Attorney General shall consult with the chief executive and chief legal officer of the [jurisdiction] *State* concerning the jurisdiction's interpretation of the jurisdiction's constitution and rulings thereon by the jurisdiction's highest court.

(3) ALTERNATIVE PROCEDURES.—If the [jurisdiction] *State* is unable to substantially implement this title because of a limitation imposed by the jurisdiction's constitution, the Attorney General may determine that the [jurisdiction] *State* is in compliance with this Act if the [jurisdiction] *State* has made, or is in the process of implementing reasonable alternative procedures or accommodations, which are consistent with the purposes of this Act.

(4) FUNDING REDUCTION.—If a [jurisdiction] *State* does not comply with paragraph (3), then the [jurisdiction] *State* shall be subject to a funding reduction as specified in subsection (a).

(c) REALLOCATION.—Amounts not allocated under a program referred to in this section to a [jurisdiction] *State* for failure to substantially implement this title shall be reallocated under that program to jurisdictions that have not failed to substantially implement this title or may be reallocated to a [jurisdiction] *State* from which they were withheld to be used solely for the purpose of implementing this title.

(d) RULE OF CONSTRUCTION.—The provisions of this title that are cast as directions to jurisdictions or their officials constitute, in relation to States, only conditions required to avoid the reduction of Federal funding under this section.

(e) CALCULATION OF ALLOCATION TO UNITS OF LOCAL GOVERNMENT.—*Notwithstanding the formula under section 505(c) of the Omnibus Crime Control and Safe Streets Act 1968 (42 U.S.C. 3755(c)), a State which is subject to a reduction in funding under subsection (a) shall—*

(1) *calculate the amount to be made available to units of local government by the State pursuant to the formula under section 505(c) using the amount that would otherwise be allocated to that State for that fiscal year under section 505(c) of that Act,*

and make such amount available to such units of local government; and

(2) retain for the purposes described in section 501 any amount remaining after the allocation required by paragraph (1).

SEC. 126. SEX OFFENDER MANAGEMENT ASSISTANCE (SOMA) PROGRAM.

(a) **IN GENERAL.**—The Attorney General shall establish and implement a Sex Offender Management Assistance program (in this title referred to as the “SOMA program”), under which the Attorney General may award a grant to a jurisdiction to offset the costs of implementing this title.

(b) **APPLICATION.**—The chief executive of a jurisdiction desiring a grant under this section shall, on an annual basis, submit to the Attorney General an application in such form and containing such information as the Attorney General may require.

(c) **BONUS PAYMENTS FOR PROMPT COMPLIANCE.**—A jurisdiction that, as determined by the Attorney General, has substantially implemented this title not later than 2 years after the date of the enactment of this Act is eligible for a bonus payment. The Attorney General may make such a payment under the SOMA program for the first fiscal year beginning after that determination. The amount of the payment shall be—

(1) 10 percent of the total received by the jurisdiction under the SOMA program for the preceding fiscal year, if that implementation is not later than 1 year after the date of enactment of this Act; and

(2) 5 percent of such total, if not later than 2 years after that date.

[(d) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to any amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary to the Attorney General, to be available only for the SOMA program, for fiscal years 2007 through 2009.]

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General \$20,000,000 for each of the fiscal years 2018 through 2022, to be available only for the SOMA program.

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Subtitle B—Improving Federal Criminal Law Enforcement To Ensure Sex Offender Compliance With Registration and Notification Requirements and Protection of Children From Violent Predators

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SEC. 142. FEDERAL ASSISTANCE WITH RESPECT TO VIOLATIONS OF REGISTRATION REQUIREMENTS.

(a) **IN GENERAL.**—The Attorney General shall use the resources of Federal law enforcement, including the United States Marshals

Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements. For the purposes of section 566(e)(1)(B) of title 28, United States Code, a sex offender who violates a sex offender registration requirement shall be deemed a fugitive.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2007 through 2009 to implement this section.]

(b) *For each of fiscal years 2018 through 2022, of amounts made available to the United States Marshals Service, not less than \$60,000,000 shall be available to carry out this section.*

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TITLE VI—GRANTS, STUDIES, AND PROGRAMS FOR CHILDREN AND COMMUNITY SAFETY

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Subtitle C—Grants, Studies, and Other Provisions

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SEC. 634. COMPREHENSIVE EXAMINATION OF SEX OFFENDER ISSUES.

(a) IN GENERAL.—The National Institute of Justice shall conduct a comprehensive study to examine the control, prosecution, treatment, and monitoring of sex offenders, with a particular focus on—

- (1) the effectiveness of the Sex Offender Registration and Notification Act in increasing compliance with sex offender registration and notification requirements, and the costs and burdens associated with such compliance;
- (2) the effectiveness of sex offender registration and notification requirements in increasing public safety, and the costs and burdens associated with such requirements;
- (3) the effectiveness of public dissemination of sex offender information on the Internet in increasing public safety, and the costs and burdens associated with such dissemination; and
- (4) the effectiveness of treatment programs in reducing recidivism among sex offenders, and the costs and burdens associated with such programs.

(b) RECOMMENDATIONS.—The study described in subsection (a) shall include recommendations for reducing the number of sex crimes against children and adults and increasing the effectiveness of registration requirements.

(c) REPORTS.—

- (1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the National Institute of Justice shall report the results of the study conducted under subsection (a) together with findings to Congress, through the Internet to the public, to each of the 50 governors, to the Mayor of the District of Columbia, to territory heads, and to the top official of the various Indian tribes.

(2) INTERIM REPORTS.—The National Institute of Justice shall submit yearly interim reports.

(3) ADDITIONAL REPORT.—*Not later than one year after the date of enactment of the Adam Walsh Reauthorization Act of 2017, the National Institute of Justice shall submit to Congress a report on the public safety impact, recidivism, and collateral consequences of long-term registration of juvenile sex offenders, based on the information collected for the study under subsection (a) and any other information the National Institute of Justice determines necessary for such report.*

(d) APPROPRIATIONS.—There are authorized to be appropriated \$3,000,000 to carry out this section.

SEC. 635. ANNUAL REPORT ON ENFORCEMENT OF REGISTRATION REQUIREMENTS.

[Not later than July 1 of each year] *On January 1 of each year,*, the Attorney General shall submit a report to Congress describing—

(1) the use by the Department of Justice of the United States Marshals Service to assist jurisdictions in locating and apprehending sex offenders who fail to comply with sex offender registration requirements, as authorized by this Act;

(2) the use of section 2250 of title 18, United States Code (as added by section 151 of this Act), to punish offenders for failure to register;

(3) a detailed explanation of each jurisdiction's compliance with the Sex Offender Registration and Notification Act, *and an analysis of any common reasons for noncompliance with such Act;*

(4) a detailed description of Justice Department efforts to ensure compliance and any funding reductions, the basis for any decision to reduce funding or not to reduce funding under section 125; **[and]**

(5) the denial or grant of any extensions to comply with the Sex Offender Registration and Notification Act, and the reasons for such denial or grant**[.]**;

(6) *the number of sex offenders registered in the National Sex Offender Registry;*

(7) *the number of sex offenders registered in the National Sex Offender Registry who—*

(A) are adults;

(B) are juveniles; and

(C) are adults, but who are required to register as a result of conduct committed as a juvenile; and

(8) *to the extent such information is obtainable, of the number of sex offenders registered in the National Sex Offender Registry who are juveniles—*

(A) the percentage of such offenders who were adjudicated delinquent; and

(B) the percentage of such offenders who were prosecuted as adults.

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TITLE 18, UNITED STATES CODE

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PART I—CRIMES

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**CHAPTER 110—SEXUAL EXPLOITATION AND OTHER
ABUSE OF CHILDREN**

* * * * *

§ 2255. Civil remedy for personal injuries

(a) **IN GENERAL.**—Any person who, while a minor, was a victim of a violation of section 1589, 1590, 1591, 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation, regardless of whether the injury occurred while such person was a minor, may sue in any appropriate United States District Court and shall recover the actual damages such person sustains and the cost of the suit, including a reasonable attorney's fee. Any person as described in the preceding sentence shall be deemed to have sustained damages of no less than \$150,000 in value.

(b) **STATUTE OF LIMITATIONS.**—Any action commenced under this section shall be barred unless the complaint is filed within 10 years after the right of action first accrues or in the case of a person under a legal disability, not later than **[three years]** *10 years* after the disability *ends*.

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PART II—CRIMINAL PROCEDURE

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**CHAPTER 207—RELEASE AND DETENTION PENDING
JUDICIAL PROCEEDINGS**

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§ 3154. Functions and powers relating to pretrial services

Pretrial services functions shall include the following:

(1) Collect, verify, and report to the judicial officer, prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense, including information relating to any danger that the release of such person may pose to any other person or the community, and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release; except that a district court may direct that information not be collected, verified, or reported under this paragraph on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title.

(2) Review and modify the reports and recommendations specified in paragraph (1) of this section for persons seeking release pursuant to section 3145 of this chapter.

(3) Supervise persons released into its custody under this chapter.

(4) Operate or contract for the operation of appropriate facilities for the custody or care of persons released under this chapter including residential halfway houses, addict and alcoholic treatment centers, and counseling services, and contract with any appropriate public or private agency or person, or expend funds, to monitor and provide treatment as well as nontreatment services to any such persons released in the community, including equipment and emergency housing, corrective and preventative guidance and training, and other services reasonably deemed necessary to protect the public and ensure that such persons appear in court as required.

(5) Inform the court and the United States attorney of all apparent violations of pretrial release conditions, arrests of persons released to the custody of providers of pretrial services or under the supervision of providers of pretrial services, and any danger that any such person may come to pose to any other person or the community, and recommend appropriate modifications of release conditions.

(6) Serve as coordinator for other local agencies which serve or are eligible to serve as custodians under this chapter and advise the court as to the eligibility, availability, and capacity of such agencies.

(7) Assist persons released under this chapter in securing any necessary employment, medical, legal, or social services.

(8) Prepare, in cooperation with the United States marshal and the United States attorney such pretrial detention reports as are required by the provisions of the Federal Rules of Criminal Procedure relating to the supervision of detention pending trial.

(9) Develop and implement a system to monitor and evaluate bail activities, provide information to judicial officers on the results of bail decisions, and prepare periodic reports to assist in the improvement of the bail process.

(10) To the extent provided for in an agreement between a chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title, or the chief probation officer in all other districts, and the United States attorney, collect, verify, and prepare reports for the United States attorney's office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement.

(11) Make contracts, to such extent and in such amounts as are provided in appropriation Acts, for the carrying out of any pretrial services functions.

(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 [or 4246], 4246, or 4248 of this title,

and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee.

(13) If approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe.

(14) Perform, in a manner appropriate for juveniles, any of the functions identified in this section with respect to juveniles awaiting adjudication, trial, or disposition under chapter 403 of this title who are not detained.

(15) Perform such other functions as specified under this chapter.

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CHAPTER 229—POSTSENTENCE ADMINISTRATION

SUBCHAPTER A—PROBATION

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§ 3603. Duties of probation officers

A probation officer shall—

(1) instruct a probationer or a person on supervised release, who is under his supervision, as to the conditions specified by the sentencing court, and provide him with a written statement clearly setting forth all such conditions;

(2) keep informed, to the degree required by the conditions specified by the sentencing court, as to the conduct and condition of a probationer or a person on supervised release, who is under his supervision, and report his conduct and condition to the sentencing court;

(3) use all suitable methods, not inconsistent with the conditions specified by the court, to aid a probationer or a person on supervised release who is under his supervision, and to bring about improvements in his conduct and condition;

(4) be responsible for the supervision of any probationer or a person on supervised release who is known to be within the judicial district;

(5) keep a record of his work, and make such reports to the Director of the Administrative Office of the United States Courts as the Director may require;

(6) upon request of the Attorney General or his designee, assist in the supervision of and furnish information about, a person within the custody of the Attorney General while on work release, furlough, or other authorized release from his regular place of confinement, or while in prerelease custody pursuant to the provisions of section 3624(c);

(7) keep informed concerning the conduct, condition, and compliance with any condition of probation, including the payment of a fine or restitution of each probationer under his supervision and report thereon to the court placing such person on probation and report to the court any failure of a proba-

tioner under his supervision to pay a fine in default within thirty days after notification that it is in default so that the court may determine whether probation should be revoked;

(8)(A) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 [or 4246], 4246, or 4248 of this title, and report such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and

(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee;

(9) if approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe; and

(10) perform any other duty that the court may designate.

* * * * *

Additional Views

We support H.R. 1188, the “Adam Walsh Reauthorization Act of 2017,” which reauthorizes funds for certain grant programs originally established by the Adam Walsh Child Protection and Safety Act of 2006¹ (Adam Walsh Act) and reduces the duration of sex offender registration requirements for certain juveniles from 25 years to 15 years. Although the bill reauthorizes two important grant programs and is an improvement over current law, we are disappointed that it fails to take the opportunity to address many of the problems that jurisdictions encounter when trying to implement the Sex Offender Registration and Notification Act (SORNA), which is codified in title I of the Adam Walsh Act. We write separately to highlight some of the concerns we continue to have with SORNA.

The Subcommittee on Crime, Terrorism, Homeland Security, and Investigations (Subcommittee) has held two oversight hearings in recent years related to issues presented by the legislation.² Much of the discussion at these hearings focused on SORNA, which created a national registry for all sex offenders. States and advocates have informed the Committee of the numerous obstacles that jurisdictions encounter when attempting to implement SORNA. Although H.R. 1188 is an improvement over current law, it does not fully address the myriad of persistent problems with SORNA.

For many years, those who originally advocated for sex offender registration and notification, along with state governments, policy makers, and other stakeholders have raised several issues with the federal standards of sex offender registration and notification. Issues involving the overarching noncompliance of states with SORNA requirements include: the cost of implementation; rigid,

¹ Pub. L. No. 109-248 (2006).

² *Combating Crimes Against Children—Assessing the Legal Landscape: Hearing Before the Subcomm. on Crime, Terrorism, Homeland Security, and Investigations of the H. Comm. on the Judiciary, 115th Cong.* (2017); *The Reauthorization of the Adam Walsh Act: Hearing Before the Subcomm. on Crime, Terrorism and Homeland Security of the H. Comm. on the Judiciary, 112th Cong.* (2011).

one-size-fits-all standards; disagreement with the inclusion of juveniles; SORNA's preemption of state classification systems, many of which are more stringent than SORNA, for one based solely on offense or conviction; conviction-based tiers of offenders; retroactivity; notification of offenders' international travel; SORNA's onerous verification and notification requirements; and registration of sex offenders in the military. The overall effectiveness of SORNA has also been called into question, with many critics arguing that state systems are better than SORNA and that the federal standards are overzealous.³

To achieve substantial implementation status, a state must have policies that either fully meet or do not substantially disserve the purpose of each standard. States that fall short of these criteria for one or more standards do not receive substantial implementation status. States that fail to substantially implement SORNA face a ten percent reduction to the state portion of federal Edward Byrne Memorial Justice Assistance Grant funding.⁴ Although several states have chosen to accept this penalty, the majority of non-compliant states have applied to have these funds reallocated and used to implement SORNA.⁵

SORNA is an unfunded federal mandate on states, territories, and tribes that requires most jurisdictions to make significant, costly changes to their existing registries and governing legislation to meet SORNA requirements. SORNA authorized grants for states to assist with the implementation of Sex Offender Registry requirements and Community Oriented Policing Services (COPS) grantees may use grant funds to ensure sex offender registration and notification compliance.⁶ Yet, the costs to states for implementing and maintaining a SORNA compliant registry far exceed the amounts received in federal funding. Some states actually save money by not implementing SORNA, regardless of losing Byrne JAG funding. For example, Texas estimated that "implementation of all SORNA's requirements would cost Texas more than 30 times the amount of federal funds that the federal government has threatened to withhold from Texas if it fails to comply."⁷

Certain juveniles, adjudicated delinquent of a sex offense, must be included on registries under SORNA.⁸ The juvenile registration and reporting requirement is one of the most common obstacles to states' substantial implementation of SORNA. States that do not meet the SORNA standard requiring jurisdictions to include various types of sex offenders are typically cited for failure to include certain juveniles on their registries.⁹

³ Donna Lyons, Director, Criminal Justice Program, National Conference of State Legislatures. *Sex Offender Law: Down to the Wire*. (June 2011).

⁴ 42 U.S.C. § 16925 (2017).

⁵ 42 U.S.C. § 16925(c) (2017) allows jurisdictions that lose funds for failure to substantially implement SORNA to receive the funds solely for implementation of SORNA.

⁶ SORNA established the Sex Offender Management Assistance (SOMA) program to award grants to jurisdictions to offset the costs of implementing SORNA; See 42 U.S.C. § 3796dd(b)(14) (2017); Nathan James, *Community Oriented Policing Services (COPS): Background, Legislation, and Funding*, Congressional Research Serv, Report, RL33308 (Jan. 4, 2011).

⁷ Letter from the State of Texas, Office of the Governor, to Linda M. Baldwin, Director, SMART Office (Aug. 17, 2011).

⁸ 42 U.S.C. § 16911(8) (2017). SORNA requires registration of juveniles who are adjudicated delinquent for offenses equivalent to or more severe than aggravated sexual abuse (as described in 18 U.S.C. § 2241) who were 14 years old or older at the time of the offense.

⁹ Andrew J. Harris & Christopher Lobanov-Rostovsky. *National Sex Offender Registration and Notification Act (SORNA) Implementation Inventory: Preliminary Results*. (July 2016).

According to the Office of Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) report published in September of 2015, 11 states have chosen not to comply with this mandate, which means that these states do not register any juveniles adjudicated delinquent of a sex offense. In addition, 26 states mandate juvenile registration pursuant to SORNA standards; 11 make registration discretionary; and three operate a hybrid registration determination that combines the nature of the offense and other criteria.¹⁰ Of the states that register juveniles, 16 mandate public registry website posting, nine make posting discretionary, and 15 prohibit posting. The SMART Office issued the Juvenile Supplemental Guidelines to SORNA on August 1, 2016, which permit the office to expand the substantial implementation inquiry and review additional factors set forth in the Guidelines if a jurisdiction does not conform to SORNA juvenile registration requirements.¹¹

Several states and advocacy groups object to the juvenile requirement without inclusion of judicial discretion. Other states and advocacy groups would rather exclude juveniles from registration completely. SORNA, as applied to youth, undermines the fundamental purpose and objective of the juvenile justice system by removing the confidentiality and rehabilitative emphasis of juvenile intervention. Hundreds of thousands of children from juvenile courts, some as young as eight years old, have been placed on sex-offense registries despite the lack of evidence that registration has any deterrent effect on youth or promotes public safety. These young people face psychological harm, social alienation, and long-lasting life obstacles as a result of registration. Some are forced from their homes due to housing restrictions or even separated from their family units.¹²

Research shows that juvenile sexual offending is very different from adult sexual offending and that registering youth is not an effective response to their conduct or an appropriate method to prevent youth sexual offending. The motives behind their offenses are different from those of most adults who commit sexual offenses. An overwhelming percentage of youth who are accused of sex offenses do not reoffend sexually, especially when provided with appropriate treatment. As referenced in a letter sent to members of the Judiciary Committee, “studies found that, regardless of the severity of the sex offense, 97 percent of all youth never reoffend sexually.”¹³

Rather than seeking to fully exclude juveniles from registration during the Committee’s consideration of this bill, Ranking Member, John Conyers, Jr., offered a compromise amendment that would have given states’ discretion as to whether they would require reg-

¹⁰ DEPT OF JUSTICE, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, *SMART Summary: Prosecution, Transfer, and Registration of Serious Juvenile Sex Offenders* (2015).

¹¹ DEPT OF JUSTICE, Office of the Attorney General, Supplemental Guidelines for Juvenile Registration Under the Sex Offender Registration and Notification Act, 81 Fed.Reg. 50,552 (Aug. 1, 2016).

¹² Human Rights Watch. *Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S.* (2013); Nicole Pittman, The Center on Youth Registration Reform at Impact Justice. *Removing Children from the Adam Walsh Act.*

¹³ Letter to Chairman Bob Goodlatte, Ranking Member Conyers, & Members, House Judiciary Committee from Impact Justice, National Alliance to End Sexual Violence, R Street Institute, Stop Child Predators *et al.* (Mar. 22, 2017) (citing Sharon E. Denniston & Michael F. Caldwell, *Answering the Call to Study the Effects of Juvenile SORN: Lessons from Two Studies*, Presented October 15, 2015 at the ATSA 34th Annual Research and Treatment Conference, Montreal, Quebec, Canada).

istration of juveniles adjudicated delinquent for sex offenses. Many more states would be in compliance if they were allowed to make the decision as to whether to include juveniles in their registries. Unfortunately, the amendment failed by a vote of 11 to 15. Similarly, an amendment offered by Subcommittee Ranking Member Sheila Jackson Lee that would have given judges the discretion to decide whether adjudicated juveniles should be required to register also failed by a vote of 11 to 17. Fortunately, another amendment offered by Ranking Member Jackson Lee, which requires the National Institute of Justice to prepare and submit a report on the public safety, recidivism, and collateral consequences of long-term registration of juveniles, passed by voice vote. Hopefully, that report will support review and future revision of the SORNA guidelines as applied to juveniles.

While section 4 of H.R. 1188 addresses juvenile registration by shortening the time period after which a juvenile can petition to be taken off the sex offender registry, it does little to assist states in achieving SORNA compliance. Under this provision, the time period is shortened from 25 years to 15 years, which means that a 14-year old who is placed on the registry would have to wait until age 29 to ask to be removed, despite the fact that research suggests that registration in the first place is counter-productive for juveniles since their recidivism rate is less than 3 percent.¹⁴ Section 4 is an improvement to an otherwise overly harsh and counter-productive policy, but it does not go far enough.

In addition to the issues with respect to juvenile registration, SORNA's overall prescriptive scheme has proven overly burdensome and expensive to law enforcement, who are charged with carrying out these requirements. For example, SORNA requires that some sex offenders appear in person and verify the information every three months. States, in conjunction with their local law enforcement, should be given the discretion to decide how often a sex offender's address should be verified, and how to notify its community about the presence of a sex offender. Similarly, a state should be able to determine whether it places people on its registry retroactively. Law enforcement is required to monitor too many people, leaving communities vulnerable. A recent study by the R Street Institute found that registering youth costs as much as \$3 billion per year nationally. Cluttering registries with low-risk individuals, like adolescents or adults required to register for offenses committed in their youth, lessens the effectiveness of the registries by consuming resources that could be spent elsewhere. Time and money that could be used for supervision of high-risk offenders and training officers in preventive measures is spent monitoring individuals who are unlikely to reoffend.¹⁵

While the previously discussed issues are the primary reasons that so few jurisdictions have been able to comply with SORNA, many more states would be able to comply with just a few changes that H.R. 1188 fails to address. Virtually all of the changes that

¹⁴More than 100 published studies evaluating the recidivism rates of youth who have sexually offended: the weighted 5-year sexual recidivism rate for recent years was 2.75%. Michael Caldwell, *Quantifying the Decline in Juvenile Sexual Recidivism Rates*, 22 PSYCHOLOGY, PUB. POLY & L. 414 (2016); Michael Caldwell, *Study Characteristics and Recidivism*, INT'L J. OF OFFENDER THERAPY & COMP. CRIMINOLOGY, 54, 197-212 (2010).

¹⁵Naomi J. Freeman & Jeffrey C. Sandler, *The Adam Walsh Act: A False Sense of Security or an Effective Public Policy Initiative*, 21 CRIMINAL JUSTICE POLY REV. 1 (Mar. 2010).

should be made are based on giving states discretion in decisions concerning sex offenders within their own states. For example, many more states would be in compliance if they were allowed to modify their existing classification systems to comply with SORNA. Researchers have questioned whether the SORNA classification scheme is best. One study indicated that SORNA's tier classification "is a poor indicator of relative risk and is likely to result in a system that is less effective in protecting the public" than the classification systems currently implemented in the states studied, and encouraged broader inclusion of "evidence-based models of sex offender risk assessment and management."¹⁶ Furthermore, the Attorney General should have discretion to determine whether to impose the Byrne JAG penalty on a jurisdiction, and how much of a penalty to assess. This would allow the Attorney General to take into account the efforts that a jurisdiction has made toward complying with SORNA, even if the SMART Office has not yet found it to be in compliance. Section 6 of the bill only insulates local governments from suffering losses of Byrne JAG funding as a result of their state's failure to comply with SORNA.

Finally, H.R. 1188 does not re-authorize all of the grant programs in the Adam Walsh Act and excludes some critical programs, such as grants for the treatment of sex offenders while incarcerated within the Bureau of Prisons and grants for juvenile sex offenders.

For these reasons, we support the grant reauthorizations provided for in this bill and the reduction of the juvenile registration duration, but believe the Committee missed the opportunity to address significant SORNA issues that have persisted since enactment of the Adam Walsh Act.

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¹⁶ Kristen M. Zgoba *et al.*, *A Multi-State Recidivism Study Using Static-99R and Static-2002 Risk Scores and Tier Guidelines from the Adam Walsh Act*, Research Report Submitted to the National Institute of Justice, at 1 (Nov. 2012).