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STATE OF MICHIGAN
IN THE SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v **No. 164685**

CORA LYMON,
Defendant-Appellee.

Third Circuit Court No. 14-10811
Court of Appeals No. 327355

PLAINTIFF-APPELLANT'S APPENDIX

KYM WORTHY
Prosecuting Attorney
County of Wayne

JON P. WOJTALA (P-49474)
Chief of Research, Training, and Appeals
1441 St. Antoine, 11th Floor
Detroit, Michigan 48226
(313) 224-5748

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PEOPLE v CORA LYMON
MSC ORDER - JANUARY 11, 2023

Order

Michigan Supreme Court
Lansing, Michigan

Elizabeth T. Clement,
Chief Justice

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

January 11, 2023

164685 & (80)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee/
Cross-Appellant,

v

SC: 164685
COA: 327355
Wayne CC: 14-010811-FC

CORA LADANE LYMON, a/k/a COREY LYMON,
Defendant-Appellant/
Cross-Appellee.

/

On order of the Court, the application for leave to appeal the June 16, 2022 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant are considered. The application for leave to appeal is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court. The application for leave to appeal as cross-appellant is GRANTED. The parties shall address whether requiring a defendant to register as a sex offender under the Sex Offenders Registration Act (SORA), MCL 28.721 *et seq.*, as amended by 2020 PA 295, effective March 24, 2021 (the 2021 SORA), for a non-sexual crime, such as unlawful imprisonment of a minor, constitutes cruel or unusual punishment under Const 1963, art 1, § 16 or cruel and unusual punishment under US Const, Am VIII.

The time allowed for oral argument shall be 20 minutes for each side. MCR 7.314(B)(1).

Amici who appeared at the application stage are invited to file supplemental briefs amicus curiae. The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issue presented in this case may move the Court for permission to file briefs amicus curiae.

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 11, 2023

Clerk

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If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CORA LADANE LYMON also known as COREY LYMON,

Defendant-Appellant.

FOR PUBLICATION
June 16, 2022
9:15 a.m.

No. 327355
Wayne Circuit Court
LC No. 14-010811-01-FC

Before: K. F. KELLY, P.J., and M. J. KELLY and RONAYNE KRAUSE, JJ.

M. J. KELLY, J.

Defendant, Cora Lymon, appeals of right from his jury-trial convictions of three counts of torture, MCL 750.85; three counts of unlawful imprisonment, MCL 750.349b; one count of felonious assault, MCL 750.82; and one count of possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. He was sentenced to 126 to 240 months' imprisonment for the torture convictions, 84 to 180 months' imprisonment for the unlawful imprisonment convictions, 24 to 48 months' imprisonment for the felonious assault conviction, and two years' imprisonment for the felony-firearm conviction, to be served consecutively to the other sentences. Additionally, because two of his unlawful imprisonment convictions involved minors, he was placed on the sex offender registry as a Tier I offender under the Sex Offenders Registration Act (SORA), MCL 28.721 *et seq.*[1] On appeal, Lymon argues that there was insufficient evidence to sustain his torture convictions. He also asserts that, because his conviction of unlawful imprisonment of a minor lacked a sexual component, his placement on the sex offender registry violates the Eighth Amendment to the United States Constitution's prohibition against cruel and unusual punishment, and Article I, § 16 of Michigan's 1963 Constitution, which

[1] Under SORA, an individual is a Tier I offender if he or she is convicted of a violation of MCL 750.349b and the victim is a minor. See MCL 28.722(q) and (r)(*iii*).

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prohibits cruel or unusual punishment.[2] For the reasons stated in this opinion, we affirm his convictions, but remand for entry of an order removing Lymon from the sex offender registry.[3]

I. BASIC FACTS

On September 5, 2014, Lymon confronted his wife, Jacqueline Lymon, with what he believed was proof that she was having extramarital affairs. His children, both of whom were minors, were present during the confrontation. When Jacqueline stated that she did not believe him, he said he had text messages to prove it, but, instead of showing her messages, he broke his phone by slamming it onto the table. He left the house to fix his phone, and when he returned, his argument with Jacqueline continued. Eventually, she stated that she wanted to end the marriage. Lymon called her a "cold-hearted bitch" and a "whore." He then fetched his handgun from the pantry. One of the children testified that Lymon "cocked" the gun, and the other saw a bullet enter the chamber when Lymon pulled the slide back.

Lymon pointed the gun at Jacqueline and made her sit at the table. He told her that she was "cold" and "should have left him a long time ago." Jacqueline stood up with her back to the door. One of the children moved to stand in front of her, so Lymon pointed the gun at his child. The child pleaded with him to calm down, saying, "dad, that's our mother. Let's not take it this far." Lymon sat down, but continued to hold the gun and complain that Jacqueline had "done him wrong for so many years." He again pointed the gun at his child and told him, "Well, you can get it, too."

Ranting and raving, Lymon forced Jacqueline and the children to move to the sofa in the family room. While pointing the gun at them, he told his children, "if I kill her, I'm gonna have to kill you guys, too." They described him as angry, noting that his veins were "popping out." They begged and pleaded for their lives, holding their mother and prayed to God that Lymon would not kill their mother. Lymon demanded, "What about me? Don't you love me?" The children, crying and upset, said that they did but that "right now" he was trying to kill their mother. Lymon made Jacqueline and the children get off the sofa and kneel in front of the fireplace. He again

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[2] Michigan's 1963 Constitution provides broader protection than its federal counterpart. *People v Bullock*, 440 Mich 15, 30; 485 NW2d 866 (1992).

[3] Lymon sought leave to remand for resentencing based upon his contention that certain offense variables were improperly scored by the trial court. We denied his motion. *People v Lymon*, unpublished order of the Court of Appeals, entered March 25, 2022 (Docket No. 327355). Our denial did not preclude plenary review of this issue. See *People v Smith*, 336 Mich App 79, 100; 969 NW2d 548 (2021). However, we decline to consider Lymon's sentencing challenges because they were not raised in his original appeal brief and he failed to comply with MCR 7.212(C)(7) as he did not provide us with a copy of his presentence report. In any event, although we generally agree with Lymon's argument that a conviction of torture does not per se compel any particular scoring of offense variables 4 or 7, in this case we are not persuaded the trial court erred in its scoring.

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stated that he was going to kill them. One of the children testified that they were all screaming at the top of their lung, hoping that the neighbors would hear them.

Jacqueline tried to get Lymon to think about God, but he responded "F God." She told him that she thought "angels are here to protect us." Lymon warned that she was "gonna see angels; you're gonna see a lot of angels in a minute." He then stated, "This is it" and held the gun up. Jacqueline and the children closed their eyes and braced themselves because they feared they were about to die, but Lymon did not shoot them. Instead, he separated Jacqueline from the children. He paced and continued to make comments that if he killed Jacqueline, he had to kill the children because they "wouldn't be able to take it." He also said he was going to do "demonic . . . shit" and was "gonna burn this thing down after I kill you all."

Eventually, he had Jacqueline sit on the sofa next to him. He asked questions and when he did not like the answer, he would hit or slap the back of her head. One of the children told him to stop. Lymon pointed the gun at him and asked what he was going to do about it. He continued to call Jacqueline a bitch and a whore while he had the gun pointed at her side.

At one point, Lymon put the gun in his mouth and told his family to pull the trigger. They did not do so. At another point, Lymon went into the kitchen. One of the children got up from the floor and ran out of the house. He described that he was "freaking out," "scared," and was having trouble breathing. He got to the driveway and stopped because his mother and brother were still inside. Lymon instructed Jacqueline to go and get the child. She went out and convinced him to return to the home because of what might happen to his brother if he did not. She also told him that they could calm Lymon down.

After they returned to the house, Lymon continued to put the gun in his own mouth and point it at his head. They told him not to, that they loved him, and asked him to calm down. He seemed to calm. He allowed everyone to sit on the sofa and placed the gun on a table near to him. He did not permit anyone to leave the room. When the children needed to use the bathroom, he told them that they could urinate against the wall or in a cup because he was "going to burn it down anyway." Around midnight, one of the children was able to retrieve his phone, set an alarm for the morning, and go upstairs. He did not call the police because he was afraid, and after a few minutes, Lymon ordered him to come back downstairs.

Lymon kept Jacqueline and the children in the family room until morning. At some point, someone turned on the television. No one paid attention to it, however, because Lymon still had the gun. The children slept fitfully. One explained that his difficulty sleeping was because he thought he would get killed while he slept. In the morning, Lymon apologized; the children told him that he had just had a bad night and that they would simply forget about it. Lymon drove one child to work and again apologized for his actions. When he returned, he apologized to the other child and agreed that Jacqueline could take that child with her when she went to work. Later in the day, Jacqueline picked up both children and they made a police report.

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COA OPINION

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II. SUFFICIENCY OF THE EVIDENCE

A. STANDARD OF REVIEW

Lymon first argues that there was insufficient evidence to support his convictions of torture. This Court reviews de novo challenges to the sufficiency of the evidence. *People v Miller*, 326 Mich App 719, 735; 929 NW2d 821 (2019). The evidence presented at the trial is reviewed "in a light most favorable to the prosecutor to determine whether any trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt." *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012) (quotation marks and citation omitted). "The standard of review is deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict." *People v Nowak*, 462 Mich 392, 400; 614 NW2d 78 (2000). "Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime." *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999) (quotation marks and citation omitted). "Minimal circumstantial evidence and reasonable inferences can sufficiently prove the defendant's state of mind, knowledge, or intent." *Miller*, 326 Mich App at 735.

B. ANALYSIS

Torture is defined in MCL 750.85, which states, in relevant part:

> (1) A person who, with the intent to cause cruel or extreme physical or mental pain and suffering, inflicts great bodily injury or severe mental pain or suffering upon another person within his or her custody or physical control commits torture and is guilty of a felony punishable by imprisonment for life or any term of years.
>
> (2) As used in this section:
>
> (a) "Cruel" means brutal, inhuman, sadistic, or that which torments.
>
> (b) "Custody or physical control" means the forcible restriction of a person's movements or forcible confinement of the person so as to interfere with that person's liberty, without that person's consent or without lawful authority.
>
> * * *
>
> (d) "Severe mental pain or suffering" means a mental injury that results in a substantial alteration of mental functioning that is manifested in a visibly demonstrable manner caused by or resulting from any of the following:
>
> * * *
>
> (*iii*) The threat of imminent death.

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> (*iv*) The threat that another person will imminently be subjected to death, great bodily injury, or the administration or application of mind-altering substances or other procedures calculated to disrupt the senses or personality.

Jacqueline and the children did not sustain any physical injuries. Consequently, to establish torture, the prosecution was required to prove beyond a reasonable doubt that (1) Lymon intended to cause cruel or extreme mental pain and suffering, (2) Lymon inflicted severe mental pain or suffering, and (3) Jacqueline and the children were within his custody and control.

Lymon first argues that the evidence was insufficient to show that Jacqueline and the children were within his custody and control because one child ran outside, Jacqueline went after him, and they both returned to the house. However, the child testified that he only went as far as the driveway because his mother and brother were still inside with Lymon. Further, Jacqueline went after the child at Lymon's instruction. She convinced the child to go back into the house because Lymon continued to have one of the children at gunpoint inside and she was afraid of what he would do to that child if they did not return. Therefore, although they went outside, they returned because of their fear of what Lymon would do to the child who was still inside.

Moreover, the record reflects that, throughout the night, Lymon forcibly restricted the movements of Jacqueline and the children. At gunpoint, he ordered them into the family room. He directed them sit on the sofa. He forced them kneel in front of the fireplace. He made Jacqueline sit beside him on the sofa. He prohibited the children from using the bathroom. He briefly allowed one child to go upstairs, but then ordered him to return. When one child left, he made Jacqueline go outside and bring him back. No one was allowed to leave the family room; they had to instead sleep in the room until morning. Viewed in the light most favorable to the jury's verdict, there was sufficient evidence to support a finding that Jacqueline and the children were within Lymon's custody or control.

Next, Lymon argues that there was insufficient evidence to show that he inflicted severe mental pain and suffering on Jacqueline and the children. To establish that Lymon inflicted severe mental pain or suffering, the prosecution had to establish beyond a reasonable doubt that there was "a mental injury that results in a substantial alteration of mental functioning that is manifested in a visibly demonstrable manner" that is caused by or results from "[t]he threat of imminent death" or "[t]he threat that another person will imminently be subjected to death, great bodily injury . . . ." MCL 750.85(2)(d)(*iii*) and (d)(*iv*). Lymon directs this Court to *People v Schaw*, 288 Mich App 231; 791 NW2d 743 (2010). In that case, this Court found that the defendant inflicted severe mental pain or suffering on the victim based on evidence that she "experienced hallucinations and had to resume her medication after the attack." *Id.* at 235. Lymon argues that, unlike the victim in *Schaw*, Jacqueline and the children did not suffer any substantial alteration of mental functioning. We disagree.

Schaw did not hold that the only way to establish a substantial alteration of mental functioning was if the victim suffered hallucinations or had to resume medication after an attack. Here, Jacqueline and the children all believed that they were going to die. They were forced to kneel in front of the fireplace. They pleaded for their lives. They cried. They screamed at the top of their lungs in the hopes that the neighbors would hear them. They prayed and implored Lymon to think of God. When Lymon told them that "this was it" and that he was going to kill them, they

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closed their eyes and braced themselves to die. This evidence shows that Jacqueline and both children had a substantial alteration of mental functioning given that they each believed that death was imminent. Moreover, it was manifested in a visibly demonstrable manner given that they were crying, screaming, praying, pleading for their lives, and closing their eyes and bracing themselves to be killed. The child that fled the house also testified that he was "freaking out" and having difficulty breathing. He also described that he had difficulty sleeping because he was afraid that he was going to be shot while he was asleep. On this record, there was sufficient evidence to support the jury's finding that Lymon inflicted severe mental pain or suffering on Jacqueline and the children.

Finally, Lymon argues that there was insufficient evidence to show that he intended to inflict severe mental pain or suffering on Jacqueline and the children. In support, he directs this Court to his testimony that the gun was unloaded and to his own testimony that the only reason he brought the gun out was to show that it was not enough to protect the family against threats made by a woman named "Karen."

Yet, Lymon's testimony that the gun was unloaded was directly contradicted by testimony that one child saw a bullet enter the gun's chamber. Conflicts in the evidence are resolved in favor of the jury's verdict. *People v Unger*, 278 Mich App 210, 222; 749 NW2d 272 (2008). The jury was not required to credit his testimony. *Id.*

Moreover, despite Lymon's testimony that he was only displaying the gun to show that he could not protect his family from outside threats, the jury could reasonably infer a different intent based on his actions and words. Lymon frequently threatened to shoot Jacqueline and the children. He made that threat while they were sitting on the sofa in the family room after he had forced them to sit there. He repeated it after making them kneel in front of the fireplace. He was ranting and raving and so angry that his veins were visible. Although his family was praying, crying, screaming, and pleading for their lives, he continued to threaten to kill Jacqueline and then the children. He denied them the use of the bathroom and instead instructed them to urinate in a cup or against the wall. He told them that it would not matter because—as he stated more than once—he was going to burn down the house. The jury could reasonably infer that, given the visible mental distress of Jacqueline and the children, and given that he repeatedly told them he was going to kill them, he was aware that he was inflicting severe mental pain or suffering, but rather than stop, he continued to make threats, including when he lined them up in front of the fireplace on their knees. Intent "is a secret of a man's mind" that may be disclosed by declarations or actions. *People v Quigley*, 217 Mich 213, 217-218; 185 NW 787 (1921). Here, viewed in the light most favorable to the jury's verdict, both Lymon's actions and his declarations throughout the incident support an inference that he intended to inflict severe mental pain or suffering on Jacqueline and the children.

III. CRUEL OR UNUSUAL PUNISHMENT

A. STANDARD OF REVIEW

Lymon next argues that requiring him to register as a sex offender for his convictions of unlawful imprisonment is cruel or unusual punishment under Michigan's 1963 Constitution or cruel and unusual punishment under the Eighth Amendment of the United States Constitution. In

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order to preserve a claim that a defendant's sentence is unconstitutionally cruel or unusual, the defendant must first raise the claim in the trial court. *People v Burkett*, ___ Mich App ___, ___; ___ NW2d ___ (2021) (Docket No. 351882); slip op at 2. As explained in *Burkett*:

> [W]e review unpreserved constitutional issues for plain error affecting substantial rights. To establish entitlement to relief under plain-error review, the defendant must establish that an error occurred, that the error was plain, i.e., clear or obvious, and that the plain error affected substantial rights. An error affects substantial rights when it impacts the outcome of the lower court proceedings. Reversal is warranted only when the error resulted in the conviction of an actually innocent defendant or seriously affected the fairness, integrity, or public reputation of judicial proceedings independently of the defendant's innocence. [*Id.* (quotation marks and citations omitted).]

Lymon did not raise a constitutional challenge to registration as a sex offender in the trial court, so this issue is unpreserved.

B. ANALYSIS

1. LEGAL BACKGROUND OF SORA

The history of SORA was summarized as follows by our Supreme Court in *People v Betts*, 507 Mich 527, 533-536; 968 NW2d 497 (2021):

> The Michigan Legislature enacted SORA in 1994 in response to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program, 42 USC 14071, "to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders," MCL 28.721a. This first version of SORA created a confidential database accessible only to law enforcement; it required persons convicted of certain sex offenses to register and notify law enforcement of address changes. MCL 28.725(1), as enacted by 1994 PA 295. Since then, the Legislature has amended the act several times, altering both the nature of the registry and the requirements imposed by it. . . .
>
> The registry became accessible to the public in 1997, when the Legislature required law enforcement to make the registry available for in-person public inspection during business hours. MCL 28.730(2), as amended by 1996 PA 494. Shortly thereafter, in 1999, the Legislature required computerization of the registry and granted law enforcement the authority to make the computerized database available to the public online. MCL 28.728(2), as amended by 1999 PA 85. And in 2006, the Legislature allowed for the registry to send e-mail alerts to any subscribing member of the public when an offender registers within or when a registrant moves into a specified zip code.

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As the registry became more accessible to the public, the information registrants were required to provide to law enforcement also expanded. In 2002, the Legislature required registrants to report whenever they enrolled, disenrolled, worked, or volunteered at an institution of higher education. MCL 28.724a, as amended by 2002 PA 542. Two years later, in 2004, the Legislature directed registrants to provide an updated photograph for addition to the online database. MCL 28.728(3)(c), as amended by 2004 PA 238, effective May 1, 2005. And in 2011, the Legislature required registrants to report more personal information, including employment status, "electronic mail addresses and instant message addresses," vehicle information, and travel schedules. MCL 28.727, as amended by 2011 PA 18. Registrants were required to update law enforcement of these changes within three business days, a substantial shortening of the time frame from the initial 10-day reporting window. MCL 28.725(1), as amended by 2011 PA 17. The updates were also required to be made in person rather than by mail, telephone, or e-mail. *Id.* The 2011 amendments further added a periodic reporting requirement that instructed registrants to present themselves to law enforcement, in person, one or more times a year, even if registrants had no changes to report. MCL 28.725a(3), as amended by 2011 PA 17.

In addition to the expansion of personal information contained in the database, the Legislature also increased other restrictions and obligations imposed by SORA. Specifically, amendments effective in 2006 created "exclusion zones" that prohibited most registrants from living, working, or "loitering" within 1,000 feet of a school. MCL 28.733 to MCL 28.736, as amended by 2005 PA 121. The Legislature also added an annual registration fee of $50. See MCL 28.725a(6), as amended by 2013 PA 149.

The Legislature also enacted significant structural amendments of SORA in 2011. These amendments categorized registrants into three tiers on the basis of their offenses and based the length of registration on that tier designation. MCL 28.722(k) and MCL 28.722(s) through (u), as amended by 2011 PA 17. With this reclassification came lengthened registration periods, including a lifetime registration requirement for Tier III offenders. MCL 28.725(12), as amended by 2011 PA 17. Registrants' tier classifications were also made available on the public database. MCL 28.728(2)(l), as amended by 2011 PA 18.

Not all amendments burdened registrants; some were ameliorative. Registration requirements were removed for individuals who were under 14 years old at the time of their offense, MCL 28.722(b), as amended by 2011 PA 17, and for individuals who engaged in consensual but unlawful sexual conduct with a minor under certain conditions, MCL 28.722(t)(*v*), as amended by 2011 PA 17. Students enrolled in remote-learning programs for higher education were relieved from reporting their education status, MCL 28.724a(6), as amended by 2011 PA 17. And Tier I offenders' registration information was removed from public access. MCL 28.728(4)(c), as amended by 2011 PA 18.

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> SORA initially conceived a confidential law enforcement tool to manage registrants' names and addresses, but by 2012, that tool transformed into a publicly accessible database that imposed significant restrictions on the lives of registrants.

As noted by the *Betts* Court, see *id.* at 533 n 2, SORA was again amended in 2020. See 2020 PA 295, effective March 24, 2021 (the 2021 SORA). The amended statute removed some of the provisions, such as the student-safety zones, see MCL 28.733 to MCL 28.736, as amended by 2005 PA 121, and added an option for the Michigan Police Department to designate a method other than in-person reporting for certain information, see MCL 28.725(1). However, it also "introduced a bevy of other changes." *Betts*, 507 Mich at 567. Some changes in the 2021 SORA were ameliorative, but others were more restrictive. *Id.* at 568. The *Betts* Court noted the following changes:

> allowing for removal from the registry persons who have had their listed offense convictions expunged, see MCL 28.725(16); removing the requirement for a registrant to provide a valid driver's license when that registrant lacks a fixed or temporary residence, see MCL 28.725a(7); adding a requirement that the failure to register be a "willful" failure to comply, MCL 28.729(2); removing a provision preventing the inclusion on the public-registry website of "[a]ny electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and any login names or other identifiers used by the individual when using any electronic mail address or instant messaging system," MCL 28.728(3)(e), as amended by 2013 PA 2; altering when vehicle information must be reported from when "[t]he individual purchases or begins to regularly operate any vehicle, and when ownership or operation of the vehicle is discontinued," MCL 28.725(1)(g), as amended by 2011 PA 17, to the occurrence of "any change in vehicle information," MCL 28.725(2)(a); altering the vehicle information that must be provided from "[t]he license plate number, registration number, and description of any motor vehicle, aircraft, or vessel owned or regularly operated by the individual and the location at which the motor vehicle, aircraft, or vessel is habitually stored or kept," MCL 28.727(1)(j), as amended by 2011 PA 18, to "[t]he license plate number and description of any vehicle owned or operated by the individual," MCL 28.727(1)(j)—notably removing both the "regular" operation requirement and the "motor" vehicle limitation; altering when Internet-related information must be reported from where "[t]he individual establishes any electronic mail or instant message address, or any other designations used in internet communications or postings," MCL 28.725(1)(f), as amended by 2011 PA 17, to "any change in . . . electronic mail addresses[and] internet identifiers," MCL 28.725(2)(a); and altering the Internet-related information that must be provided from "[a]ll electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and all login names or other identifiers used by the individual when using any electronic mail address or instant messaging system," MCL 28.727(1)(i), as amended by 2011 PA 18, to "all electronic mail addresses and internet identifiers registered to or used by the individual," MCL 28.727(1)(i), with "internet identifier" being further defined as

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"all designations used for self-identification or routing in internet communications or posting," MCL 28.722(g). [*Betts*, 507 Mich at 568 n 24.]

2. LEGAL AND PROCEDURAL BACKGROUND RELEVANT TO THE ISSUE IN THIS CASE

This matter was held in abeyance pending the Supreme Court's decision in *People v Bosca*, 310 Mich App 1; 871 NW2d 307 (2015). Relevant to the issues raised here, the *Bosca* Court held in Part XIII of its decision that it was not cruel and unusual punishment to require a defendant convicted of unlawful imprisonment of a minor to register in accordance with SORA because registration under SORA "does not constitute punishment." *Id.* at 71-72. Thereafter, the Supreme Court entered an order holding *Bosca* in abeyance pending its decision in *People v Temelkowski*, 307 Mich App 241; 859 NW2d 743 (2014). *People v Bosca*, 872 NW2d 492 (2015). In *Temelkowski*, this Court held that requiring a defendant to register under the sex offender registry was not a punishment, so it did not violate the constitutional prohibition on cruel or unusual punishments. *Temelkowski*, 307 Mich App at 270-271. On January 24, 2018, the Supreme Court entered an order reversing this Court's opinion in *Temelkowski* and reinstating the trial court's order removing the defendant from the sex offender registry on the basis that requiring him to register violated due process. *People v Temelkowski*, 501 Mich 960 (2018). The Supreme Court did not address the *Temelkowski* Court's holding that registration under SORA was not a punishment. See *id.*

Thereafter, the Supreme Court entered a second order holding *Bosca* in abeyance pending the decisions in *People v Tucker*, 312 Mich App 645; 879 NW2d 906 (2015) and *People v Snyder*, unpublished per curiam opinion by the Court of Appeals, issued February 18, 2016 (Docket No. 325449). *People v Bosca*, 911 NW2d 465 (2018). In *Tucker*, this Court held that because the student-safety zones and in-person reporting requirements provided for in SORA did not constitute punishment, they necessarily could not constitute cruel or unusual punishment. *Tucker*, 312 Mich App at 683. On September 5, 2018, the Supreme Court vacated its order granting leave to appeal and dismissed the application for leave to appeal. *People v Tucker*, 503 Mich 854 (2018). In *Snyder*, this Court noted that SORA had been construed in *Temelkowski* as a civil remedy, not a punishment, so its application to the defendant did not violate the constitutional prohibition on ex post facto laws. *Snyder*, unpub op at 3. On October 8, 2021, the Supreme Court entered an order reversing that part of this Court's *Snyder* opinion and vacated the defendant's conviction of failing to comply with SORA. *People v Snyder*, 964 NW2d 594 (2021).

After dismissing *Tucker* and entering a decision in *Snyder*, the Supreme Court entered an order in *Bosca*, reversing Part XIII of the *Bosca* Court's opinion, including its conclusion that it was not cruel and unusual punishment to require a defendant convicted of unlawful imprisonment of a minor to register under SORA. *People v Bosca*, 969 NW2d 55 (2022). The Supreme Court then remanded the matter to the trial court for further proceedings consistent with its recent decision in *Betts*.

At issue in *Betts* was whether the retroactive application of the 2011 SORA violated the federal and state prohibitions on ex post facto laws; the Court held that it did. *Betts*, 507 Mich at 562. Relevant here, although *Betts* did not address whether registration under SORA was a cruel or unusual punishment under our state constitution, it did conclude that "the 2011 SORA's

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aggregate punitive effect negates the state's intention to deem it a civil remedy." *Id.* In doing so, the Supreme Court did not address whether the 2021 SORA imposed a punishment or was a civil remedy. *Id.* at 533 n 2, 566 n 24.

Because the constitutional prohibition against cruel or unusual punishment requires that there first be a punishment imposed, the first step in our analysis is to determine whether our Legislature intended the 2021 SORA "as a criminal punishment or a civil remedy," and, if it was intended as a civil remedy, "whether the statutory scheme was so punitive either in purpose or effect as to negate the State's intention to deem it civil." *People v Earl*, 495 Mich 33, 38; 845 NW2d 721 (2014).

3. IS REGISTRATION UNDER THE 2021 SORA A PUNISHMENT?

The first inquiry looks at whether the Legislature intended the 2021 SORA as a criminal punishment or a civil remedy. See *id.* That question was answered by our Supreme Court in *Betts*. The *Betts* Court held that the statement of intent set forth in MCL 28.721a[4] "indicates that the Legislature's intent in enacting SORA was the promotion of public safety, a nonpunitive goal." *Betts*, 507 Mich at 548. A nonpunitive goal is also indicated based on the fact that SORA "was codified in Chapter 28 of the Michigan Complied Laws, not Chapter 750, the Michigan Penal Code." *Id.* The *Betts* Court recognized that "other aspects of SORA suggest a punitive intent:" (1) SORA seeks to promote public safety by deterring future crimes; (2) an individual must register for SORA "as a consequence of a criminal conviction;" (3) SORA's requirements are enforced by law enforcement; and (4) violations of SORA's requirements are punishable by a criminal conviction. *Id.* "Weighing these characteristics against the Legislature's expression of its intent in MCL 28.721a," the Supreme Court concluded "that the Legislature likely intended SORA as civil regulation rather than a criminal punishment." *Id.* at 548-549.

The Supreme Court's holding was not dependent upon any language specific to the 2011 SORA, but even if it were, the 2021 SORA did not include an amendment of the statement of legislative intent in MCL 28.721a, did not recodify SORA as part of the Michigan Penal Code, and did not alter any of the parts identified by the Supreme Court as indicative of a punitive intent.

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[4] MCL 28.721a provides:

> The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.

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Given that the legal basis for the Supreme Court's decision remains unchanged, its holding that the Legislature likely intended the 2011 SORA as a civil regulation, not a criminal punishment, is also applicable to the 2021 SORA.

The second inquiry looks at "whether the statutory scheme is so punitive either in purpose or effect as to negate the State's intention to deem it civil." *Earl*, 495 Mich at 38. Again, our inquiry is guided by our Supreme Court's analysis in *Betts*. In *Betts*, the Court applied the factors set forth by the United States Supreme Court in *Kennedy v Mendoza-Martinez*, 372 US 144; 83 S Ct 554; 9 L Ed 2d 644 (1963) (the *Mendoza-Martinez* factors). The Court stressed that the challenging party had to "provide the clearest proof of the statutory scheme's punitive character in order to successfully negate the State's intention to deem it civil." *Betts*, 507 Mich at 549 (quotation marks, citation, and alteration omitted). The reviewing court does not "examine individual provisions of SORA in isolation but instead [must] assess SORA's punitive effect in light of all the act's provisions when viewed as a whole." *Id.*

The first *Mendoza-Martinez* factor requires a determination as to "whether SORA has been regarded in our history and traditions as a form of criminal punishment." *Id.* at 550. In *Betts*, our Supreme Court held that "the 2011 SORA does resemble, in some respects, the traditional punishments of banishment, shaming, and parole." *Id.* The conclusion that the 2011 SORA resembled the traditional punishment of banishment was based on the 2011 SORA's student-safety zones. Because that section was removed by the 2021 SORA, we conclude that the 2021 SORA does not resemble the traditional punishment of banishment. However, like the 2011 SORA, the 2021 SORA continues to resemble the traditional punishments of shaming and parole.

With respect to the traditional punishment of shaming, the *Betts* Court held:

> The 2011 SORA also resembles the punishment of shaming. The breadth of information available to the public—far beyond a registrant's criminal history—as well as the option for subscription-based notification of the movement of registrants into a particular zip code, increased the likelihood of social ostracism based on registration. While the initial version of SORA might have been "more analogous to a visit to an official archive of criminal records than it is to a scheme forcing an offender to appear in public with some visible badge of past criminality," *Smith* [*v Doe*], 538 US [84,] 99[; 123 S Ct 1140; 155 L Ed 2d 164 (2003)], its 2011 iteration contained more personal information and required less effort to access that information. The public-facing registry contained not only information regarding a registrant's criminal conviction but also the registrant's home address, place of employment, sex, race, age, height, weight, hair and eye color, discernible features, and tier classification. When SORA's notification provision was used, members of the public were alerted to this information without active effort on their behalf, in sharp contrast with the endeavor of visiting an official archive for information. Further, a registrant's information could precede his entrance into a community, increasing the likelihood of ostracism. MCL 28.721a itself—the Legislature's statement of its intent in enacting SORA—refers to providing the public, not just law enforcement, with the means to monitor persons with sex-offense convictions, encouraging public participation and engagement with the registry and furthering the stigma of registration. See *Doe* [*v State*], 167 NH [382,] 406[; 111 A3d 1077

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> (2015)] ("Placing offenders' pictures and information online serves to notify the community, but also holds them out for others to shame or shun."). As with banishment, however, the 2011 SORA does not perfectly resemble the traditional punishment of shaming. See *Smith*, 538 US at 97-98 (describing traditional shaming punishments such as requiring offenders to stand in public with signs describing their crimes or branding offenders in order to inflict permanent stigma). The 2011 SORA did not provide a conduit for the public to directly criticize and shame registrants—as it would have, for example, if it provided an online forum or area for comments in addition to the online registry. [*Id.* at 551-552.]

Although the 2021 SORA prevents the registrant's tier classification from being available on the public website, MCL 28.728(3)(e), it also removed the provision of the prior version of SORA that prevented the public website from making available "[a]ny electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and any login names or other identifiers used by the individual when using any electronic mail address or instant messaging system." Compare MCL 28.728(3)(e), as amended by 2013 PA 2 with MCL 28.728(3), as amended by 2020 PA 295. Moreover, whereas the prior version of SORA required the registrant to report "[a]ll electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and all login names or other identifiers used by the individual when using any electronic mail address or instant messaging system," MCL 28.727(1)(i), as amended by 2011 PA 18, under the 2021 SORA, a registrant is required to report "all electronic mail addresses and internet identifiers registered to or used by the individual. MCL 28.727(1)(*i*). An internet identifier is defined as "all designations used for self-identification or routing in internet communications or posting." MCL 28.722(g).

Therefore, under the 2021 SORA, the scope of Internet-based information that a registrant must report is not only broader, but it is also permissible to make such information available on the public website. Consequentially, although the 2021 SORA made an ameliorative change to the information that was available on the public website, it also removed a section of the statute preventing the public website from making available the registrant's Internet-based identifying information. Because a registrant's Internet-based identifiers are no longer prevented from being included on the public website, the registrant is subjected to both ostracization in his or her community as well as while he or she interreacts with individuals using Internet-based communications and interactions. As a result, we conclude that the 2021 SORA continues to resemble the traditional punishment of shaming.

With respect to the traditional punishment of parole, the Supreme Court held in *Betts* that:

> the 2011 SORA also resembles parole. Although registrants need not have sought permission to make life changes, they were not free to live and work where they desired because of the student-safety zones. Registrants, like parolees, were required to periodically report in person to law enforcement. See MCL 28.725a(3), as amended by 2011 PA 17; MCL 28.725(1), as amended by 2011 PA 17. They were also required to pay registration fees. See MCL 28.725a(6), as amended by 2011 PA 17. Failure to comply with SORA's requirements, like the failure to comply with parole conditions, potentially subjects the offender to imprisonment. See MCL 28.729(1), as amended by 2011 PA 18. Further, as with parole, a law

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> enforcement officer at any time could have investigated a registrant's status based on an anonymous tip. The 2011 SORA thus imposed a significant amount of supervision by the state on registrants. This amount of supervision differentiates the 2011 SORA from the 2003 Alaska sex-offender registry, which the United States Supreme Court held did not resemble parole because registrants were "free to move where they wish and to live and work as other citizens" and because registrants were not required to make periodic updates to law enforcement in person. *Smith*, 538 US at 101-102. Neither of these characteristics is true of the 2011 SORA.

Likewise, under the 2021 SORA, a registrant is still required to periodically report to law enforcement. See MCL 28.725a(3).[5] The requirement that they pay registration fees—both upon initial registration and annually for years thereafter—is also still in effect. MCL 28.725a(6). Further, like the failure to comply with parole conditions, the failure to comply with the requirements of the 2021 SORA continues to subject the offender to imprisonment. See MCL 28.729. Finally, nothing in the 2021 SORA has altered that ability of a law enforcement officer to investigate, at any time, "a registrant's status based on an anonymous tip." See *Betts*, 507 Mich at 553.

In conclusion, as it relates to the first *Mendoza-Martinez* factor, although the 2021 SORA does not bear any resemblance to the traditional punishment of banishment, it continues to bear a significant resemblance to the traditional punishments of shaming and parole because of its "publication of information and encouragement of social ostracism" and its "imposition of significant state supervision." See *id.*

The next *Mendoza-Martinez* factor looks at "how the effects" of the 2021 SORA "are felt by those [whom are] subject to it." *Id.* at 554. "If the disability or restraint is minor and indirect, its effects are unlikely to be punitive." *Id.*, quoting *Smith*, 538 US at 100. In its analysis of this factor in relation to the 2011 SORA, our Supreme Court concluded that "the 2011 SORA imposed onerous restrictions on registrants by restricting their residency and employment, and it also imposed significant affirmative obligations by requiring extensive in-person reporting." *Betts*, 507 Mich at 556.

We begin our analysis by noting that the 2021 SORA has lessened the restrictions placed on registrants by removing the student-safety zone requirement. MCL 28.733 to MCL 28.736, as amended by 2005 PA 121. Moreover, under the 2021 SORA, it is possible that the registrant will no longer have to make the reports required by MCL 28.725(1) in person; the Michigan State Police instead now have the discretion to, but are not required to, prescribe another manner for

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[5] The reporting requirement in MCL 28.725(1) has been amended by the 2021 SORA. Now, rather than in-person reporting being the only option, the statute provides that the registrant "shall report in person, or in another manner as prescribed by" the Michigan State Police. Although the Michigan State Police have the discretion to prescribe another reporting manner, they have no obligation to do so. Moreover, even if an alternate reporting manner is, in fact, prescribed by the Michigan State Police, other parts of the 2021 SORA still require in-person reporting.

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reporting. See MCL 28.725(1). Nevertheless, the reporting obligations still impose an onerous restriction on registrants. Under the 2021 SORA, a registrant has only three days to report numerous life events, including moving residences or domiciles; changing employment; changing educational status; changing names; making plans to reside outside of the home for more than 7 days; changing vehicles or any vehicle information; changing electronic mail addresses, internet identifiers, or telephone numbers. See MCL 28.725. Further, although the immediate in-person reporting of changes in Internet-based information has been lengthened to not more than three business days, MCL 28.725a, the burden is still significant in light of our Supreme Court's observation that "[g]iven the ubiquity of the Internet in daily life, this requirement might have been triggered dozens of times within a year." *Betts*, 507 Mich at 555. Moreover, the 2021 SORA did not alter the requirement that a registrant make periodic in-person reports to law enforcement—without regard to whether any information has changed. See MCL 28.725a(3). As recognized by the *Betts* Court, "these frequent in-person reports imposed a burden on registrants, especially for those who might have had difficulty traveling to make the reports—such as those who did not have access to public transportation, did not have the financial resources necessary for private or public transportation, or had health or accessibility issues that would have impeded transportation." *Betts*, 507 Mich at 556. Finally, like the 2011 SORA, the 2021 SORA ensures "adherence to its many requirements on the potential for imposition of imprisonment." See *id.* at 554. See also *Smith*, 538 US at 100 (noting that imprisonment is the paradigmatic affirmative restraint).

In sum, notwithstanding the removal of the student-safety zone restrictions, and the loosening of the in-person reporting requirements, we conclude that the 2021 SORA imposes significant affirmative obligations on registrants by mandating upon pain of imprisonment that they report common life changes within a short period of time, sometimes in person and sometimes in a manner not specified in statute.

The third *Mendoza-Martinez* factor requires this Court to consider whether the 2021 SORA "promotes the traditional aims of punishment: retribution and specific and general deterrence." *Betts*, 507 Mich at 556. In *Betts*, the Supreme Court held that "SORA promotes the aim of deterrence." *Id.* The Court reasoned:

> Deterrence is necessarily encompassed by SORA's stated purpose of "preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders." MCL 28.721a. The extensive requirements of the 2011 SORA also generally deterred potential offenders by increasing the resultant consequences of sexual predation. Yet the aim of deterrence alone does not render a statute punitive. See *Smith*, 538 US at 102. As the United States Supreme Court has reasoned, "To hold that the mere presence of a deterrent purpose renders such sanctions 'criminal' . . . would severely undermine the Government's ability to engage in effective regulation." *Id.* (quotation marks and citation omitted). However, the deterrent effect of the 2011 SORA is not merely an indirect consequence, incidental to its regulatory function, but instead a main feature of the statutory scheme. See MCL 28.721a. [*Id.* at 556-557.]

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We find that, like the 2011 SORA, the deterrent effect of the 2021 SORA is also not merely an indirect consequence that is incidental to its regulatory function, but is instead a main feature of the statutory scheme. Again, no change to MCL 28.721a has been made in the 2021 SORA that would compel a different result.

The Supreme Court additionally held that the 2011 SORA supported the aim of retribution because:

> [t]he 2011 SORA was imposed on offenders for the sole fact of their prior offenses and made no individualized determination of the dangerousness of each registrant, indicating that SORA's restrictions were retribution for past offenses rather than regulations to prevent future offenses. See *Smith*, 538 US at 109 (Souter, J., concurring in the judgment) ("The fact that the Act uses past crimes as the touchstone, probably sweeping in a significant number of people who pose no real threat to the community, serves to feed suspicion that something more than regulation of safety is going on; when a legislature uses prior convictions to impose burdens that outpace the law's stated civil aims, there is room for serious argument that the ulterior purpose is to revisit past crimes, not prevent future ones."). [*Betts*, 507 Mich at 557.]

We find that these same principles are applicable to the 2021 SORA and, as a result, like the 2011 SORA, the 2021 SORA also supports the aim of retribution.

In conclusion, because the 2021 SORA aimed to protect the public through deterrence and because its restrictions support the aim of retribution, we conclude that the 2021 SORA promotes the traditional aims of punishment.

The fourth *Mendoza-Martinez* factor requires consideration of whether the 2021 SORA has a rational connection to a nonpunitive purpose. *Betts*, 507 Mich at 558. We conclude that it does. As explained in *Betts*,

> the asserted goal of the Legislature is to "provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons" who have committed a specified sex offense and who are therefore considered to "pose[ ] a potential serious menace and danger to the health, safety, morals, and welfare of the people . . . of this state." MCL 28.721a. The protection of citizens from potentially dangerous sex offenders is "a compelling state interest in furtherance of the state's police powers." [*State v*] *Letalien*, [2009 ME 130;] 985 A2d [4] 22 [(2009)]. [*Id.* at 558.]

Like the 2011 SORA, the 2021 SORA, furthers the nonpunitive purpose of public safety "by identifying potentially recidivist sex offenders and alerting the public." See *id.*

The final *Mendoza-Martinez* factor is "whether the regulatory means chosen are reasonable in light of the nonpunitive objective." *Id.* at 559 (quotation marks and citation omitted). The touchstone of this inquiry "is 'reasonableness,' not whether the legislature has made the best choice

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possible to address the problem it seeks to remedy." *Id.* (quotation marks and citation omitted). In *Betts*, this Court considered this factor in relation to the 2011 SORA, reasoning:

> The Legislature's asserted nonpunitive goal was based on the Legislature's determination that "a person who has been convicted of committing an offense covered by [SORA] poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state." MCL 28.721a. Central to our inquiry, then, is whether the 2011 SORA is a reasonable means of protecting the public from sex offenders who allegedly pose such a "potential serious menace." *Id.* [*Id.*]

Here, given that there has been no change to the Legislature's asserted nonpunitive goal, the same inquiry must be made as it relates to the 2021 SORA. Moreover, as noted by our Supreme Court in *Betts*, a number of studies support the proposition that "the dangerousness of sex offenders has been historically overblown," "that, in fact, sex offenders are actually less likely to recidivate than other offenders," and that "sex-offender registries have dubious efficacy in achieving their professed goals of decreasing recidivism." *Id.* at 560.[6] Rather than determine if the studies were compelling, the *Betts* Court noted that, "at a minimum, the studies cited demonstrate that the 2011 SORA efficacy is unclear." *Id.* at 561. Likewise, the same articles support an inference that the 2021 SORA's efficacy at decreasing the recidivism of sex offenders is also unclear.

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[6] The Supreme Court referenced the following:

> United States Department of Justice, Alper & Durose, Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005-2014) (May 2019), available at <https://www.bjs.gov/content/pub/pdf/rsorsp9yfu0514.pdf> (accessed June 4, 2021) [https://perma.cc/U9HY-MJ7F] (concluding that sex offenders are less likely than other offenders to be rearrested for any crime); Huebner et al., An Evaluation of Sex Offender Residency Restrictions in Michigan and Missouri (July 1, 2013), p. 72, available at <https://www.ncjrs.gov/pdffiles1/nij/grants/242952.pdf> (accessed June 4, 2021) [https://perma.cc/D9K4-CV5P] (concluding that residency restrictions "are unlikely to mitigate or reduce the risk of recidivism among sex offenders"); Prescott & Rockoff, *561 Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?, 54 J. L. & Econ. 161, 192 (2011) (concluding that notification requirements in a typical sex-offender registry "effectively increases the number of sex offenses by more than 1.57 percent," likely "because of the social and financial costs associated with the public release of their criminal history and personal information"). [*Betts*, 507 Mich at 560-561.]

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In light of the uncertainty of the 2021 SORA's efficacy at decreasing recidivism, we conclude that the restraints it imposed were excessive, even though there were fewer restraints in the 2021 SORA than the 2011 SORA.[7] As observed by our Supreme Court:

> Over 40,000 registrants were subject to the 2011 SORA's requirements without any individualized assessment of their risk of recidivism. The duration of an offender's reporting requirement was based solely on the offender's conviction and not the danger he individually posed to the community. Registrants remained subject to SORA—including the stigma of having been branded a potentially violent menace by the state—long after they had completed their sentence, probation, and any required treatment. . . . Registrants were also required to make frequent in-person reports to law enforcement upon minor life changes and regular in-person reports—sometimes multiple times a year—even when no information had changed. These demanding and intrusive requirements, imposed uniformly on all registrants regardless of an individual's risk of recidivism, were excessive in comparison to SORA's asserted public-safety purpose.

In conclusion, having considered the *Mendoza-Martinez* factors cumulatively, we conclude that the 2021 SORA's aggregate punitive effect negates the Legislature's intention to deem it a civil regulation. As a result, requiring an individual to comply with the 2021 SORA imposes a criminal punishment on a registrant. That does not, however, end our inquiry. In order to be entitled to relief in this case, Lymon must demonstrate that the punishment of being required to comply with the 2021 SORA is cruel and/or unusual punishment.

4. CRUEL OR UNUSUAL PUNISHMENT

"The Michigan Constitution prohibits cruel *or* unusual punishment, Const 1963, art 1, § 16, whereas the United States Constitution prohibits cruel *and* unusual punishment, US Const., Am VIII." *People v Benton*, 294 Mich App 191, 204; 817 NW2d 599 (2011) (emphasis added). "If a punishment passes muster under the state constitution, then it necessarily passes muster under the federal constitution." *Id.* (quotation marks and citation omitted). To determine whether a punishment is cruel or unusual, courts assess whether it is "unjustifiably disproportionate" to the offense committed by considering four factors: (1) the harshness of the penalty compared to the gravity of the offense, (2) the penalty imposed for the offense compared to penalties imposed for other offenses in Michigan, (3) the penalty imposed for the offense in Michigan compared to the penalty imposed for the same offense in other states, and (4) whether the penalty imposed advances the goal of rehabilitation. *People v Bullock*, 440 Mich 15, 30, 33-34; 485 NW2d 866 (1992).

We note at the outset that we do not address whether registration under SORA is cruel or unusual punishment per se, but rather whether it is cruel or unusual punishment for a crime that lacks a sexual component and is not sexual in nature. Here, Lymon was convicted of two counts of unlawful imprisonment of a minor. Although his actions in committing the offenses are

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[7] As has been noted repeatedly in this opinion, the most significant change between the 2011 SORA and the 2021 SORA was the removal of the student-safety zones.

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extremely disturbing, there simply are no facts in this case supporting an inference that there was any sexual component to the offenses he committed. Instead, the record reflects that he unlawfully imprisoned his minor children, not during a sexual assault, but rather while he terrorized and threatened them with a gun. As punishment for this heinous, but non-sexual offense, he was sentenced to 84 to 180 months' imprisonment. He was also required to register under SORA. The nature of his underlying offense means that he had to register as a Tier I offender. See MCL 28.722(q) and (r)(*iii*). As noted above, registration under SORA imposes affirmative obligations amounting to an onerous burden on registrants. As a Tier I offender, Lymon must comply with the requirements imposed by SORA for 15 years. MCL 28.725(10).[8] The 15-year registration period, however, excludes "any period of incarceration for committing a crime." MCL 28.725(14). As a result, in addition to the 7 to 15 year sentence of incarceration that he must serve for the offense of unlawful imprisonment, he will have another 15 years of punishment in the form of state supervision and public shaming imposed by his registration under the 2021 SORA.[9]

For the duration of that 15-year period, Lymon must report in person or in a method prescribed by the Michigan State Police if any of the following normal life changes occur: change in residence or domicile; change in employment; enrollment or discontinuance of enrollment with an institute of higher education; change of name; change of vehicle information; change of e-mail address, internet identifiers, or telephone number. MCL 28.725(1)-(2). If Lymon intends to temporarily reside outside his place of residence for more than 7 days, he must report that fact as well. MCL 28.725(2)(b). Before he can move to another state, he must first report that change in person; likewise, if he desires to travel to another country for more than 7 days, he must make an in person report. MCL 28.725(8). In addition, even if there has been no change to his residence or domicile, once per year in the month of his birth, Lymon must report in person to verify his domicile, as well as any information that he reported under MCL 28.724a. MCL 28.725a(3)(a). While making his annual in-person report, Lymon will be evaluated to determine whether his photograph matches his appearance "sufficiently to properly identify him" from the photograph. MCL 28.725a(3)(a). If it does not, then he must obtain a current photograph within 7 days. MCL 28.725a(3)(a). Unless he can establish indigency, see MCL 28.725b(3), Lymon must pay a $50 annual registration fee. MCL 28.725a(6). Unless he is homeless, he must maintain either a valid operator's or chauffeur's license or an official state personal identification card with his current address. MCL 28.725a(7). He may, at the discretion of an officer or authorized employee, be required to produce other documents bearing his name, such as a voter registration or a bill. MCL 28.725a(7). These affirmative obligations place an onerous burden on Lymon for a period equal to the maximum sentence that he can be required to serve on the underlying conviction.

Moreover, for a 15-year period, the following information regarding Lymon must be made available on a public website: his name (legal, aliases, nicknames, ethnic or tribal names, and any other name); his date of birth; his address; the address of each of his employers and the address of

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[8] There is a procedure to remove a registrant's name from the registry. See MCL 28.728c. However, it essentially requires that Lymon maintain a "clean" record for a decade. See MCL 28.728c(12).

[9] An offender who serves his or her maximum sentence is not subject to additional state supervision in the form of probation or parole upon his release.

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the places where he is working; the address of any school that has accepted him as a student and that he plans to attend; his license plate number and a description of any vehicle he owns or operates; a summary of his convictions for listed offenses; a complete physical description; a photograph; and his registration status. MCL 28.728(2). As noted earlier in the opinion, there is no statutory prohibition against additional information, such as his Internet identifiers, from also being made available on the public website. Given the social stigma that results from an individual being placed on a sexual offender registry, we conclude Lymon's placement on the public registry is also a severe punishment because he has not been convicted of an offense that includes a sexual component.[10] Simple logic compels the conclusion that an individual on the *sexual* offender registry has committed an offense with a *sexual* component, i.e., that he is a sexual offender.[11] Here, because there is no sexual component to Lymon's offense, any negative consequences that he must face as a result of being publicly listed on a website purporting to identify sexual offenders, arises from his placement on the registry, not from his underlying conviction.

Finally, Lymon's failure to comply with the requirements under SORA can result in him being convicted of felonies or misdemeanors, and being subjected to fines and/or imprisonment. See MCL 28.729. Although his failure to comply must be willful, see *id.*, we conclude that this nevertheless is another aspect of his punishment that must be weighed against the gravity of his underlying offense.

In light of the foregoing, and weighing the gravity of the offense against the severity of the penalty imposed, we conclude that registration under SORA results in punishment grossly disproportionate to the offense. For a period of time equal to the maximum length of his incarceration for the underlying offense, Lymon must meet the onerous reporting requirements, he must suffer the social stigma of being placed on a sex offenders registry despite having not committed an offense with a sexual component, and he is subject to additional convictions and incarceration should he fail to comply.

The next factor looks to the penalty imposed for the offense compared to penalties imposed for other offenses in Michigan. *Bullock*, 440 Mich at 33. It is axiomatic that the majority of offenses that do not have a sexual component do not result in the offender being placed on the sexual offender registry. In this case, however, we do not have to look far to see the injustice inherent in imposing an additional punishment on Lymon for his conviction of unlawful imprisonment of his children. He was convicted of three counts of unlawful imprisonment. Each count was based on the same underlying facts: Lymon, using a gun, restrained Jacqueline and his children, making them sit on the sofa, kneel in front of the fireplace, and stay in the family room for the entirety of the night while he threatened to kill them. Despite being based on identical criminal conduct, the penalty for the two counts involving his children is substantially more severe.

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[10] We note that although all felony convictions carry with them a certain stigma, convictions for crimes sexual in nature produce a taint that surpasses almost all other crimes.

[11] We also note that registering individuals convicted of crimes lacking in any sexual aspect would not only expose those individuals to a disproportionate level of stigma and punishment, but would also seem to dilute and undermine the efficacy of registration for its intended purposes.

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We conclude, therefore, that this factor also weighs in favor of a finding that, as applied to Lymon, registration under SORA is cruel or unusual punishment.

The third factor recognizes that it "may be useful to compare the sentences imposed for commission of the same crime in other jurisdictions." *Id.* at 34 (quotation marks and citation omitted). We do not find this factor particularly compelling under the facts of this case. Other states, like Michigan, require registration under their versions of SORA for kidnapping or imprisonment of a minor. Those states include, but are not limited to, New York,[12] Arkansas,[13] Wisconsin,[14] and Kentucky.[15] Yet, we have concluded that registration under Michigan's 2021 SORA is a punishment in the constitutional sense. In contrast, the courts in New York,[16] Arkansas,[17] Wisconsin,[18] have held that their versions of SORA are not punitive, whereas other states have held that their versions of SORA do, in fact constitute punishments.[19] We conclude that given that each state's version of SORA appears to include both minor and major differences when compared to our version of SORA, a comparison to the penalty imposed in other states does little to shed light on whether the penalty imposed on Lymon in this case is cruel or unusual punishment.

The final factor requires consideration of whether the penalty imposed advances the goal of rehabilitation. *Bullock*, 440 Mich at 34. We conclude that it does not. We find persuasive this Court's analysis on the rehabilitation that was stated in *People v Dipiazza*, 286 Mich App 137, 156; 778 NW2d 264 (2009). In that case, this Court held:

> [I]t is abundantly clear that there is no goal of rehabilitation in this case. Defendant never posed a danger to the public or a danger of reoffending. Defendant is not a sexual predator, nor did the trial court deem him to be. Further, even if defendant needed rehabilitation, SORA's labeling him as a convicted sex offender works at an opposite purpose, preventing defendant from securing employment and otherwise moving forward with his life plans.

Likewise, in this case, there is nothing to suggest that the danger Lymon poses to the public is related to a sexual offense, nor is there anything to suggest that he will commit a sexual offense in

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[12] *People v Knox*, 12 NY3d 60, 67-68; 903 NE2d (2009).

[13] Ark Code Ann § 12-12-903(13-A)(r).

[14] *State v Smith*, 323 Wis 2d 377, 401-403; 2010 WI 16; 780 NW2d 90 (2010).

[15] *Moffitt v Commonwealth*, 360 SW3d 247 (Ky App, 2012).

[16] *People v Parilla*, 109 App Div 3d 20, 29; 970 NYS2d (2013).

[17] *Parkman v Sex Offender Screening and Risk Assessment Committee*, 2009 Ark 205, 16; 307 SW3d 6 (2009).

[18] *In the Interest of CG*, 396 Wis 2d 105, 132; 2021 WI App 11; 955 NW2d 443 (2021).

[19] See *Does #1-5 v Snyder*, 834 F3d 696, 705 (CA 6, 2016) (collecting cases).

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the future. He is not a sexual predator. And, to the extent that he needs rehabilitation, labeling him as a sex offender, does not serve any rehabilitation goals related to his actual offense.[20]

Consequently, having considered the gravity of the offense, the harshness of the penalty, and the goal of rehabilitation, we conclude that requiring Lymon to register as a sex offender for 15 years is cruel or unusual punishment because it is unjustifiably disproportionate to the offense committed. On remand the trial court shall enter an order removing Lymon from the sex offender registry.[21]

Affirmed but remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Michael J. Kelly
/s/ Kirsten Frank Kelly
/s/ Amy Ronayne Krause

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[20] We note that there is conflicting information regarding the recidivism rate for sex offenders. Compare *McKune v Lile*, 536 US 24, 32-34; 122 S Ct 2017; 153 L Ed 2d 47 (2002) (concluding that, based on United States Department of Justice data, sex offenders face a "frightening and high risk of recidivism") with *Betts*, 507 Mich at 559 (recognizing that there is "[a] growing body of research" that supports the propositions that the "dangerousness of sex offenders has been historically overblown" and that, "in fact, sex offenders are less likely to recidivate than other offenders."). Here, because Lymon is not a sex offender, the research on the recidivism rate for sexual offenders is not relevant to a determination as to whether he is likely to recidivate.

[21] Because Michigan's Constitution provides broader protection than its federal counterpart, *Bullock*, 440 Mich at 30, we need not address whether there was also a violation of the Eighth Amendment to the United States Constitution.

MSP NOTICE TO REGISTRANTS

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STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING

GRETCHEN WHITMER
GOVERNOR

COL. JOSEPH M. GASPER
DIRECTOR

March 24, 2021

SOR Registrant
123 Street Address
Somewhere, Michigan 12345

Subject: Registration Number

On December 31, 2020, the Michigan Sex Offenders Registration Act (SORA) was amended to substantially conform its requirements to the federal Sex Offender Registration and Notification Act (SORNA), Title I of the Adam Walsh Child Protection and Safety Act of 2006, as amended. See Public Act 295 of 2020.

You are receiving this correspondence because you are a registered individual under Michigan's amended SORA law based on the information maintained by the Michigan State Police's Sex Offender Registry Unit. This correspondence summarizes the major changes within the SORA that affect your registration responsibilities. **These changes take effect on March 24, 2021**. A more detailed explanation of your reporting obligations will be provided to you at your next verification period.

STUDENT SAFETY ZONES
The requirements that registered individuals not live, work, or loiter within 1000 feet of school property have been eliminated. See Public Act 295 of 2020, repealing MCL 28.733, 28.734, 28.735, and 28.736.

PUBLIC NATURE OF THE TIERING
The amended law also eliminates the publishing of the registrant's tiering on the public internet website. MCL 28.728(3)(e) ("The following information must not be made available on the public internet website described in subsection (2): . . . (e) *The individual's tier classification*.") (emphasis added).

REGISTERING AND REPORTING EMAIL AND INTERNET IDENTIFIERS
The amended law further provides that the obligations to register and report all electronic mail addresses and internet identifiers registered to or used by an individual only applies to individuals required to be registered under the Act after July 1, 2011. MCL 28.725(2)(a), 28.727(1)(i). In other words, individuals who were required to be registered under the Act prior to July 1, 2011, and who have committed no registrable offense since, have no obligation to register or report electronic mail addresses or internet identifiers under the amended law.

REPORTING OBLIGATIONS UNDER § 28.725 OF THE SORA
Under MCL 28.725(1), registered individuals must update their status for changes in residence or domicile, employment, enrollment as student, or name **in person** at the registering authority having jurisdiction over his or her residence **not more than three business days** after the change. MCL 28.725(1) (emphasis added).

Under MCL 28.725(2), registered individuals must update a change to their vehicle information, electronic mail addresses, internet identifiers, telephone numbers, or temporary residence **not more than three business days** after the change in the **manner prescribed by the Michigan State Police**. MCL 28.725(2).

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MANNER PRESCRIBED BY THE MICHIGAN STATE POLICE UNDER § 28.725(2) OF SORA
Under MCL 28.725(2), registered individuals must update a change to their vehicle information, electronic mail addresses, internet identifiers, telephone numbers, or temporary residence **not more than three business days** after the change in the following manner:

First class mail to the registering authority having jurisdiction over the registered individual's residence that provides updated information regarding the following:

(a) any change in vehicle information,

electronic mail addresses,

internet identifiers, or

telephone numbers registered to or used by the individual.

(The requirement to report any change in electronic mail addresses and internet identifiers applies only to an individual required to be registered under this Act after July 1, 2011.) [MCL 28.725(2)(a).]

(b) The individual intends to temporarily reside at any place other than his or her residence for more than 7 days. [MCL 28.725(2)(b).]

A copy of the Michigan State Police form (RI-004A) is included in this notification, which also provides an explanation of your duties.

Also, the form from the Michigan State Police (RI-004A) may be accessed by downloading it from the following website:

www.Michigan.gov/MSPforms

The letter must be postmarked no later than three business days after the date of the change.

Alternatively, the form may be dropped off, or the information may be provided, in person at the registering authority having jurisdiction over the registered individual's residence no later than three business days after the date of the change. But there is no requirement to drop off the updated information in person.

THE FORM SHOULD **NOT** BE MAILED TO THE MICHIGAN STATE POLICE SEX OFFENDER REGISTRY UNIT IN LANSING.

CLARIFICATIONS REGARDING TELEPHONE NUMBERS, ELECTRONIC MAIL ADDRESSES AND INTERNET IDENTIFIERS, AND VEHICLE INFORMATION
Under MCL 28.722(g), the amended law provides that the term 'internet identifier' means 'all designations used for self-identification or routing in internet communications or posting.'

Under MCL 28.727(1), registered individuals must provide all the following information for registration purposes, with changes to (h), (i), and (j):

(a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known. An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases must not contain any information identifying the individual's prior identity or locale.

(b) The individual's Social Security number and any Social Security numbers or alleged Social Security numbers previously used by the individual.

(c) The individual's date of birth and any alleged dates of birth previously used by the individual.

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(d) The address where the individual resides or will reside. If the individual does not have a residential address, information under this subsection must identify the location or area used or to be used by the individual in lieu of a residence or, if the individual is homeless, the village, city, or township where the person spends or will spend the majority of his or her time.

(e) The name and address of any place of temporary lodging used or to be used by the individual during any period in which the individual is away, or is expected to be away, from his or her residence for more than 7 days. Information under this subdivision must include the dates the lodging is used or to be used.

(f) The name and address of each of the individual's employers. For purposes of this subdivision, 'employer' includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection must include the address or location of employment if different from the address of the employer. If the individual lacks a fixed employment location, the information obtained under this subdivision must include the general areas where the individual works and the normal travel routes taken by the individual in the course of his or her employment.

(g) The name and address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, 'school' means a public or private postsecondary school or school of higher education, including a trade school.

(h) All telephone numbers registered to the individual or used by the individual, including, but not limited to, residential, work, and mobile telephone numbers.

(i) Except as otherwise provided in this subdivision, all electronic mail addresses and internet identifiers registered to or used by the individual. This subdivision applies only to an individual required to be registered under this act after July 1, 2011.

(j) The license plate number and description of any vehicle owned or operated by the individual.

(k) The individual's driver license number or state personal identification card number.

(l) A digital copy of the individual's passport and other immigration documents.

(m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.

(n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(o) A complete physical description of the individual.

(p) The photograph required under section 5a.

(q) The individual's fingerprints if not already on file with the department and the individual's palm prints. An individual required to be registered under this act shall have his or her fingerprints or palmprints or both taken not later than September 12, 2011 if his or her fingerprints or palmprints are not already on file with the department. The department shall forward a copy of the individual's fingerprints and palm prints to the Federal Bureau of Investigation if not already on file with that bureau.

(r) Information that is required to be reported under section 4a. [MCL 28.727(1).]

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ASSIGNED TO YOUTHFUL TRAINEE STATUS

Under MCL 28.722(a), an individual does not have a registerable conviction for purposes of the SORA when assigned to youthful trainee status under the Holmes Youthful Trainee Act (HYTA) unless that individual fails to successfully complete a term of supervision:

> (a) 'Convicted' means 1 of the following:
>
> > (i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court. Convicted does not include a conviction that was subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624, or otherwise expunged.
> >
> > (ii) Except as otherwise provided in this subparagraph, being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004. An individual who is assigned to and successfully completes a term of supervision under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, is not convicted for purposes of this act. This subparagraph does not apply if a petition was granted under section 8c at any time allowing the individual to discontinue registration under this act, including a reduced registration period that extends to or past July 1, 2011, regardless of the tier designation that would apply on and after that date.
> >
> > (iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28, if both of the following apply:
> >
> > > (A) The individual was 14 years of age or older at the time of the offense.
> > >
> > > (B) The order of disposition is for the commission of an offense that would classify the individual as a tier III offender.
> >
> > (iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country if both of the following apply:
> >
> > > (A) The individual is 14 years of age or older at the time of the offense.
> > >
> > > (B) The order of disposition or other adjudication is for the commission of an offense that would classify the individual as a tier III offender.
>
> [MCL 28.722(a).]

CONVICTIONS THAT HAVE BEEN EXPUNGED

Under MCL 28.725(16), for an individual who has had his or her conviction set aside or otherwise expunged, the individual may present that order to the Michigan State Police or the appropriate registering authority having jurisdiction over his or her residence to have the registration discontinued:

> If an individual required to be registered under this act presents an order to the department or the appropriate registering authority that the conviction or adjudication for which the individual is required to be registered under this act has been set aside under 1965 PA 213, MCL 780.621 to 780.624, or has been otherwise expunged, his or her registration under this act must be discontinued. If this subsection applies, the department shall remove the individual from both the law enforcement database and the public internet website maintained under section 8.
>
> [MCL 28.725(16).]

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EXCEPTION TO MAINTAIN STATE IDENTIFICATION FOR HOMELESS PERSONS
Under MCL 28.725a(7), a registered individual who is homeless does not have to maintain a driver's license or state identification card:

> (7) Except as otherwise provided in this subsection, an individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including, but not limited to, voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence. The requirement to maintain a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, does not apply to an individual required to be registered under this act who is homeless. As used in this subsection, 'homeless' means someone who lacks a fixed or temporary residence.
> [MCL 28.725a(7).]

An explanation of your duties to register as a sex offender will be provided to you at your next verification period. Please review the information carefully and familiarize yourself with the changes to the SORA.

If you have any questions regarding the amendments to the SORA or your reporting obligations, you may contact your legal counsel or the registering authority having jurisdiction over your residence, which is the local police agency, county sheriff, or local Michigan State Police post.

You may wish to retain this letter for future reference.

Sincerely,
Sex Offender Registry Unit

28a

COMPARATIVE CHART
MICHIGAN 2021 SORA AND FEDERAL SORNA

MICHIGAN SORA	FEDERAL SORNA (34 U.S.C. §)	FEDERAL SORNA 86 Fed. Reg. 69856—69887 [Previous] [73 Fed. Reg. 38030–38070 (July 2, 2008)] [76 Fed. Reg. 1630–1640 (Jan 11, 2011)] [81 Fed. Reg. 50552–50558 (Aug 1, 2016)] 28 C.F.R 72.1 *et seq.*
I. GENERAL		
28.721. Short title. Sec. 1. This act shall be known and may be cited as the "sex offenders registration act".	**§ 20902. Establishment of program.** This chapter establishes the Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Program.	**72.1. Purpose.**
28.721a. Legislative declarations; purpose of registration requirements. Sec. 1a. The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.	**§ 20901. Declaration of purpose.** In order to protect the public from sex offenders and offenders against children, and in response to the vicious attacks by violent predators against the victims listed below, Congress in this chapter establishes a comocprehensive national system for the registration of those offenders: (1) Jacob Wetterling, who was 11 years old, was abducted in 1989 in Minnesota, and remains missing. (2) Megan Nicole Kanka, who was 7 years old, was abducted, sexually assaulted, and murdered in 1994, in New Jersey. (3) Pam Lychner, who was 31 years old, was attacked by a career offender in Houston, Texas. (4) Jetseta Gage, who was 10 years old, was kidnapped, sexually assaulted, and murdered in 2005, in Cedar Rapids, Iowa. (5) Dru Sjodin, who was 22 years old, was sexually assaulted and murdered in 2003, in North Dakota. (6) Jessica Lunsford, who was 9 years old, was abducted, sexually assaulted, buried alive, and murdered in 2005, in Homosassa, Florida. (7) Sarah Lunde, who was 13 years old, was strangled and murdered in 2005, in Ruskin, Florida. (8) Amie Zyla, who was 8 years old, was sexually assaulted in 1996 by a juvenile offender in Waukesha, Wisconsin, and has become an advocate for child victims and protection of children from juvenile sex offenders. (9) Christy Ann Fornoff, who was 13 years old, was abducted, sexually assaulted, and murdered in 1984, in Tempe, Arizona.	§ 72.1 Purpose. (a) This part specifies the registration requirements of the Sex Offender Registration and Notification Act (SORNA), 34 U.S.C. 20901 et seq., and the scope of those requirements' application. The Attorney General has the authority to specify the requirements of SORNA and their applicability as provided in this part pursuant to provisions of SORNA, including 34 U.S.C. 20912(b), 20913(d), and 20914(a)(8), (c). (b) This part does not preempt or limit any obligations of or requirements relating to sex offenders under other Federal laws, rules, or policies, or under the laws, rules, or policies of registration jurisdictions or other entities. States and other governmental entities may prescribe registration requirements and other requirements, with which sex offenders must comply, that are more extensive or stringent than those prescribed by SORNA.

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CHARTS COMPARING 2021 SORA with SORNA

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	(10) Alexandra Nicole Zapp, who was 30 years old, was brutally attacked and murdered in a public restroom by a repeat sex offender in 2002, in Bridgewater, Massachusetts. (11) Polly Klaas, who was 12 years old, was abducted, sexually assaulted, and murdered in 1993 by a career offender in California. (12) Jimmy Ryce, who was 9 years old, was kidnapped and murdered in Florida on September 11, 1995. (13) Carlie Brucia, who was 11 years old, was abducted and murdered in Florida in February, 2004. (14) Amanda Brown, who was 7 years old, was abducted and murdered in Florida in 1998. (15) Elizabeth Smart, who was 14 years old, was abducted in Salt Lake City, Utah in June 2002. (16) Molly Bish, who was 16 years old, was abducted in 2000 while working as a lifeguard in Warren, Massachusetts, where her remains were found 3 years later. (17) Samantha Runnion, who was 5 years old, was abducted, sexually assaulted, and murdered in California on July 15, 2002.	
28.722. Definitions. Sec. 2. As used in this act:	**§ 20911. Relevant definitions.**	**§ 72.2. Definitions.**

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COMPARATIVE CHARTS

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(a) "Convicted" means 1 of the following: (i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court. Convicted does not include a conviction that was subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624, or otherwise expunged. (ii) Except as otherwise provided in this subparagraph, being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004. An individual who is assigned to and successfully completes a term of supervision under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, is not convicted for purposes of this act. This subparagraph does not apply if a petition was granted under section 8c1 at any time allowing the individual to discontinue registration under this act, including a reduced registration period that extends to or past July 1, 2011, regardless of the tier designation that would apply on and after that date. (iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28, if both of the following apply: (A) The individual was 14 years of age or older at the time of the offense. (B) The order of disposition is for the commission of an offense that would classify the individual as a tier III offender. (iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country if both of the following apply: (A) The individual is 14 years of age or older at the time of the offense. (B) The order of disposition or other adjudication is for the commission of an offense that would classify the individual as a tier III offender. (b) "Custodial authority" means 1 or more of the following apply:	(1) Sex offender The term "sex offender" means an individual who was convicted of a sex offense. (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 predators 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. (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 section 2241 of Title 18), or was an attempt or conspiracy to commit such an offense. **[18 USC § 2241. Aggravated sexual abuse.]**	All terms used in this part have the same meaning as in SORNA.

3/a

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(i) The actor was a member of the same household as the victim. (ii) The actor was related to the victim by blood or affinity to the fourth degree. (iii) The actor was in a position of authority over the victim and used this authority to coerce the victim to submit. (iv) The actor was a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled. (v) The actor was an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled, or was a volunteer who was not a student in any public school or nonpublic school, or was an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor used his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person. (vi) That other person was under the jurisdiction of the department of corrections and the actor was an employee or a contractual employee of, or a volunteer with, the department of corrections who knew that the other person was under the jurisdiction of the department of corrections 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. (vii) That other person was under the jurisdiction of the department of corrections 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 section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g, who knew that the other person was under the jurisdiction of the department of corrections. (viii) That other person 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 a contractual employee of, or a volunteer with, the county or the department of corrections who knew that the other person was under the county's jurisdiction and used his or her position of authority over the victim to gain access to or to	[(a) By force or threat.--Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly causes another person to engage in a sexual act-- (1) by using force against that other person; or (2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both. (b) By other means.--Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly-- (1) renders another person unconscious and thereby engages in a sexual act with that other person; or (2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby-- (A) substantially impairs the ability of that other person to appraise or control conduct; and (B) engages in a sexual act with that other person; or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both. (c) With children.--Whoever crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging), or	

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coerce or otherwise encourage the victim to engage in sexual contact. (ix) The actor knew or had reason to know that a court had detained the victim in a facility while the victim was awaiting a trial or 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 to which the victim was committed. (c) "Department" means the department of state police. (d) "Employee" means an individual who is self-employed or works for any other entity as a full-time or part-time employee, contractual provider, or volunteer, regardless of whether he or she is financially compensated. (e) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 174, MCL 761.1. (f) "Indigent" means an individual to whom 1 or more of the following apply: (i) He or she has been found by a court to be indigent within the last 6 months. (ii) He or she qualifies for and receives assistance from the department of health and human services food assistance program. (iii) He or she demonstrates an annual income below the current federal poverty guidelines.	attempts to do so, shall be fined under this title and imprisoned for not less than 30 years or for life. If the defendant has previously been convicted of another Federal offense under this subsection, or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison. (d) State of mind proof requirement.--In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.] **§ 20911. Relevant definitions. (Cont.)** (12) Employee The term "employee" includes an individual who is self-employed or works for any other entity, whether compensated or not. **[§ 20916. Direction to Attorney General]** [(e) Definitions (1) Of "social networking website"	

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	As used in this Act, the term "social networking website"— (A) means an Internet website-- (i) that allows users, through the creation of web pages or profiles or by other means, to provide information about themselves that is available to the public or to other users; and (ii) that offers a mechanism for communication with other users where such users are likely to include a substantial number of minors; and (iii) whose primary purpose is to facilitate online social interactions; and (B) includes any contractors or agents used by the website to act on behalf of the website in carrying out the purposes of this Act.	
(g) "Internet identifier" means all designations used for self-identification or routing in internet communications or posting.	(2) Of "Internet identifiers" As used in this Act, the term "Internet identifiers" means electronic mail addresses and other designations used for self-identification or routing in Internet communication or posting.	
(h) "Institution of higher education" means 1 or more of the following: (i) A public or private community college, college, or university. (ii) A public or private trade, vocational, or occupational school.	(3) Other terms A term defined for the purposes of the Sex Offender Registration and Notification Act has the same meaning in this Act.]	
(i) "Listed offense" means a tier I, tier II, or tier III offense.	**§ 20911. Relevant definitions. (Cont.)**	
(j) "Local law enforcement agency" means the police department of a municipality.		
(k) "Minor" means a victim of a listed offense who was less than 18 years of age at the time the offense was committed.	(14) Minor The term "minor" means an individual who has not attained the age of 18 years.	
(l) "Municipality" means a city, village, or township of this state.		

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(m) "Registering authority" means the local law enforcement agency or sheriff's office having jurisdiction over the individual's residence, place of employment, or institution of higher learning, or the nearest department post designated to receive or enter sex offender registration information within a registration jurisdiction.	(9) Sex offender registry The term "sex offender registry" means a registry of sex offenders, and a notification program, maintained by a jurisdiction.	
(n) "Registration jurisdiction" means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the United States Virgin Islands, American Samoa, and the Indian tribes within the United States that elect to function as a registration 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 20929 of this title, a federally recognized Indian tribe.	
(o) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a person has a residence separate from that of his or her husband or wife, that place at which the person resides the greater part of the time must be his or her official residence for the purposes of this act. If a person is homeless or otherwise lacks a fixed or temporary residence, residence means the village, city, or township where the person spends a majority of his or her time. This section shall not be construed to affect existing judicial interpretation of the term residence for purposes other than the purposes of this act.	(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.	
(p) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including, but not limited to, a secondary school, trade school, professional institution, or institution of higher education.	(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.	
(q) "Tier I offender" means an individual convicted of a tier I offense who is not a tier II or tier III offender.		
(r) "Tier I offense" means 1 or more of the following:		

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(i) A violation of section 145c(4) of the Michigan penal code, 1931 PA 328, MCL 750.145c. (ii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if a victim is a minor. (iii) A violation of section 349b of the Michigan penal code, 1931 PA 328, MCL 750.349b, if the victim is a minor. (iv) A violation of section 449a(2) of the Michigan penal code, 1931 PA 328, MCL 750.449a. (v) A violation of section 520e or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if the victim is 18 years or older. (vi) A violation of section 539j of the Michigan penal code, 1931 PA 328, MCL 750.539j, if a victim is a minor. (vii) Any other violation of a law of this state 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 an individual who is a minor. (viii) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a. (ix) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (viii). (x) An offense substantially similar to an offense described in subparagraphs (i) to (ix) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law. (s) "Tier II offender" means either of the following: (i) A tier I offender who is subsequently convicted of another offense that is a tier I offense. (ii) An individual convicted of a tier II offense who is not a tier III offender. (t) "Tier II offense" means 1 or more of the following: (i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a.	(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:	

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(ii) A violation of section 145b of the Michigan penal code, 1931 PA 328, MCL 750.145b. (iii) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c. (iv) A violation of section 145d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.145d, except for a violation arising out of a violation of section 157c of the Michigan penal code, 1931 PA 328, MCL 750.157c.	(i) sex trafficking (as described in section 1591 of Title 18); (ii) coercion and enticement (as described in section 2422(b) of Title 18); (iii) transportation with intent to engage in criminal sexual activity (as described in section 2423(a))1 of Title 18; (iv) abusive sexual contact (as described in section 2244 of Title 18); (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.	
(v) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, committed against a minor unless either of the following applies: (A) All of the following: (I) The victim consented to the conduct constituting the violation. (II) The victim was at least 13 years of age 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. (B) All of the following: (I) The victim consented to the conduct constituting the violation. (II) The victim was 16 or 17 years of age at the time of the violation. (III) The victim was not under the custodial authority of the individual at the time of the violation.	(5)(C) Offenses involving consensual sexual conduct An offense involving consensual sexual conduct is not a sex offense for the purposes of this subchapter 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.	
(vi) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual 13 years of age or older but less than 18 years of age. This		

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subparagraph does not apply if the court determines that either of the following applies: (A) All of the following: (I) The victim consented to the conduct constituting the violation. (II) The victim was at least 13 years of age 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. (B) All of the following: (I) The victim consented to the conduct constituting the violation. (II) The victim was 16 or 17 years of age at the time of the violation. (III) The victim was not under the custodial authority of the individual at the time of the violation. (vii) A violation of section 462e(a) of the Michigan penal code, 1931 PA 328, MCL 750.462e. (viii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if the victim is a minor. (ix) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455. (x) A violation of section 520c, 520e, or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c, 750.520e, and 750.520g, committed against an individual 13 years of age or older but less than 18 years of age. (xi) A violation of section 520c committed against an individual 18 years of age or older. (xii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (xi). (xiii) An offense substantially similar to an offense described in subparagraphs (i) to (xii) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law. (u) "Tier III offender" means either of the following: (i) A tier II offender subsequently convicted of a tier I or II offense. (ii) An individual convicted of a tier III offense. (v) "Tier III offense" means 1 or more of the following:		

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(i) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual less than 13 years of age. (ii) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, committed against a minor. (iii) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350. (iv) A violation of section 520b, 520d, or 520g(1) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520d, and 750.520g. This subparagraph does not apply if the court determines that the victim consented to the conduct constituting the violation, that the victim was at least 13 years of age but less than 16 years of age at the time of the offense, and that the individual is not more than 4 years older than the victim. (v) A violation of section 520c or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c and 750.520g, committed against an individual less than 13 years of age. (vi) A violation of section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e, committed by an individual 17 years of age or older against an individual less than 13 years of age. (vii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (vi). (viii) An offense substantially similar to an offense described in subparagraphs (i) to (vii) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law. (w) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.	(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); or (ii) abusive sexual contact (as described in section 2244 of Title 18) 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) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18; (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). **§ 20916. Direction to Attorney General**	

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	(a) Requirement that sex offenders provide certain Internet related information to sex offender registries The Attorney General, using the authority provided in section 114(a)(7) of the Sex Offender Registration and Notification Act, shall require that each sex offender provide to the sex offender registry those Internet identifiers the sex offender uses or will use of any type that the Attorney General determines to be appropriate under that Act. These records of Internet identifiers shall be subject to the Privacy Act (5 U.S.C. 552a) to the same extent as the other records in the National Sex Offender Registry. (b) Timeliness of reporting of information The Attorney General, using the authority provided in section 112(b) of the Sex Offender Registration and Notification Act, shall specify the time and manner for keeping current information required to be provided under this section. (d) Notice to sex offenders of new requirements The Attorney General shall ensure that procedures are in place to notify each sex offender of changes in requirements that apply to that sex offender as a result of the implementation of this section.	
II. SEX OFFENDER REGISTRATION **28.723. Registration requirements.** Sec. 3. (1) Subject to subsection (2), the following individuals who are domiciled or temporarily reside in this state or who work with or without compensation or are students in this state are required to be registered under this act: (a) An individual who is convicted of a listed offense after October 1, 1995. (b) An individual convicted of a listed offense on or before October 1, 1995 if on October 1, 1995 he or she is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or under the jurisdiction of the juvenile division of the probate court or the department of human services for that offense or is placed on probation or parole, committed to jail, committed	**§ 20912. Registry requirements for jurisdictions.** (a) Jurisdiction to maintain a registry Each jurisdiction shall maintain a jurisdiction-wide sex offender registry conforming to the requirements of this subchapter. (b) Guidelines and regulations The Attorney General shall issue guidelines and regulations to interpret and implement this subchapter. **§ 20921. National Sex Offender Registry.**	**§ 72.3. Applicability of the Sex Offender Registration and Notification Act.** The requirements of SORNA apply to all sex offenders. All sex offenders must comply with all requirements of that Act, regardless of when the conviction of the offense for which registration is required occurred (including if the conviction occurred before the enactment of that Act), regardless of whether a jurisdiction in which registration is required has substantially implemented that Act's requirements or has implemented any particular requirement of that Act, and regardless of whether any particular requirement or class of sex offenders is mentioned in examples in this regulation or in other regulations or guidelines issued by the Attorney General. Example 1 to § 72.3. A sex offender is federally convicted of aggravated sexual abuse under 18 U.S.C. 2241 in 1990 and is released following imprisonment in 2009. The sex

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to the jurisdiction of the department of corrections, placed under the jurisdiction of the juvenile division of the probate court or family division of circuit court, or committed to the department of human services after October 1, 1995 for that offense.

(c) An individual convicted on or before October 1, 1995 of an offense described in section 2(d)(vi) as added by 1994 PA 295 if on October 1, 1995 he or she is on probation or parole that has been transferred to this state for that offense or his or her probation or parole is transferred to this state after October 1, 1995 for that offense.

(d) An individual from another state who is required to register or otherwise be identified as a sex or child offender or predator under a comparable statute of that state.

(e) An individual who was previously convicted of a listed offense for which he or she was not required to register under this act, but who is convicted of any other felony on or after July 1, 2011.

(2) An individual convicted of an offense added on September 1, 1999 to the definition of listed offense is not required to be registered solely because of that listed offense unless 1 of the following applies:

(a) The individual is convicted of that listed offense on or after September 1, 1999.

(b) On September 1, 1999, the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, under the jurisdiction of the family division of circuit court, or committed to the department of human services for that offense or the individual is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the family division of circuit court, or committed to the department of human services on or after September 1, 1999 for that offense.

(c) On September 1, 1999, the individual is on probation or parole for that offense which has been transferred to this state or the individual's probation or parole for that offense is transferred to this state after September 1, 1999.

(d) On September 1, 1999, in another state or country the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections or a similar type of state agency, under the

(a) Internet

The Attorney General shall maintain a national database at the Federal Bureau of Investigation for each sex offender and any other person required to register in a jurisdiction's sex offender registry. The database shall be known as the National Sex Offender Registry.

(b) Electronic forwarding

The Attorney General shall ensure (through the National Sex Offender Registry or otherwise) that updated information about a sex offender is immediately transmitted by electronic forwarding to all relevant jurisdictions.

§ 20922. Dru Sjodin National Sex Offender Public Website.

(a) Establishment

There is established the Dru Sjodin National Sex Offender Public Website (hereinafter in this section referred to as the "Website"), which the Attorney General shall maintain.

(b) Information to be provided

The Website shall include relevant information for each sex offender and other person listed on a jurisdiction's Internet site. The Website shall allow the public to obtain relevant information for each sex offender by a single query for any given zip code or geographical radius set by the user in a form and with such limitations as may be established by the Attorney General and shall have such other field search capabilities as the Attorney General may provide.

§ 20923. Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program.

(a) Establishment of Program

There is established the Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program (hereinafter in this section referred to as the "Program").

(b) Program notification

Except as provided in subsection (c), immediately after a sex offender registers or updates a registration, an appropriate official in the jurisdiction shall provide the information in the registry (other than information exempted from disclosure by the Attorney General) about that offender to the following:

offender is subject to the requirements of SORNA and could be held criminally liable under 18 U.S.C. 2250 for failing to register or keep the registration current in any jurisdiction in which the sex offender resides, is an employee, or is a student.

Example 2 to § 72.3. A sex offender is convicted by a state jurisdiction in 1997 for molesting a child and is released following imprisonment in 2000. The sex offender initially registers as required but relocates to another state in 2009 and fails to register in the new state of residence. The sex offender has violated the requirement under SORNA to register in any jurisdiction in which he resides, and could be held criminally liable under 18 U.S.C. 2250 for the violation because he traveled in interstate commerce.

§ 72.4. Where sex offenders must register.

A sex offender must register, and keep the registration current, in each jurisdiction in which the offender resides, is an employee, or is a student. For initial registration purposes only, a sex offender must also register in the jurisdiction in which convicted if that jurisdiction is different from the jurisdiction of residence.

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jurisdiction of a court that handles matters similar to those handled by the family division of circuit court in this state, or committed to an agency with the same authority as the department of human services for that offense.	(1) The Attorney General, who shall include that information in the National Sex Offender Registry or other appropriate databases. (2) Appropriate law enforcement agencies (including probation agencies, if appropriate), and each school and public housing agency, in each area in which the individual resides, is an employee or is a student. (3) Each jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs. (4) Any agency responsible for conducting employment-related background checks under section 40102 of this title. (5) Social service entities responsible for protecting minors in the child welfare system. (6) Volunteer organizations in which contact with minors or other vulnerable individuals might occur. (7) Any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction. (c) Frequency Notwithstanding subsection (b), an organization or individual described in subsection (b)(6) or (b)(7) may opt to receive the notification described in that subsection no less frequently than once every five business days.	
(3) A nonresident who is convicted in this state on or after July 1, 2011 of committing a listed offense who is not otherwise described in subsection (1) shall nevertheless register under this act. However, the continued reporting requirements of this act do not apply to the individual while he or she remains a nonresident and is not otherwise required to report under this act. The individual shall have his or her photograph taken under section 5a.	**§ 20930. Registration of sex offenders entering the United States.** The Attorney General, in consultation with the Secretary of State and the Secretary of Homeland Security, shall establish and maintain a system for informing the relevant jurisdictions about persons entering the United States who are required to register under this subchapter. The Secretary of State and the Secretary of Homeland Security shall provide such information and carry out such functions as the Attorney General may direct in the operation of the system.	

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28.723a. Exceptions to registration; hearing procedure. Sec. 3a. (1) If an individual pleads guilty to or is found guilty of a listed offense or is adjudicated as a juvenile as being responsible for a listed offense but alleges that he or she is not required to register under this act because section 2(t)(v) or (vi)1 applies or section 2(v)(iv) applies, and the prosecuting attorney disputes that allegation, the court shall conduct a hearing on the matter before sentencing or disposition to determine whether the individual is required to register under this act. (2) The individual has the burden of proving by a preponderance of the evidence in a hearing under this section that his or her conduct falls within the exceptions described in subsection (1) and that he or she is therefore not required to register under this act. (3) The rules of evidence, except for those pertaining to privileges and protections set forth in section 520j of the Michigan penal code, 1931 PA 328, MCL 750.520j, do not apply to a hearing under this section.		

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(4) The prosecuting attorney shall give the victim notice of the date, time, and place of the hearing. (5) The victim of the offense has the following rights in a hearing under this section: (a) To submit a written statement to the court. (b) To attend the hearing and to make a written or oral statement to the court. (c) To refuse to attend the hearing. (d) To attend the hearing but refuse to testify or make a statement at the hearing. (6) 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. (7) This section applies to criminal and juvenile cases pending on July 1, 2011 and to criminal and juvenile cases brought on and after that date.		
28.724. Registration procedure. Sec. 4. (1) Registration of an individual under this act must proceed as provided in this section. (2) For an individual convicted of a listed offense on or before October 1, 1995 who on or before October 1, 1995 is sentenced for that offense, has a disposition entered for that offense, or is assigned to youthful trainee status for that offense, the following shall register the individual by December 31, 1995: (a) If the individual is on probation for the listed offense, the individual's probation agent. (b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee. (c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections. (d) If the individual is on parole for the listed offense, the individual's parole agent.	**§ 20913. Registry requirements for sex offenders.** (a) In general A sex offender shall register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student. For initial registration purposes only, a sex offender shall also register in the jurisdiction in which convicted if such jurisdiction is different from the jurisdiction of residence. (b) Initial registration The sex offender shall initially register-- (1) before completing a sentence of imprisonment with respect to the offense giving rise to the registration requirement; or	

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(e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services under an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services. (3) Except as provided in subsection (4), for an individual convicted of a listed offense on or before October 1, 1995: (a) If the individual is sentenced for that offense after October 1, 1995 or assigned to youthful trainee status after October 1, 1995, the probation agent shall register the individual before sentencing or assignment. (b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole agent shall register the individual not more than 7 days after the transfer. (c) If the individual is placed within the jurisdiction of the juvenile division of the probate court or family division of circuit court or committed to the department of health and human services under an order of disposition entered after October 1, 1995, the juvenile division of the probate court or family division of circuit court shall register the individual before the order of disposition is entered. (4) For an individual convicted on or before September 1, 1999 of an offense that was added on September 1, 1999 to the definition of listed offense, the following shall register the individual: (a) If the individual is on probation or parole on September 1, 1999 for the listed offense, the individual's probation or parole agent not later than September 12, 1999. (b) If the individual is committed to jail on September 1, 1999 for the listed offense, the sheriff or his or her designee not later than September 12, 1999. (c) If the individual is under the jurisdiction of the department of corrections on September 1, 1999 for the listed offense, the department of corrections not later than November 30, 1999. (d) If the individual is within the jurisdiction of the family division of circuit court or committed to the department of health and human services or county juvenile agency on September 1, 1999 under an order of disposition for the listed offense, the family division of circuit court, the department of health and human services, or the county juvenile agency not later than November 30, 1999.	(2) not later than 3 business days after being sentenced for that offense, if the sex offender is not sentenced to a term of imprisonment. (d) Initial registration of sex offenders unable to comply with subsection (b) The Attorney General shall have the authority to specify the applicability of the requirements of this subchapter to sex offenders convicted before the enactment of this chapter or its implementation in a particular jurisdiction, and to prescribe rules for the registration of any such sex offenders and for other categories of sex offenders who are unable to comply with subsection (b).	

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(e) If the individual is sentenced or assigned to youthful trainee status for that offense after September 1, 1999, the probation agent shall register the individual before sentencing or assignment. (f) If the individual's probation or parole for the listed offense is transferred to this state after September 1, 1999, the probation or parole agent shall register the individual within 14 days after the transfer. (g) If the individual is placed within the jurisdiction of the family division of circuit court or committed to the department of health and human services for the listed offense after September 1, 1999, the family division of circuit court shall register the individual before the order of disposition is entered. (5) Subject to section 3,1 an individual convicted of a listed offense in this state after October 1, 1995 and an individual who was previously convicted of a listed offense for which he or she was not required to register under this act, but who is convicted of any other felony on or after July 1, 2011, shall register before sentencing, entry of the order of disposition, or assignment to youthful trainee status for that listed offense or that other felony. 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 section 6.2 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 as required under section 6. (6) All of the following shall register with the local law enforcement agency, sheriff's department, or the department not more than 3 business days after becoming domiciled or temporarily residing, working, or being a student in this state: (a) Subject to section 3(1), an individual convicted in another state or country on or after October 1, 1995 of a listed offense as defined before September 1, 1999. (b) Subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses. (c) Subject to section 3(1), an individual convicted in another state or country of a listed offense before October 1, 1995 and, subject to section 3(2), an individual convicted in another state or country of an offense added on		

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September 1, 1999 to the definition of listed offenses, who is convicted of any other felony on or after July 1, 2011. (d) An individual required to be registered as a sex offender in another state or country regardless of when the conviction was entered. (7) 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 this act must be determined on the basis of the law in effect on July 1, 2011.		
28.724a. Status report to registering authority; requirements; reports; written documentation; exception. Sec. 4a. (1) An individual required to be registered under this act who is not a resident of this state shall report his or her status in person to the registering authority having jurisdiction over a campus of an institution of higher education if either of the following occurs: (a) The individual is or enrolls as a student with that institution of higher education or the individual discontinues that enrollment. (b) As part of his or her course of studies at an institution of higher education in this state, the individual is present at any other location in this state, another state, a territory or possession of the United States, or the individual discontinues his or her studies at that location. (2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the registering authority having jurisdiction where his or her new residence or domicile is located if any of the events described under subsection (1) occur. (3) The report required under subsections (1) and (2) shall be made as follows: (a) For an individual registered under this act before October 1, 2002 who is required to make his or her first		

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report under subsections (1) and (2), not later than January 15, 2003. (b) Immediately after he or she enrolls or discontinues his or her enrollment as a student on that campus including study in this state or another state, a territory or possession of the United States, or another country. (4) The additional registration reports required under this section shall be made in the time periods described in section 5a(2)(a) to (c) for reports under that section. (5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to pay the registration fee required under section 5a or section 7(1) and to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation under this subsection may include, but need not be limited to, any of the following: (a) A W-2 form, pay stub, or written statement by an employer. (b) A contract. (c) A student identification card or student transcript. (6) This section does not apply to an individual whose enrollment and participation at an institution of higher education is solely through the mail or the internet from a remote location.		

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28.725. Reporting requirements for registered individuals; changes in residence or domicile, employment, enrollment as student, name, vehicle information, electronic mail addresses, internet identifiers, or telephone numbers; registration periods; expunged conviction or adjudication. Sec. 5. (1) An individual required to be registered under this act who is a resident of this state shall report in person, or in another manner as prescribed by the department, and notify the registering authority having jurisdiction where his or her residence or domicile is located not more than 3 business days after any of the following occur: (a) The individual changes or vacates his or her residence or domicile. (b) The individual changes his or her place of employment, or employment is discontinued. (c) The individual enrolls as a student with an institution of higher education, or enrollment is discontinued. (d) The individual changes his or her name. (e) Any change required to be reported under section 4a.1	**§ 20913. Registry requirements for sex offenders. (Continued.)** (c) Keeping the registration current A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry. That jurisdiction shall immediately provide that information to all other jurisdictions in which the offender is required to register.	**§ 72.7. How sex offenders must register and keep the registration current.** (c) Reporting of initiation and changes concerning name, residence, employment, and school attendance. A sex offender who enters a jurisdiction to reside, or who resides in a jurisdiction and changes his name or his place of residence in the jurisdiction, must appear in person in that jurisdiction and register or update the registration within three business days. A sex offender who commences employment or school attendance in a jurisdiction, or who changes employer, school attended, or place of employment or school attendance in a jurisdiction, must appear in person in that jurisdiction and register or update the registration within three business days. (d) Reporting of departure and termination concerning residence, employment, and school attendance. (1)

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(2) An individual required to be registered under this act who is a resident of this state shall report in the manner prescribed by the department to the registering authority having jurisdiction where his or her residence or domicile is located not more than 3 business days after any of the following occur: (a) Except as otherwise provided in this subdivision, any change in vehicle information, electronic mail addresses, internet identifiers, or telephone numbers registered to or used by the individual. The requirement to report any change in electronic mail addresses and internet identifiers applies only to an individual required to be registered under this act after July 1, 2011. (b) The individual intends to temporarily reside at any place other than his or her residence for more than 7 days. (3) An individual required to be registered under this act, who is not a resident of this state but has his or her place of employment in this state shall 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 not more than 3 business days after the individual changes his or her place of employment or employment is discontinued. (4) If an individual who is incarcerated in a state correctional facility and is required to be registered under this act is granted parole or is due to be released upon completion of his or her maximum sentence, the department of corrections, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the department of state police.		A sex offender residing in a jurisdiction must inform that jurisdiction (by whatever means the jurisdiction allows) if the sex offender will be commencing residence, employment, or school attendance in another jurisdiction or outside of the United States. The sex offender must so inform the jurisdiction in which he is residing prior to any termination of residence in that jurisdiction and prior to commencing residence, employment, or school attendance in the other jurisdiction or outside of the United States. (2) A sex offender who will be terminating residence, employment, or school attendance in a jurisdiction must so inform that jurisdiction (by whatever means the jurisdiction allows) prior to the termination of residence, employment, or school attendance in the jurisdiction. (e) Reporting of changes in information relating to remote communication identifiers, [All designations the sex offender uses for purposes of routing or self identification in internet or telephonic communications or postings, including email addresses and telephone numbers.] temporary lodging, and vehicles. A sex offender must report within three business days to his residence jurisdiction (by whatever means the jurisdiction allows) any change in remote communication identifier information, as described in § 72.6(b), temporary lodging information, as described in § 72.6(c)(2), and any change in vehicle information, as described in § 72.6(f). (f) Reporting of international travel. A sex offender must report intended travel outside the United States, including the information described in § 72.6(d), to his residence jurisdiction (by whatever means the jurisdiction allows). The sex offender must report the travel information to the jurisdiction at least 21 days in advance of the intended travel and, if the sex offender is terminating his residence in the jurisdiction, prior to his termination of residence in the jurisdiction. (g) Compliance with jurisdictions' requirements for registering and keeping the registration current.

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(5) If an individual who is incarcerated in a county jail and is required to be registered under this act is due to be released from custody, the sheriff's department, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the department of state police.
(6) Not more than 7 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a level 1 correctional facility of any kind, including a correctional camp or work camp.

(7) An individual required to be registered under this act who is a resident of this state shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located not more than 3 business days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(8) An individual required to be registered under this act, who is a resident of this state, shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located not later than 21 days before he or she changes his or her domicile or residence to another country or travels to another country for more than 7 days. The individual shall state the new country of residence or country of travel and the address of his or her new domicile or residence or place of stay, if known. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority.

(9) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the

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§ 20914. Information required in registration.

(a)(7) Information relating to intended travel of the sex offender outside the United States, including any anticipated dates and places of departure, arrival, or return, carrier and flight numbers for air travel, destination country and address or other contact information therein, means and purpose of travel, and any other itinerary or other travel-related information required by the Attorney General.

(c) Time and manner

A sex offender shall provide and update information required under subsection (a), including information relating to intended travel outside the United States required under paragraph (7) of that subsection, in conformity with any time and manner requirements prescribed by the Attorney General.

(1) A sex offender who does not comply with a requirement of SORNA in conformity with the time and manner specifications of paragraphs (a) through (f) of this section must comply with the requirement in conformity with any applicable time and manner specifications of a jurisdiction in which the offender is required to register

Example 1 to paragraph (g)(1). A sex offender convicted in a state does not initially register before release from imprisonment, as required by 34 U.S.C. 20913(b)(1) and paragraph (a)(1) of this section, because the state has no procedure for pre-release registration of sex offenders. Instead, the state informs sex offenders that they must go to a local police station within seven days of release to register. The sex offender must comply with the state's requirements for initial registration, i.e., the offender must report to the police station to register within seven days of release.
Example 2 to paragraph (g)(1). A sex offender does not register when he is released from custody, or does not register upon entering a jurisdiction to reside as required by 34 U.S.C. 20913(c) and paragraph (c) of this section, because the jurisdiction, at the time, does not register sex offenders based on the offense for which he was convicted. The jurisdiction later sends the sex offender a notice advising that it has extended its registration requirements to include sex offenders like him and directing him to report to a specified agency within 90 days to register. The sex offender must report to the agency to register within the specified timeframe.

Example 3 to paragraph (g)(1). A sex offender registers as required when released from imprisonment or upon entering a jurisdiction to reside, but the jurisdiction has no procedure for sex offenders to appear periodically in person to update and verify the registration information as required by 34 U.S.C. 20918 and paragraph (b) of this section. The jurisdiction later sends the sex offender a notice advising that it has adopted a periodic verification requirement and directing the sex offender to appear at a designated time and place for an initial update meeting. The sex offender must appear and update the registration as directed.

Example 4 to paragraph (g)(1). A sex offender does not report his email address to the jurisdiction in which he resides when he initially registers, or within three business days of a change as required by paragraph (e) of this section, because email addresses are not among the information the jurisdiction accepts for inclusion in its registry. The jurisdiction later notifies the sex offender that it has extended the registration information it collects to include email addresses and directs him to send a reply within a specified time that provides his current email address. The sex offender must comply with this direction.
(2) In a prosecution under 18 U.S.C. 2250, paragraph (g)(1) of this section does not in any case relieve a sex offender of the need to establish as an affirmative defense an inability to comply with SORNA because of circumstances beyond his control as provided in 18 U.S.C. 2250(c) and § 72.8(a)(2).

§ 72.5. How long sex offenders must

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department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases. (10) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a. (11) Except as otherwise provided in this section and section 8c,3 a tier I offender shall comply with this section for 15 years. (12) Except as otherwise provided in this section and section 8c, a tier II offender shall comply with this section for 25 years. (13) Except as otherwise provided in this section and section 8c, a tier III offender shall comply with this section for life. (14) The registration periods under this section exclude any period of incarceration for committing a crime and any period of civil commitment. (15) For an individual who was previously convicted of a listed offense for which he or she was not required to register under this act 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 this section. If those periods equal or exceed the registration period described in this section, the individual has satisfied his or her registration period for the listed offense and is not required to register under this act. If those periods are less than the registration period described in this section for that listed offense, the individual shall comply with this section for the period of time remaining. (16) If an individual required to be registered under this act presents an order to the department or the appropriate registering authority that the conviction or adjudication for which the individual is required to be registered under this act has been set aside under 1965 PA 213, MCL 780.621 to 780.624, or has been otherwise expunged, his or her registration under this act must be discontinued. If this subsection applies, the department shall remove the individual from both the law enforcement database and the public internet website maintained under section 8.	**§ 20915. 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 of1 an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General. (2) Period In the case of--	**register.** (a) Duration. A sex offender has a continuing obligation to register and keep the registration current (except when the sex offender is in custody or civilly committed) for the following periods of time: (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) Commencement. The registration period begins to run: (1) When a sex offender is released from imprisonment following conviction for the offense giving rise to the registration requirement, including in cases in which the term of imprisonment is based wholly or in part on the sex offender's conviction for another offense; or (2) If the sex offender is not sentenced to imprisonment, when the sex offender is sentenced for the offense giving rise to the registration requirement. (c) Reduction. If a tier I sex offender has maintained for 10 years a clean record, as described in 34 U.S.C. 20915(b)(1), the period for which the sex offender must register and keep the registration current under paragraph (a) of this

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28.725a. Registration, notification, and verification procedure; reporting schedule; registration fee; maintenance of license or identification card; photographs; failure to report. Sec. 5a. (1) The department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this act as amended. (2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act and the procedure for registration, notification, and verification and payment of the registration fee prescribed under subsection (6) or section 7(1).1 The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 7 days, regardless of whether the individual signs it.	(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 subchapter, the period during which the clean record shall be maintained is 25 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. **§ 20919. Duty to notify sex offenders of registration requirements and to register.** (a) In general An appropriate official shall, shortly before release of the sex offender from custody, or, if the sex offender is not in custody, immediately after the sentencing of the sex offender, for the offense giving rise to the duty to register-- (1) inform the sex offender of the duties of a sex offender under this subchapter and explain those duties; (2) require the sex offender to read and sign a form stating that the duty to register has been explained and that the sex offender understands the registration requirement; and (3) ensure that the sex offender is registered. (b) Notification of sex offenders who cannot comply with subsection (a) The Attorney General shall prescribe rules for the notification of sex offenders who cannot be registered in accordance with subsection (a).	section is reduced by 5 years. If a tier III sex offender required to register on the basis of a juvenile delinquency adjudication has maintained a clean record, as described in 34 U.S.C. 20915(b)(1), for 25 years, the period for which the sex offender must register and keep the registration current under paragraph (a) of this section is reduced to the period for which the clean record has been maintained.

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(3) Subject to subsection (4), an individual required to be registered under this act who is not incarcerated shall report in person to the registering authority where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the individual is a tier I offender, the individual shall report once each year during the individual's month of birth.

(b) If the individual is a tier II offender, the individual shall report twice each year according to the following schedule:

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

(c) If the individual is a tier III offender, the individual shall report 4 times each year according to the following schedule:

Birth Month	Reporting Months
January	January, April, July, and October
February	February, May, August, and [Nov]
March	March, June, September, and [Dec]
April	April, July, October, and January
May	May, August, November, and [Feb]
June	June, September, [Dec], and March
July	July, October, January, and April
August	August, November, [Feb], and May

§ 20918. Periodic in person verification.

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.

§ 72.7. How sex offenders must register and keep the registration current. (Continued.)

(a) Initial registration—(1) In general. Except as provided in paragraph (a)(2) of this section, a sex offender must register before release from imprisonment following conviction for the offense giving rise to the registration requirement, or, if the sex offender is not sentenced to imprisonment, within three business days after being sentenced for that offense.

. . .

(b) Periodic in-person verification. A sex offender must appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which the offender is required to register. In carrying out the required verification of information in each registry, the sex offender must correct any information that has changed or is otherwise inaccurate and must report any new registration information. A sex offender must appear in person for these purposes not less frequently than—

(1) Each year, if the offender is a tier I sex offender;

(2) Every six months, if the offender is a tier II sex offender; and

(3) Every three months, if the offender is a tier III sex offender.

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September	September, [Dec], March, and June		
October	October, January, April, and July		
November	November, February, May, and [Aug]		
December	December, March, June, and [Sept]		

(4) A report under subsection (3) must be made no earlier than the first day or later than the last day of the month in which the individual is required to report. However, if the registration period for that individual expires during the month in which he or she is required to report under this section, the individual shall report during that month on or before the date his or her registration period expires. When an individual reports under subsection (3), the individual shall review all registration information for accuracy.

(5) When an individual reports under subsection (3) an officer or authorized employee of the registering authority shall verify the individual's residence or domicile and any information required to be reported under section 4a.2 The officer or authorized employee shall also determine whether the individual's photograph required under this act matches the appearance of the individual sufficiently to properly identify him or her from that photograph. If not, the officer or authorized employee shall require the individual to obtain a current photograph within 7 days under this section. When all of the verification information has been provided, the officer or authorized employee shall review that information with the individual and make any corrections, additions, or deletions the officer or authorized employee determines are necessary based on the review. The officer or authorized employee shall sign and date a verification receipt. The officer or authorized employee shall give a copy of the signed receipt showing the date of verification to the individual. The officer or authorized employee shall forward verification information to the department in the manner the department prescribes. The department shall revise the law enforcement database and public internet website maintained under section 83 as necessary and shall indicate verification in the public internet website maintained under section 8(2).

(6) Except as otherwise provided in section 5b,4 an individual who reports as prescribed under subsection (3) shall pay a $50.00 registration fee as follows:

(a) Upon initial registration.

(b) Annually following the year of initial registration. The payment of the registration fee under this subdivision must be made at the time the individual reports in the first reporting month for that individual as set forth in subsection (3) of each year in which the fee applies, unless

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an individual elects to prepay an annual registration fee for any future year for which an annual registration fee is required. Prepaying any annual registration fee must not change or alter the requirement of an individual to report as set forth in subsection (3). The payment of the registration fee under this subdivision is not required to be made for any registration year that has expired before January 1, 2014 or to be made by any individual initially required to register under this act after January 1, 2023. The registration fee required to be paid under this subdivision must not be prorated on grounds that the individual will complete his or her registration period after the month in which the fee is due. (c) The sum of the amounts required to be paid under subdivisions (a) and (b) must not exceed $550.00. (7) Except as otherwise provided in this subsection, an individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including, but not limited to, voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence. The requirement to maintain a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, does not apply to an individual required to be registered under this act who is homeless. As used in this subsection, "homeless" means someone who lacks a fixed or temporary residence. (8) An individual registered under this act who is incarcerated shall report to the secretary of state under this subsection not more than 7 days after he or she is released to have his or her digitalized photograph taken. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released unless his or her appearance has changed from the date of that photograph. Unless the person is a nonresident, the photograph must be used on the individual's operator's or chauffeur's license or official state personal identification		

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card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law, or as otherwise provided in this act. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(9) If an individual does not report under this section or under section 4a, the department shall notify all registering authorities as provided in section 8a5 and initiate enforcement action as set forth in that section.

(10) The department shall prescribe the form for the notices and verification procedures required under this section.

28.725b. Disposition of registration fee; sex offenders registration fund; waiver or payment of fee.

Sec. 5b. (1) Of the money collected by a court, local law enforcement agency, sheriff's department, or department post from each registration fee prescribed under this act, $30.00 must be forwarded to the department, which shall deposit the money in the sex offenders registration fund created under subsection (2), and $20.00 must be retained by the court, local law enforcement agency, sheriff's department, or department post.

(2) The sex offenders registration fund is created as a separate fund in the department of treasury. The state treasurer shall credit the money received from the payment of the registration fee prescribed under this act to the sex offenders registration fund. Money credited to the fund must only be used by the department for training concerning, and the maintenance and automation of, the law enforcement database, public internet website, information required under section 8,1 or notification and offender registration duties under section 4a.2 Except as otherwise provided in this section, money in the sex offenders registration fund at the close of the fiscal year must remain in the fund and must not lapse to the general fund.

(3) If an individual required to pay a registration fee under this act is indigent, the registration fee is waived for a period of 90 days. The burden is on the individual claiming indigence to prove the fact of indigence to the satisfaction of the local law enforcement agency, sheriff's department, or department post where the individual is reporting.

(4) Payment of the registration fee prescribed under this act must be made in the form and by means prescribed by the department. Upon payment of the registration fee

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prescribed under this act, the officer or employee shall forward verification of the payment to the department in the manner the department prescribes. The department shall revise the law enforcement database and public internet website maintained under section 8 as necessary and indicate verification of payment in the law enforcement database under section 8(1).
(5) For the fiscal year ending September 30, 2020 only, $3,400,000.00 of the money in the sex offenders registration fund is transferred to and must be deposited into the general fund.

28.725c. Collection of fees by department of corrections.

Sec. 5c. The department of corrections shall not collect any fee prescribed under this act.

28.726. Copy and notice of registration or notification; duties of officer, court, or agency.

Sec. 6. (1) The officer, court, or agency registering an individual or receiving or accepting a registration under section 41 or receiving notice under section 5(1)2 shall provide the individual with a copy of the registration or notification at the time of registration or notice.

(2) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or notified of an address change under section 5(1) shall forward the registration or notification to the department in a manner prescribed by the department immediately after registration or notification.

28.727. Registration; information and content requirements; registration fee;

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notification of duties; execution of registration and notice; false or misleading information; forms; duties of department. Sec. 7. (1) Registration information obtained under this act must be forwarded to the department in the format the department prescribes. Except as provided in section 5b(3),1 a $50.00 registration fee must accompany each original registration. All of the following information must be obtained or otherwise provided for registration purposes: (a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known. An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases must not contain any information identifying the individual's prior identity or locale. (b) The individual's Social Security number and any Social Security numbers or alleged Social Security numbers previously used by the individual. (c) The individual's date of birth and any alleged dates of birth previously used by the individual. (d) The address where the individual resides or will reside. If the individual does not have a residential address, information under this subsection must identify the location or area used or to be used by the individual in lieu of a residence or, if the individual is homeless, the village, city, or township where the person spends or will spend the majority of his or her time. (e) The name and address of any place of temporary lodging used or to be used by the individual during any period in which the individual is away, or is expected to be away, from his or her residence for more than 7 days. Information under this subdivision must include the dates the lodging is used or to be used. (f) The name and address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection must include the	**§ 20914. Information required in registration. (Continued.)** (a) Provided by the offender The sex offender shall provide the following information to the appropriate official for inclusion in the sex offender registry: (1) The name of the sex offender (including any alias used by the individual). (2) The Social Security number of the sex offender. (3) The address of each residence at which the sex offender resides or will reside.	**§ 72.6. Information sex offenders must provide.** Sex offenders must provide the following information for inclusion in the sex offender registries of the jurisdictions in which they are required to register: (a) Name, date of birth, and Social Security number. (1) The name of the sex offender, including any alias used by the sex offender. (2) The sex offender's date of birth and any date that the sex offender uses as his purported date of birth. (3) The Social Security number of the sex offender and any number that the sex offender uses as his purported Social Security number. (c) Residence, temporary lodging, employment, and school attendance. (1) The address of each residence at which the sex offender resides or will reside or, if the sex offender has no present or expected residence address, other information describing where the sex offender resides or will reside with whatever definiteness is possible under the circumstances. (2) Information about any place in which the sex offender is staying when away from his residence for seven or more days, including the identity of the place and the period of time the sex offender is staying there. (3) The name and address of any place where the sex offender is or will be an employee or, if the sex offender is or will be employed but with no fixed place of employment,

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address or location of employment if different from the address of the employer. If the individual lacks a fixed employment location, the information obtained under this subdivision must include the general areas where the individual works and the normal travel routes taken by the individual in the course of his or her employment.		other information describing where the sex offender works or will work with whatever definiteness is possible under the circumstances.
(g) The name and address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.	(4) The name and address of any place where the sex offender is an employee or will be an employee.	
(h) All telephone numbers registered to the individual or used by the individual, including, but not limited to, residential, work, and mobile telephone numbers.		(4) The name and address of any place where the sex offender is a student or will be a student.
(i) Except as otherwise provided in this subdivision, all electronic mail addresses and internet identifiers registered to or used by the individual. This subdivision applies only to an individual required to be registered under this act after July 1, 2011.	(5) The name and address of any place where the sex offender is a student or will be a student.	(b) Remote communication identifiers. All designations the sex offender uses for purposes of routing or self identification in internet or telephonic communications or postings, including email addresses and telephone numbers.
(j) The license plate number and description of any vehicle owned or operated by the individual.		
(k) The individual's driver license number or state personal identification card number.		(f) Vehicle information. The license plate number and a description of any vehicle owned or operated by the sex offender, including watercraft and aircraft in addition to land vehicles. If a vehicle has no license plate but has some other type of registration number or identifier, then the registration number or identifier must be provided. Information must also be provided as to where any vehicle owned or operated by the sex offender is habitually parked, docked, or otherwise kept.
(l) A digital copy of the individual's passport and other immigration documents.		
(m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.		
(n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.	(6) The license plate number and a description of any vehicle owned or operated by the sex offender.	(g) Professional licenses. Information concerning all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.
(o) A complete physical description of the individual.		(d) International travel. Information relating to intended travel outside the United States, including any anticipated itinerary, dates and places of departure from, arrival in, or return to the United States and each country visited, carrier and flight numbers for air travel, destination country or countries and address or other contact information therein, and means and purpose of travel.
(p) The photograph required under section 5a.2	(b) Provided by the jurisdiction	
(q) The individual's fingerprints if not already on file with the department and the individual's palm prints. An individual required to be registered under this act shall have his or her fingerprints or palm prints or both taken not later than September 12, 2011 if his or her fingerprints or palm prints are not already on file with the department. The department shall forward a copy of the individual's	The jurisdiction in which the sex offender registers shall ensure that the following information is included in the registry for that sex offender: (1) A physical description of the sex offender. (4) A current photograph of the sex offender.	(e) Passports and immigration documents. Information about each passport the sex offender has and, if the sex offender is an alien, information about any document or documents establishing the sex offender's immigration

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fingerprints and palm prints to the Federal Bureau of Investigation if not already on file with that bureau. (r) Information that is required to be reported under section 4a.3 (2) A registration must contain all of the following: (a) An electronic copy of the offender's Michigan driver license or Michigan personal identification card, including the photograph required under this act. (b) The text of the provision of law that defines the criminal offense for which the sex offender is registered. (c) Any outstanding arrest warrant information. (d) The individual's tier classification. (e) An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered into the federal combined DNA index system (CODIS). (f) The individual's complete criminal history record, including the dates of all arrests and convictions. (g) The individual's Michigan department of corrections number and status of parole, probation, or supervised release. (h) The individual's Federal Bureau of Investigation number. (3) The form used for notification of duties under this act must 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 section 5a. (4) The individual shall sign a registration and notice. However, the registration and notice must be forwarded to the department regardless of whether the individual signs it or pays the registration fee required under subsection (1).	(5) A set of fingerprints and palm prints of the sex offender. (7) A photocopy of a valid driver's license or identification card issued to the sex offender by a jurisdiction. (2) The text of the provision of law defining the criminal offense for which the sex offender is registered. (3) The criminal history of the sex offender, including the date of all arrests and convictions; the status of parole, probation, or supervised release; registration status; and the existence of any outstanding arrest warrants for the sex offender. (6) A DNA sample of the sex offender. (8) Any other information required by the Attorney General.	status, including passport or immigration document type and number.

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(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 44 shall sign the registration form. (6) An individual shall not knowingly provide false or misleading information concerning a registration, notice, or verification. (7) The department shall prescribe the form for a notification required under section 55 and the format for forwarding the notification to the department. (8) The department shall promptly provide registration, notice, and verification information to the Federal Bureau of Investigation and to local law enforcement agencies, sheriff's departments, department posts, and other registering jurisdictions, as provided by law.		
28.728. Law enforcement database of registrations and notices; contents; public internet website; availability; removal. Sec. 8. (1) The department shall maintain a computerized law enforcement database of registrations and notices required under this act. The law enforcement database must contain all of the following information for each individual registered under this act:		

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(a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.

(b) The individual's Social Security number and any Social Security numbers or alleged Social Security numbers previously used by the individual.

(c) The individual's date of birth and any alleged dates of birth previously used by the individual.

(d) The address where the individual resides or will reside. If the individual does not have a residential address, information under this subsection must identify the location or area used or to be used by the individual in lieu of a residence or, if the individual is homeless, the village, city, or township where the individual spends or will spend the majority of his or her time.

(e) The name and address of any place of temporary lodging used or to be used by the individual during any period in which the individual is away, or is expected to be away, from his or her residence for more than 7 days. Information under this subdivision must include the dates the lodging is used or to be used.

(f) The name and address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection must include the address or location of employment if different from the address of the employer.

(g) The name and address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.

(h) All telephone numbers registered to the individual or used by the individual, including, but not limited to, residential, work, and mobile telephone numbers.

(i) Except as otherwise provided in this subdivision, all electronic mail addresses and internet identifiers registered to or used by the individual. This subdivision applies only to an individual required to be registered under this act after July 1, 2011.

§ 20920. 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.

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(j) The license plate number and description of any vehicle owned or operated by the individual. (k) The individual's driver license number or state personal identification card number. (l) A digital copy of the individual's passport and other immigration documents. (m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business. (n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense. (o) A complete physical description of the individual. (p) The photograph required under section 5a.1 (q) The individual's fingerprints and palm prints. (r) An electronic copy of the offender's Michigan driver license or Michigan personal identification card, including the photograph required under this act. (s) The text of the provision of law that defines the criminal offense for which the sex offender is registered. (t) Any outstanding arrest warrant information. (u) The individual's tier classification and registration status. (v) An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered into the federal combined DNA index system (CODIS). (w) The individual's complete criminal history record, including the dates of all arrests and convictions. (x) The individual's Michigan department of corrections number and the status of his or her parole, probation, or release. (y) The individual's Federal Bureau of Investigation number.		

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(2) The department shall maintain a public internet website separate from the law enforcement database described in subsection (1) to implement section 10(2) and (3).2 Except as provided in subsection (4), the public internet website must contain all of the following information for each individual registered under this act: (a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known. (b) The individual's date of birth. (c) The address where the individual resides. If the individual does not have a residential address, information under this subsection must identify the village, city, or township used by the individual in lieu of a residence. (d) The address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection must include the address or location of employment if different from the address of the employer. (e) The address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school. (f) The license plate number and description of any vehicle owned or operated by the individual. (g) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred. (h) A complete physical description of the individual. (i) The photograph required under this act. If no photograph is available, the department shall use an arrest photograph or Michigan department of corrections photograph until a photograph as prescribed in section 5a becomes available. (j) The text of the provision of law that defines the criminal offense for which the sex offender is registered. (k) The individual's registration status.		

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(3) The following information must not be made available on the public internet website described in subsection (2): (a) The identity of any victim of the offense. (b) The individual's Social Security number. (c) Any arrests not resulting in a conviction. (d) Any travel or immigration document numbers. (e) The individual's tier classification. (f) The individual's driver license number or state personal identification card number. (4) The public internet website described in subsection (2) must not include the following individuals: (a) An individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, 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 section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, 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 was convicted of a single tier I offense, other than an individual who was convicted of a violation of any of the following: (i) Section 145c(4) of the Michigan penal code, 1931 PA 328, MCL 750.145c. (ii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if a victim is a minor. (iii) Section 349b of the Michigan penal code, 1931 PA 328, MCL 750.349b, if the victim is a minor. (iv) Section 539j of the Michigan penal code, 1931 PA 328, MCL 750.539j, if a victim is a minor.	(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	

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(v) An offense substantially similar to an offense described in subparagraphs (i) to (iv) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law. (5) The compilation of individuals must be indexed alphabetically by village, city, township, and county, numerically by zip code area, and geographically as determined appropriate by the department. (6) The department shall update the public internet website with new registrations, deletions from registrations, and address changes at the same time those changes are made to the law enforcement database described in subsection (1). The department shall make the law enforcement database available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the law enforcement database in printed form for the designated areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a computerized search of the law enforcement database and the public internet website based upon the name and campus location of an institution of higher education. (7) The department shall make the law enforcement database available to a department post, local law enforcement agency, or sheriff's department by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. The department shall make the public internet website available to the public by electronic, computerized, or other similar means accessible to the public. The electronic, computerized, or other similar means shall provide for a search by name, village, city, township, and county designation, zip code, and geographical area. (8) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act violates the constitution of the United States or this state, the department shall revise the public internet website described in subsection (2) so that it does not contain that information. (9) If the department determines that an individual has completed his or her registration period, including a	(4) 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.	

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registration period reduced by law under 2011 PA 18, or that he or she otherwise is no longer required to register under this act, the department shall remove the individual's registration information from both the law enforcement database and the public internet website within 7 days after making that determination.		
28.728a. Failure to register or update registration information; duties of registering authority and department. Sec. 8a. (1) If an individual fails to register or to update his or her registration information as required under this act, the local law enforcement agency, sheriff's office, or department post responsible for registering the individual or for verifying and updating his or her registration information shall do all of the following immediately 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 in a manner prescribed by the department that the individual failed to appear as required.	**§ 20924. Actions to be taken when sex offender fails to comply.** An appropriate official shall notify the Attorney General and appropriate law enforcement agencies of any failure by a sex offender to comply with the requirements of a registry and revise the jurisdiction's registry to reflect the nature of that failure. The appropriate official, the Attorney General, and each such law enforcement agency shall take any appropriate action to ensure compliance.	

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(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 this act, the department shall do all of the following immediately 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.

28.728b. Repealed. 2004, Act 240, Eff Oct 1, 2004.

28.728c. Petition to discontinue registration; eligibility; procedure; powers and duties of court.

Sec. 8c. (1) An individual classified as a tier I offender who meets the requirements of subsection (12) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(2) An individual classified as a tier III offender who meets the requirements of subsection (13) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(3) An individual classified as a tier I, tier II, or tier III offender who meets the requirements of subsection (14) or (15) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(4) This section is the sole means by which an individual may obtain judicial review of his or her registration requirements under this act. This subsection does not

§ 20915. Duration of registration requirement. (Continued.)

(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--

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prohibit an appeal of the conviction or sentence as otherwise provided by law or court rule. A petition filed under this section shall be filed in the court in which the individual was convicted of committing the listed offense. However, if the conviction occurred in another state or country and the individual is a resident of this state, 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 this act only. A petition shall not be filed under this section if a previous petition was filed under this section and was denied by the court after a hearing. (5) A petition filed under this section shall be made under oath and shall contain all of the following: (a) The name and address of the petitioner. (b) A statement identifying the offense for which discontinuation from registration is being requested. (c) A statement of whether the individual was previously convicted of a listed offense for which registration is required under this act. (6) An individual who knowingly makes a false statement in a petition filed under this section is guilty of perjury as proscribed under section 423 of the Michigan penal code, 1931 PA 328, MCL 750.423. (7) A copy of the petition shall be filed with the office of the prosecuting attorney that prosecuted the case against the individual or, for a conviction that occurred in another state or country, the prosecuting attorney for the county of his or her residence, at least 30 days before a hearing is held on the petition. The prosecuting attorney may appear and participate in all proceedings regarding the petition and may seek appellate review of any decision on the petition. (8) 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 subsection (10). (9) If an individual properly files a petition with the court under this section, the court shall conduct a hearing on the petition as provided in this section. (10) The victim has the right to attend all proceedings under this section and to make a written or oral statement to the court before any decision regarding the petition is	(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 of1 an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General.	

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made. A victim shall not be required to appear at any proceeding under this section against his or her will. (11) The court shall consider all of the following in determining whether to allow the individual to discontinue registration under subsection (12) or (13) but shall not grant the petition if the court determines that the individual is a continuing threat to the public: (a) The individual's age and level of maturity at the time of the offense. (b) The victim's age and level of maturity at the time of the offense. (c) The nature of the offense. (d) The severity of the offense. (e) The individual's prior juvenile or criminal history. (f) The individual's likelihood to commit further listed offenses. (g) Any impact statement submitted by the victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under this section. (h) Any other information considered relevant by the court. (12) The court may grant a petition properly filed by an individual under subsection (1) if all of the following apply: (a) Ten or more years have elapsed since the date of his or her conviction for the listed offense or from his or her 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		(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	

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successfully completing a sex offender treatment program was not a condition of the petitioner's confinement, release, probation, or parole. (13) The court may grant a petition properly filed by an individual under subsection (2) if all of the following apply: (a) The petitioner is required to register based on an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, 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. (14) The court shall grant a petition properly filed by an individual under subsection (3) if the court determines that the conviction for the listed offense was the result of a consensual sexual act between the petitioner and the victim and any of the following apply: (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:	(B) a tier III sex offender adjudicated delinquent for the offense which required registration in a sex registry under this subchapter, the period during which the clean record shall be maintained is 25 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.	

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(i) The individual was convicted of a violation of section 158, 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.158, 750.338, 750.338a, and 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 section 158, 338, 338a, 338b, or 520c(1)(i) of the Michigan penal code, 1931 PA 328, MCL 750.158, 750.338, 750.338a, 750.338b, and 750.520c.

(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.

(15) The court shall grant a petition properly filed by an individual under subsection (3) if either of the following applies:

(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 this act before July 1, 2011 for an offense that required registration but for which registration is not required on or after July 1, 2011.

28.728d. Removal of registration from law enforcement database.

Sec. 8d. If the court grants a petition filed under section 8c,1 the court shall promptly provide a copy of that order to the department and to the individual. The department shall promptly remove an individual's registration from the database maintained under section 8(1).

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28.729. Violations; penalties. Sec. 9. (1) Except as provided in subsections (2), (3), and (4), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows: (a) If the individual has no prior convictions for a violation of this act, by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both. (b) If the individual has 1 prior conviction for a violation of this act, by imprisonment for not more than 7 years or a fine of not more than $5,000.00, or both. (c) If the individual has 2 or more prior convictions for violations of this act, by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both. (2) An individual who willfully fails to comply with section 5a,1 other than payment of the fee required under section 5a(6), is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both. (3) An individual who willfully fails to sign a registration and notice as provided in section 7(4)2 is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both. (4) An individual who willfully refuses or fails to pay the registration fee prescribed in section 5a(6) or 7(1) within	**20913. Registry requirements for sex offenders. (Continued.)** (e) State penalty for failure to comply Each jurisdiction, other than a Federally recognized Indian tribe, shall provide a criminal penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a sex offender to comply with the requirements of this subchapter. **[18 USC § 2250. Failure to register.]** [(a) In general.--Whoever-- (1) is required to register under the Sex Offender Registration and Notification Act;	**§ 72.8. Liability for violations.** (a) Criminal liability— (1) Offense. (i) A sex offender may be liable to criminal penalties under 18 U.S.C. 2250(a) if the sex offender— (A) Is required to register under SORNA; (B)(1) Is a sex offender as defined for the purposes of SORNA by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or (2) Travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and (C) Knowingly fails to register or update a registration as required by SORNA. (ii) A sex offender may be liable to criminal penalties under 18 U.S.C. 2250(b) if the sex offender— (A) Is required to register under SORNA; (B) Knowingly fails to provide information required by SORNA relating to intended travel in foreign commerce; and

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90 days of the date the individual reports under section 4a or 5a3 is guilty of a misdemeanor punishable by imprisonment for not more than 90 days. (5) The court shall revoke the probation of an individual placed on probation who willfully violates this act. (6) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act. (7) The parole board shall rescind the parole of an individual released on parole who willfully violates this act. (8) An individual's failure to register as required by this act or a violation of section 54 may be prosecuted in the judicial district of any of the following: (a) The individual's last registered address or residence. (b) The individual's actual address or residence. (c) Where the individual was arrested for the violation.	(2)(A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or (B) travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and (3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act; shall be fined under this title or imprisoned not more than 10 years, or both. (b) International travel reporting violations.--Whoever-- (1) is required to register under the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.); (2) knowingly fails to provide information required by the Sex Offender Registration and Notification Act relating to intended travel in foreign commerce; and (3) engages or attempts to engage in the intended travel in foreign commerce; shall be fined under this title, imprisoned not more than 10 years, or both. (c) Affirmative defense.--In a prosecution for a violation under subsection (a) or (b), it is an affirmative defense that-- (1) uncontrollable circumstances prevented the individual from complying; (2) the individual did not contribute to the creation of such circumstances in reckless disregard of the requirement to comply; and (3) the individual complied as soon as such circumstances ceased to exist. (d) Crime of violence.-- (1) In general.--An individual described in subsection (a) or (b) who commits a crime of violence under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States	(C) Engages or attempts to engage in the intended travel in foreign commerce. (iii) As a condition of liability under 18 U.S.C. 2250(a)–(b) for failing to comply with a requirement of SORNA, a sex offender must have been aware of the requirement he is charged with violating, but need not have been aware that the requirement is imposed by SORNA. (2) Defense. A sex offender may have an affirmative defense to liability, as provided in 18 U.S.C. 2250(c), if uncontrollable circumstances prevented the sex offender from complying with SORNA, where the sex offender did not contribute to the creation of those circumstances in reckless disregard of the requirement to comply and complied as soon as the circumstances preventing compliance ceased to exist. Example 1 to paragraph (a)(2). A sex offender changes residence from one jurisdiction to another, bringing into play SORNA's requirement to register in each jurisdiction where the sex offender resides and SORNA's requirement to appear in person and report changes of residence within three business days. See 34 U.S.C. 20913(a), (c). The sex offender attempts to comply with these requirements by contacting the local sheriff's office, which is responsible for sex offender registration in the destination jurisdiction. The sheriff's office advises that it cannot schedule an appointment for him to register within three business days but that he should come by in a week. The sex offender would have a defense to liability if he appeared at the sheriff's office at the appointed time and registered as required. The sex offender's temporary inability to register and inability to report the change of residence within three business days in the new residence jurisdiction was due to a circumstance beyond his control—the sheriff office's refusal to meet with him until a week had passed—and he complied with the requirement to register as soon as the circumstance preventing compliance ceased to exist. Example 2 to paragraph (a)(2). A sex offender cannot register in a state in which he resides because its registration authorities will not register offenders on the basis of the offense for which the sex offender was convicted. The sex offender would have a defense to liability because the state's unwillingness to register sex offenders like him is a circumstance beyond his control. However, if the sex offender failed to register after becoming aware of a change in state policy or practice allowing his registration, the 18 U.S.C. 2250(c) defense would no longer apply, because in such a case the circumstance preventing compliance with the registration requirement would no longer exist. Example 3 to paragraph (a)(2). A sex offender needs to travel to a foreign country on short notice—less than 21 days—because of an unforeseeable family or work emergency. The sex offender would have a defense to liability for failing to report the intended travel 21 days in advance, as required by § 72.7(f), because it is impossible to report an intention to travel outside the United States before the intention exists. However, if the sex offender

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28.730. Confidentiality of registration or report; inspection and disclosure of information; notification of public by subscription; penalties and remedies. Sec. 10. (1) Except as provided in this act, a registration or report is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243. (2) A department post, local law enforcement agency, or sheriff's department shall make information from the public internet website described in section 8(2)1 for the designated areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public. (3) The department may make information from the public internet website described in section 8(2) available to the public through electronic, computerized, or other accessible means. The department shall provide for notification by electronic or computerized means to any member of the public who has subscribed in a manner required by the department when an individual who is the subject of the public internet website described in section 8(2) initially registers under this act, or changes his or her registration under this act, to a location that is in a designated area or geographic radius designated by the subscribing member of the public. (4) Except as provided in this act, an individual other than the registrant who knows of a registration or report under	shall be imprisoned for not less than 5 years and not more than 30 years. (2) Additional punishment.--The punishment provided in paragraph (1) shall be in addition and consecutive to the punishment provided for the violation described in subsection (a) or (b).] **§ 20916. Direction to the Attorney General** (c) Nondisclosure to general public The Attorney General, using the authority provided in section 118(b)(4) of the Sex Offender Registration and Notification Act, shall exempt from disclosure all information provided by a sex offender under subsection (a). **§ 20917. Checking system for social networking websites** (a) In general (1) Secure system for comparisons The Attorney General shall establish and maintain a secure system that permits social networking websites to compare the information contained in the National Sex Offender Registry with the Internet identifiers of users of	failed to inform the registration jurisdiction (albeit on short notice) once he intended to travel, 18 U.S.C. 2250(c) would not excuse that failure, because the preventing circumstance—absence of an intent to travel abroad—would no longer exist. (b) Supervision condition. For a sex offender convicted of a Federal offense, compliance with SORNA is a mandatory condition of probation, supervised release, and parole. The release of such an offender who does not comply with SORNA may be revoked.

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this act and who divulges, uses, or publishes nonpublic information concerning the registration or report in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both. (5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages. (6) Subsections (4) and (5) do not apply to the public internet website described in section 8(2) or information from that public internet website that is provided or made available under section 8(2) or under subsection (2) or (3).	the social networking websites, and view only those Internet identifiers that match. The system— (A) shall not require or permit any social networking website to transmit Internet identifiers of its users to the operator of the system, and (B) shall use secure procedures that preserve the secrecy of the information made available by the Attorney General, including protection measures that render the Internet identifiers and other data elements indecipherable. (2) Provision of information relating to identity Upon receiving a matched Internet identifier, the social networking website may make a request of the Attorney General for, and the Attorney General shall provide promptly, information related to the identity of the individual that has registered the matched Internet identifier. This information is limited to the name, sex, resident address, photograph, and physical description. (b) Qualification for use of system A social networking website seeking to use the system shall submit an application to the Attorney General which provides— (1) the name and legal status of the website; (2) the contact information for the website; (3) a description of the nature and operations of the website; (4) a statement explaining why the website seeks to use the system; (5) a description of policies and procedures to ensure that— (A) any individual who is denied access to that website on the basis of information obtained through the system is promptly notified of the basis for the denial and has the ability to challenge the denial of access; and (B) if the social networking website finds that information is inaccurate, incomplete, or cannot be verified, the site immediately notifies the appropriate State registry and the Department of Justice, so that they may delete or correct that information in the respective State and national databases;	

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	(6) the identity and address of, and contact information for, any contractor that will be used by the social networking website to use the system; and (7) such other information or attestations as the Attorney General may require to ensure that the website will use the system— (A) to protect the safety of the users of such website; and (B) for the limited purpose of making the automated comparison described in subsection (a). (c) Searches against the system (1) Frequency of use of the system A social networking website approved by the Attorney General to use the system may conduct searches under the system as frequently as the Attorney General may allow. (2) Authority of Attorney General to suspend use The Attorney General may deny, suspend, or terminate use of the system by a social networking website that— (A) provides false information in its application for use of the system; (B) may be using or seeks to use the system for any unlawful or improper purpose; (C) fails to comply with the procedures required under subsection (b)(5); or (D) uses information obtained from the system in any way that is inconsistent with the purposes of this Act. (3) Limitation on release of Internet identifiers (A) No public release Neither the Attorney General nor a social networking website approved to use the system may release to the public any list of the Internet identifiers of sex offenders contained in the system. (B) Additional limitations The Attorney General shall limit the release of information obtained through the use of the system	

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	established under subsection (a) by social networking websites approved to use such system. (C) Strict adherence to limitation The use of the system established under subsection (a) by a social networking website shall be conditioned on the website's agreement to observe the limitations required under this paragraph. (D) Rule of construction This subsection shall not be construed to limit the authority of the Attorney General under any other provision of law to conduct or to allow searches or checks against sex offender registration information. (4) Payment of fee A social networking website approved to use the system shall pay any fee established by the Attorney General for use of the system. (5) Limitation on liability (A) In general A civil claim against a social networking website, including any director, officer, employee, parent, contractor, or agent of that social networking website, arising from the use by such website of the National Sex Offender Registry, may not be brought in any Federal or State court. (B) Intentional, reckless, or other misconduct Subparagraph (A) does not apply to a claim if the social networking website, or a director, officer, employee, parent, contractor, or agent of that social networking website— (i) engaged in intentional misconduct; or (ii) acted, or failed to act— (I) with actual malice; (II) with reckless disregard to a substantial risk of causing injury without legal justification; or (III) for a purpose unrelated to the performance of any responsibility or function described in paragraph (3).		

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(C) Minimizing access

A social networking website shall minimize the number of employees that are provided access to the Internet identifiers for which a match has been found through the system.

(6) Rule of construction

Nothing in this section shall be construed to require any Internet website, including a social networking website, to use the system, and no Federal or State liability, or any other actionable adverse consequence, shall be imposed on such website based on its decision not to do so.

§ 20925. Development and availability of registry management and website software

(a) Duty to develop and support

The Attorney General shall, in consultation with the jurisdictions, develop and support software to enable jurisdictions to establish and operate uniform sex offender registries and Internet sites.

(b) Criteria

The software should facilitate—

(1) immediate exchange of information among jurisdictions;

(2) public access over the Internet to appropriate information, including the number of registered sex offenders in each jurisdiction on a current basis;

(3) full compliance with the requirements of this subchapter; and

(4) communication of information to community notification program participants as required under section 20923 of this title.

(c) Deadline

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	The Attorney General shall make the first complete edition of this software available to jurisdictions within 2 years of July 27, 2006. **§ 20926. Period for implementation by jurisdictions** (a) Deadline Each jurisdiction shall implement this subchapter before the later of— (1) 3 years after July 27, 2006; and (2) 1 year after the date on which the software described in section 20925 of this title is available. (b) Extensions The Attorney General may authorize up to two 1-year extensions of the deadline. **§ 20927. Failure of jurisdiction to comply.** (a) In general For any fiscal year after the end of the period for implementation, a jurisdiction that fails, as determined by the Attorney General, to substantially implement this subchapter shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).1 (b) State constitutionality (1) In general When evaluating whether a jurisdiction has substantially implemented this subchapter, the Attorney General shall consider whether the jurisdiction is unable to substantially implement this subchapter because of a demonstrated inability to implement certain provisions that would place the jurisdiction 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 shall make good faith efforts to accomplish substantial implementation of this subchapter and to reconcile any conflicts between this	

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	subchapter and the jurisdiction's constitution. In considering whether compliance with the requirements of this subchapter 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 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 is unable to substantially implement this subchapter because of a limitation imposed by the jurisdiction's constitution, the Attorney General may determine that the jurisdiction is in compliance with this chapter if the jurisdiction has made, or is in the process of implementing2 reasonable alternative procedures or accommodations, which are consistent with the purposes of this chapter. (4) Funding reduction If a jurisdiction does not comply with paragraph (3), then the jurisdiction 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 for failure to substantially implement this subchapter shall be reallocated under that program to jurisdictions that have not failed to substantially implement this subchapter or may be reallocated to a jurisdiction from which they were withheld to be used solely for the purpose of implementing this subchapter. (d) Rule of construction The provisions of this subchapter 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.		

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	§ 20928. Sex Offender Management Assistance (SOMA) program (a) In general The Attorney General shall establish and implement a Sex Offender Management Assistance program (in this subchapter 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 subchapter. (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 subchapter not later than 2 years after July 27, 2006, 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 July 27, 2006; and	

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	(2) 5 percent of such total, if not later than 2 years after July 27, 2006.	
	(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.	
	§ 20931. Registration of sex offenders released from military corrections facilities or upon conviction	
	The Secretary of Defense shall provide to the Attorney General the information described in section 20914 of this title to be included in the National Sex Offender Registry and the Dru Sjodin National Sex Offender Public Website regarding persons—	
	(1)(A) released from military corrections facilities; or	
	(B) convicted if the sentences adjudged by courts-martial under chapter 47 of Title 10 (the Uniform Code of Military Justice) do not include confinement; and	
	(2) required to register under this subchapter.	
	§ 20932. Immunity for good faith conduct	
	The Federal Government, jurisdictions, political subdivisions of jurisdictions, and their agencies, officers, employees, and agents shall be immune from liability for good faith conduct under this subchapter.	

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			§ 20903. Tribal registry (1) Establishment The Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain— (A) a national tribal sex offender registry; and (B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions. (2) Authorization of appropriations There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2014 through 2018, to remain available until expended.
			§ 20929. Election by Indian tribes (a) Election (1) In general A federally recognized Indian tribe may, by resolution or other enactment of the tribal council or comparable governmental body— (A) elect to carry out this part as a jurisdiction subject to its provisions; or (B) elect to delegate its functions under this part to another jurisdiction or jurisdictions within which the territory of the tribe is located and to provide access to its territory and such other cooperation and assistance as may

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	be needed to enable such other jurisdiction or jurisdictions to carry out and enforce the requirements of this part. (2) Imputed election in certain cases A tribe shall be treated as if it had made the election described in paragraph (1)(B) if— (A) it is a tribe subject to the law enforcement jurisdiction of a State under section 1162 of Title 18; (B) the tribe does not make an election under paragraph (1) within 1 year of July 27, 2006 or rescinds an election under paragraph (1)(A); or (C) the Attorney General determines that the tribe has not substantially implemented the requirements of this part and is not likely to become capable of doing so within a reasonable amount of time. (b) Cooperation between tribal authorities and other jurisdictions (1) Nonduplication A tribe subject to this part is not required to duplicate functions under this part which are fully carried out by another jurisdiction or jurisdictions within which the territory of the tribe is located. (2) Cooperative agreements A tribe may, through cooperative agreements with such a jurisdiction or jurisdictions— (A) arrange for the tribe to carry out any function of such a jurisdiction under this part with respect to sex offenders subject to the tribe's jurisdiction; and (B) arrange for such a jurisdiction to carry out any function of the tribe under this part with respect to sex offenders subject to the tribe's jurisdiction.		

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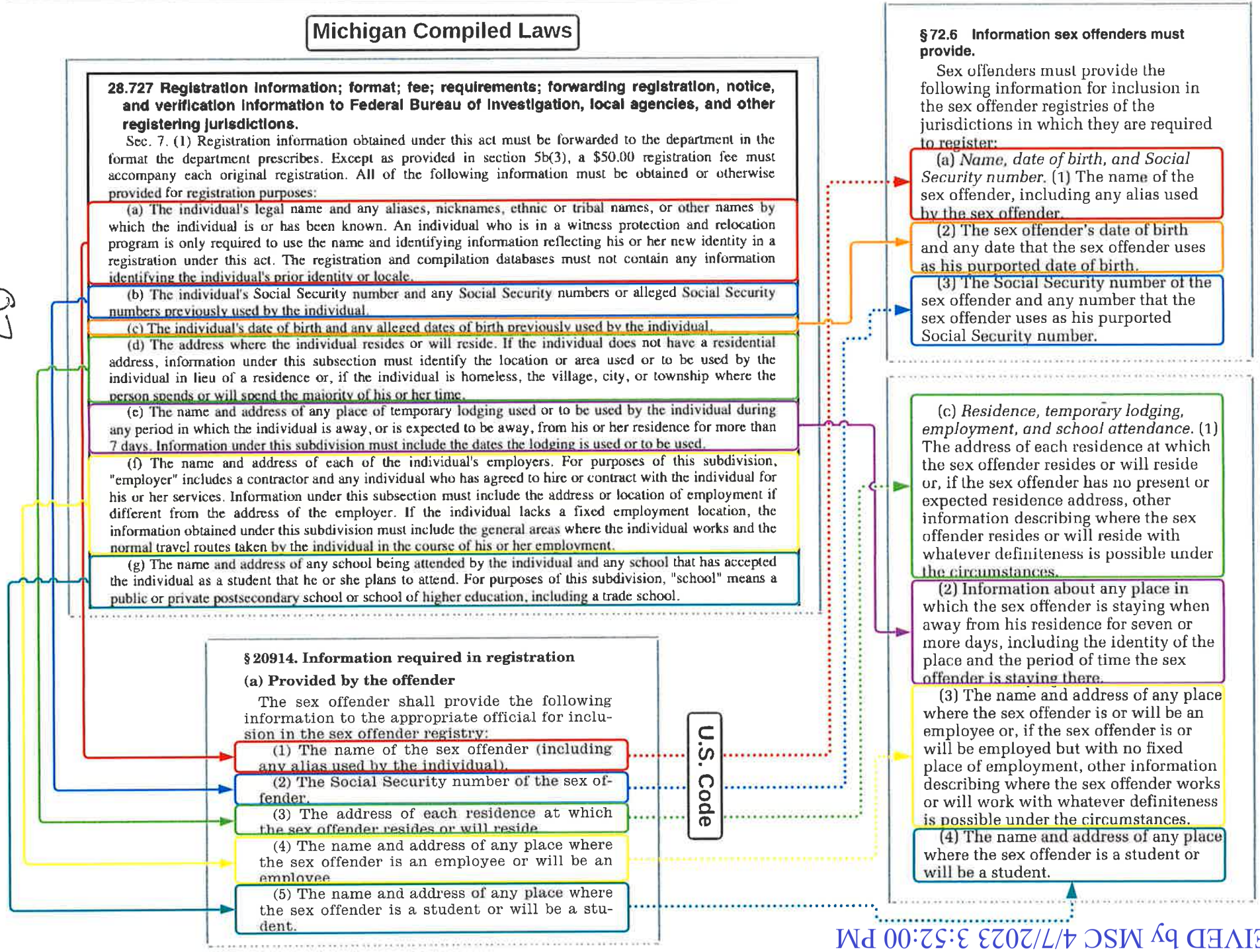
INFORMATION PROVIDED AT INITIAL REGISTRATION (1/2)



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INFORMATION PROVIDED AT INITIAL REGISTRATION (2/2)

Michigan Compiled Laws

28.727 Registration information; format; fee; requirements; forwarding registration, notice, and verification information to Federal Bureau of Investigation, local agencies, and other registering jurisdictions.

(h) All telephone numbers registered to the individual or used by the individual, including, but not limited to, residential, work, and mobile telephone numbers.

(i) Except as otherwise provided in this subdivision, all electronic mail addresses and internet identifiers registered to or used by the individual. This subdivision applies only to an individual required to be registered under this act after July 1, 2011.

(j) The license plate number and description of any vehicle owned or operated by the individual.

(k) The individual's driver license number or state personal identification card number.

(*l*) A digital copy of the individual's passport and other immigration documents.

(m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.

(n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(o) A complete physical description of the individual.

(p) The photograph required under section 5a.

(q) The individual's fingerprints if not already on file with the department and the individual's palm prints. An individual required to be registered under this act shall have his or her fingerprints or palm prints or both taken not later than September 12, 2011 if his or her fingerprints or palm prints are not already on file with the department. The department shall forward a copy of the individual's fingerprints and palm prints to the Federal Bureau of Investigation if not already on file with that bureau.

(r) Information that is required to be reported under section 4a.

(2) A registration must contain all of the following:

(a) An electronic copy of the offender's Michigan driver license or Michigan personal identification card, including the photograph required under this act.

(b) The text of the provision of law that defines the criminal offense for which the sex offender is registered.

(c) Any outstanding arrest warrant information.

(d) The individual's tier classification.

(e) An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered into the federal combined DNA index system (CODIS).

(f) The individual's complete criminal history record, including the dates of all arrests and convictions.

(g) The individual's Michigan department of corrections number and status of parole, probation, or supervised release.

(h) The individual's Federal Bureau of Investigation number.

§ 20914. Information required in registration

(a) Provided by the offender

The sex offender shall provide the following information to the appropriate official for inclusion in the sex offender registry:

(6) The license plate number and a description of any vehicle owned or operated by the sex offender.

U.S. Code

Code of Federal Regulations

§ 72.6 Information sex offenders must provide.

(b) *Remote communication identifiers.* All designations the sex offender uses for purposes of routing or self-identification in internet or telephonic communications or postings, including email addresses and telephone numbers.

(e) *Passports and immigration documents.* Information about each passport the sex offender has and, if the sex offender is an alien, information about any document or documents establishing the sex offender's immigration status, including passport or immigration document type and number.

(f) *Vehicle information.* The license plate number and a description of any vehicle owned or operated by the sex offender, including watercraft and aircraft in addition to land vehicles. If a vehicle has no license plate but has some other type of registration number or identifier, then the registration number or identifier must be provided. Information must also be provided as to where any vehicle owned or operated by the sex offender is habitually parked, docked, or otherwise kept.

(g) *Professional licenses.* Information concerning all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

§ 20914. Information required in registration

(b) Provided by the jurisdiction

The jurisdiction in which the sex offender registers shall ensure that the following information is included in the registry for that sex offender:

(1) A physical description of the sex offender.

(2) The text of the provision of law defining the criminal offense for which the sex offender is registered.

(3) The criminal history of the sex offender, including the date of all arrests and convictions; the status of parole, probation, or supervised release; registration status; and the existence of any outstanding arrest warrants for the sex offender.

(4) A current photograph of the sex offender.

(5) A set of fingerprints and palm prints of the sex offender.

(7) A photocopy of a valid driver's license or identification card issued to the sex offender by a jurisdiction.

U.S. Code

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AS-NEEDED REPORTING REQUIREMENTS

Michigan Compiled Laws

28.725 Conditions requiring individual to report in person and provide notice to registering authority; release of incarcerated individual; notice; compliance; removal upon expungement.

Sec. 5. (1) An individual required to be registered under this act who is a resident of this state shall report in person, or in another manner as prescribed by the department, and notify the registering authority having jurisdiction where his or her residence or domicile is located not more than 3 business days after any of the following occur:

(a) The individual changes or vacates his or her residence or domicile.

(b) The individual changes his or her place of employment, or employment is discontinued.

(c) The individual enrolls as a student with an institution of higher education, or enrollment is discontinued.

(d) The individual changes his or her name.

(e) Any change required to be reported under section 4a.

(2) An individual required to be registered under this act who is a resident of this state shall report in the manner prescribed by the department to the registering authority having jurisdiction where his or her residence or domicile is located not more than 3 business days after any of the following occur:

(a) Except as otherwise provided in this subdivision, any change in vehicle information, electronic mail addresses, internet identifiers, or telephone numbers registered to or used by the individual. The requirement to report any change in electronic mail addresses and internet identifiers applies only to an individual required to be registered under this act after July 1, 2011.

(b) The individual intends to temporarily reside at any place other than his or her residence for more than 7 days.

(3) An individual required to be registered under this act, who is not a resident of this state but has his or her place of employment in this state shall 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 not more than 3 business days after the individual changes his or her place of employment or employment is discontinued.

(7) An individual required to be registered under this act who is a resident of this state shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located not more than 3 business days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(8) An individual required to be registered under this act, who is a resident of this state, shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located not later than 21 days before he or she changes his or her domicile or residence to another country or travels to another country for more than 7 days. The individual shall state the new country of residence or country of travel and the address of his or her new domicile or residence or place of stay, if known. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority.

U.S. Code

§ 20913. Registry requirements for sex offenders

(c) Keeping the registration current

A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry. That jurisdiction shall immediately provide that information to all other jurisdictions in which the offender is required to register.

Code of Federal Regulations

§ 72.7 How sex offenders must register and keep the registration current.

(c) *Reporting of initiation and changes concerning name, residence, employment, and school attendance.* A sex offender who enters a jurisdiction to reside, or who resides in a jurisdiction and changes his name or his place of residence in the jurisdiction, must appear in person in that jurisdiction and register or update the registration within three business days. A sex offender who commences employment or school attendance in a jurisdiction, or who changes employer, school attended, or place of employment or school attendance in a jurisdiction, must appear in person in that jurisdiction and register or update the registration within three business days.

(e) *Reporting of changes in information relating to remote communication identifiers, temporary lodging, and vehicles.* A sex offender must report within three business days to his residence jurisdiction (by whatever means the jurisdiction allows) any change in remote communication identifier information, as described in § 72.6(b), temporary lodging information, as described in § 72.6(c)(2), and any change in vehicle information, as described in § 72.6(f).

(f) *Reporting of international travel.* A sex offender must report intended travel outside the United States, including the information described in § 72.6(d), to his residence jurisdiction

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PERIODIC REPORTING REQUIREMENTS

Michigan Compiled Laws

28.725 Conditions requiring individual to report in person and provide notice to registering authority; release of incarcerated individual; notice; compliance; removal upon expungement.

(10) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(11) Except as otherwise provided in this section and section 8c, a tier I offender shall comply with this section for 15 years.

(12) Except as otherwise provided in this section and section 8c, a tier II offender shall comply with this section for 25 years.

(13) Except as otherwise provided in this section and section 8c, a tier III offender shall comply with this section for life.

28.725a Notice to registered individual; explanation of duties; reporting requirements; homeless exception.

(3) Subject to subsection (4), an individual required to be registered under this act who is not incarcerated shall report in person to the registering authority where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the individual is a tier I offender, the individual shall report once each year during the individual's month of birth.

(b) If the individual is a tier II offender, the individual shall report twice each year according to the following schedule:

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

(c) If the individual is a tier III offender, the individual shall report 4 times each year according to the following schedule:

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

U.S. Code

§ 20915. 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.

§ 20918. Periodic in person verification

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.

Code of Federal Regulations

§ 72.5 How long sex offenders must register.

(a) *Duration.* A sex offender has a continuing obligation to register and keep the registration current (except when the sex offender is in custody or civilly committed) for the following periods of time:

(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.

§ 72.7 How sex offenders must register and keep the registration current.

(b) *Periodic in-person verification.* A sex offender must appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which the offender is required to register. In carrying out the required verification of information in each registry, the sex offender must correct any information that has changed or is otherwise inaccurate and must report any new registration information. A sex offender must appear in person for these purposes not less frequently than—

(1) Each year, if the offender is a tier I sex offender;

(2) Every six months, if the offender is a tier II sex offender; and

(3) Every three months, if the offender is a tier III sex offender.

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saying?

A He, he was saying that Karen had been calling, and he knew I was having an affair. And Karen had stated that she had found me once, and she would find me again. And you know, and then he asked me, at some point, what did I want to do as far as the marriage was concerned. And I told him that, Mr. Lymon, that I wanted to be done with it. That I didn't want to do this anymore.

And he, again, started calling me a cold hearted bitch, and a whore.

And from then, our family room is open to the kitchen. So, I --

MR. GOLD: Judge, if I may, it's gonna be kind of difficult to object.

I, I think, perhaps, a question and answer rather than a long narrative.

THE COURT: It's a narrative. It was kind of taking on the -- I understand, you're trying to tell the story, but let's keep it --

MR. BROWN: Okay.

Q (By Mr. Brown): Did something happen in the kitchen? All right. Go ahead. What, what happened next?

A As I was sitting down, and he was arguing, he went and he retrieved a gun from the pantry, which is right off, in the kitchen area. It's kind of hard to describe.

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I didn't realize --

Q Go ahead, go ahead.

A I didn't realize at first he had a gun, 'cause I was sitting on the sofa, and -- which is off the kitchen. And then my boys are sittin' at the table.

And I could tell by their faces that they looked very frightened, which got me on alert.

Q Now, how are they looking? Describe for the jury, how did the two kids -- what are their names? Tell me their names?

A Samuel and Isaac.

Q Okay.

A Their faces looked very scared, and serious. And it was, like, they were trying to tell me, with my -- their eyes, to just stop talking, just be quiet.

Q So, what happens next? Tell this jury.

A So, he held the gun up, and he always --

Q How did he hold it up, I apologize?

A He held it out, where I could see it. And he told me that I was cold, for playing with his heart all this time, and I should have left him a long time ago.

And he had me come sit back at the table.

Q Now, where is the gun pointed? Tell the jury. At that time.

A It's pointed at me.

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A Yes.
Q Okay. What happens next, Miss Lymon?
A And then he, he starts to say, well, what about me? Don't you love me? And --
Q Who is that saying --
A Mr. Lymon says to the boys, what about me, don't you love me?

And they were upset, and crying, and they were, like -- they say, yes, it's like, but right now you're trying to kill our mother.

And eventually he had us move from the couch, and all of us kneeled down at the fireplace. This is over a period of time.

Q Why did you kneel down? Tell the jury.
A 'Cause he said, this is it. He was about to kill us.
Q Okay. So, how are you positioned? If you would, show the jury how you were positioned, and the children?
A We're huddled together.
Q On the floor?
A On the floor.

MR. BROWN: With the Court's permission, could you show us?

WITNESS: You want me to get on the floor?

THE COURT: If that's easy for you.

WITNESS: Well, yeah, we were, we were just

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down on our knees, like this, and we were all huddled together.

Q (By Mr. Brown): Okay. What's in front of you? Tell the jury.

A Mr. Lymon is in front of us.

Q What is -- does he have anything with him?

A Yeah.

THE COURT: You can sit back in the chair, ma'am.

Q (By Mr. Brown): Does he have anything in his hand?

A Yeah, Mr. Lymon is in front of us. He has the gun in his hand, and we're pleading with him not to do it.

Q What are you saying? Tell the jury what you are saying?

A I'm just begging him not to, and I'm asking him, what about God, because faith had been important to us.

And he was saying, "F" God, at that time.

And at one point, I was just pleading and begging and praying that God would protect us.

And I looked up to the upper part of our house, and it seemed as though I saw like a light or something, and I was, like, I told him, I said, Cory, I think angels are here to protect us.

Q What happens at that point?

A And he said, you're gonna see angels. He's, like,

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Q Okay.
A And each of my boys, at this time, are on the side of me. He had separated us, at this time.
Q What happens next?
A Over a period of time, he would -- we was just talkin' it out, back and forth.

So, eventually, he put -- he, he, he had me sit down next to him, at one point. He sat me on the couch, and he was hittin' me in the back of my head, and --

Q Again, for the record, what is he hitting you with?
A He's hitting me with his hand, in the back of my head, just -- he's slappin' me in the back of my head.
Q Is the defendant saying anything at that point?
A He's callin' me bitches and whores, and he put the gun at my side. And at one point, he eventually put the gun in his own mouth, and he told us to pull the trigger.

At that time, my son, Isaac, got up and ran out the house.

And I stood up, and I'm just kind of lookin' back and forth, and 'cause --

Q What are you thinking, at that point? Tell the jury.
A I didn't know if I should go after Isaac, or stay with Samuel, 'cause I didn't want to leave him by his self,

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leave the room.

Q What do you mean by that? Tell the jury. How did you know that he would not let you leave?

A Well, when the boys had to use the bathroom, they had -- they had to urinate in cups, because nobody could leave.

Q Now, how did that come about? Tell the jury.

A Well, at the point when they said they had to use the bathroom, he told 'em, use it in a cup, or pee against the wall, 'cause I'm gonna burn it down anyway.

Q That was said by this defendant?

A Yes.

Q What happened next? Tell the jury.

A At that point, he did allow us to just stay there. So, of course, I couldn't sleep, but I sat there and just closed my eyes. And he kept the gun near him, but it wasn't in his hand any more.

So, when the next morning came about, we -- I told him, and the boys just let him know, we're -- we told him that, you just had a bad night, you know. It's okay, 'cause we wanted to gain his trust enough where the situation would just calm down.

So, he, at that point, had calmed down, and he was saying stuff to the effect, like, you know, I'm sorry, and I don't know why I did that.

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And we just told him, it's okay. You just had a bad night.

And I asked him if I could get ready for work? And he said, yeah.

And I told him that we would just forget about it.

Q Now, how long had you been in that situation, in that -- on that couch, or in that area? Tell the jury, how many hours was it?

A It started, probably about seven o'clock in the evening.

Q P.M.?

A Yes.

Q Okay.

A And then it got to the point where he put the gun down, probably around midnight.

Q When you say, put it down, how close was that gun to him, Miss Lymon?

A It was in, it was in arm's reach. There's the sofa, and there's a table. And he had it on the table.

Q And if you would, describe to the jury, where is the defendant in relationship to where you and Mr. Samuel, and Mr. Isiah (sic) are? Where is the defendant, how far away is he?

A Samuel and Isaac are, we're all in the same room.

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Samuel and Isaac are on the family room floor. I'm directly next to him, where if I move, he could feel it if I moved.

And that's how we spent the night, until the morning.

And in the morning is when I asked him if I could go to work, and I told him he just had a bad night.

And he allowed it.

And my son Isaac had to go to work.

And we just act as if it were normal.

And he drove Isaac to work. He took him to work, and when he got back, I was ready to leave, and I told him that I wanted to take Samuel to work with me, 'cause I didn't want to leave him there.

I told him, just let me take him over my mother's house, because he was shaken up.

Q Did you call the Police at that point?

A I didn't.

Q Tell the jury why not?

A Because I wanted to just get out of the house, get Sam to my mother's house, to a safe place. I didn't call the Police until after I went to work, and I called my manager, and I let him know that he needed to get somebody in to replace me, 'cause I had to leave, to

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make a Police report.

And then, at that time, I picked up Samuel from my mom's. We went to the Police station, and then we made a report at that time.

Q Now, again, tell the jury -- so you waited until some several hours?

A Yes.

Q Okay. So, at some point, you did go to the Police Department?

A Correct.

Q Okay. Now, did you have a cell phone when the defendant left with, I believe, your son Samuel?

A At that point, yes, I believe I did have access to my cell phone.

Q Tell the jury, why didn't you call the Police at that point?

A Because I wanted to get out of the house. I wanted myself and Samuel to just leave. I didn't want to take a chance on it escalating again, and we're there while the Police is there, and he perhaps decide to hold us hostage or something like that. So, we just wanted to leave.

So, my thing was, just act is though it were normal, and make him think everything was normal, so we could just leave.

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He started to point the gun at my mother.

Q What did you think, at that point?

A At that point, like, my reaction was, like, I have to protect my mother.

So, like, I stood up, like, try and calm him down, like, yo, dad, that's our mother. Let's not take it this far.

Q Were you afraid?

A Hmm? Yeah.

Q Okay. What happens next? Tell the jury.

A Yeah, after that, he sits down, and still has the gun in his hand. And you know, he's pointing, and he was going, going on how she did him wrong for so many years, and all this stuff.

Q Where is the gun? Tell the jury.

A The gun was in his hand, like, he had it like this, sitting down, at a dinner table.

Q And what are you thinking?

MR. GOLD: Your Honor, maybe indicating the witness is pointing near his, like, on his knee?

THE COURT: Okay.

WITNESS: Well --

THE COURT: Go ahead.

Q (By Mr. Brown): Where was the gun? Show the jury where the gun actually was, if you recall

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A All right. The gun, he had it in his hand. And it was, like, leaning on the table, but it was, like, pointing towards my mother. And --

Q Where were you in relationship to where your mother was? Tell this jury.

A Hmm? I was in the kitchen, and she was in the family room. So, I was, like, across from her, like somewhere like around that angle.

And eventually, he told me and my little brother, you know, get up, get with your mom.

And he started to tell us, like, you know, if I kill her, I'm gonna have to kill you guys, too.

And then we started, like, you know, begging and pleading for our lives.

Q Why were you doing that? Tell this jury. I know that's a stupid question, but did you think he was serious?

A Hmm? Yeah, I mean, he actually like had the gun pointed at us, and was, like -- he was angry, like, veins popping out, and the whole nine yards.

And you could just -- we was just like all really scared.

We didn't know what to do. It was, like, it was really sad, 'cause, you know, you don't wake up thinkin', this is it?

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And so, that was a moment where we thought, this is it, and then he eventually told us to get on the ground.

We was all huddled up. We was all praying. We were screamin' to the top of our lungs, hoping that one of our neighbors will hear us.

Q Why were you doing that, to -- so the neighbor would hear?

A Hmm? Yeah.

Q Okay. What happens next?

A Oh, what happened next is, he told us to get up. He tells me to sit on one side of the fireplace. He tells my mom to get in the middle. And then he told my little to get, like, across from her.

So, like, she's in the middle, I'm on the right side, my little brother's on the left side.

And he had it pointing at her, and he tells us, don't move, don't move.

And how she did his -- how she did him wrong. And was basically trying to persuade me and my little brother how she did us wrong.

And, yeah, just tryin' to persuade us how, like, you know, she's wrong, she did all of this stuff. She's cheating on him. He has a evidence.

And once he killed her, he's gonna kill me,

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and my brother, and he'd have the perfect alibi, saying that he'll be at work, and he say he'll burn down the house, and all of that.

Q Okay. Does there come a time when the defendant does something else? What else happens? Tell this jury.

A Yeah. Eventually he tells my mom to sit with him, and like, he has her like right next to him.

And then he puts the gun --

Q What's right next to him?

A He's sitting on the couch, the sofa, and he tells her to get next to him.

And like, he puts a gun to the side of her, like that, you know. And then he starts questioning her, and like, if it wasn't the answer that he want, you know, he's like hit her on the back of the head, like, come on.

And yeah, and so then, after all this, he starts talking, and then, it like, it seems like he's calming down, but then he'd get even more mad, or like if me and my brother make a sudden movement, you know, he'll point it out, he's like, sit down, or stop, or don't try it.

Q Now, how long -- at that point, how many hours had passed, if at all? At what point did it happen?

A Around three hours, 'cause it started around seven

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o'clock. So, it was like around ten o'clock, around that time.

Q So, for three hours, you've been in that situation, where you could not move. Did you want to move -- you're shaking your head. You've got to give us a verbal --

A Oh, I'm sorry. Yeah, I wanted to move, but, you know, I was scared.

Q Did there come a time when you had to use the facilities, the rest room?

A Yeah, I asked, can I use the bathroom. He's like, yeah, pee on the wall, the house is gonna burn anyway.

And then, once I was doing so, he told me to pee in a cup.

And, you know, I looked at him, like, it was weird, and so I peed in the cup.

And he told me to set it down, and sit back down in my spot.

Q Your spot? So, he had designated a spot for you?

A Yeah, the chair that I was sitting in, previously.

Q Now, where was the gun, at that point?

A The gun was still in his hand. He was waving it around, doing his commands, like --

Q Yes.

A Commanding us to do so.

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Q And what were you thinking, at that point?
A I was thinkin', at that point, like, I hope he calms down, ever, 'cause his voice wasn't as loud, and angry as it was before, but he was still aggressive, his tone was still aggressive.
Q So, what happens next? If we get to ten o'clock, what happens at that point? Tell the jury.
A At that point, he goes on talking to my mom, saying how she should have just left.

And then, eventually, he puts the gun on his self, like, you know, turn it around and put the gun on his self.

And once he puts the gun to his self, he goes around, like, you know, come on, I know you want to do this, shoot me, shoot me, shoot me, like he did it to me, he did it to my brother, and he did it to my mother.

And so then, once he got up, you know, it was like, I was just freaking out, I was scared. So, I left the house, like, the garage, I opened the garage, and I went in the driveway, and I was just breathing, like, panting, you know.

Q Were you having trouble breathing?
A Yeah.
Q What happens at that point?

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A My mom comes, and she gets me. I was out there no longer than two minutes. My mom, she comes out and get me, and tells me, like, you can't leave your brother, come on.

And so, we come back in the house. And my dad, it was, like, you know, you don't love us, you don't love me, all of this.

And my mom was saying, yes, we do, 'cause if we didn't love you, we would have left.

And she was just tryin' to calm him down.

Q And what are you doing, at that point?

A I'm just shaking my head, nodding, you know, everything to what my mom was saying. It was, like, yeah, dad, like, chill out. Let's just, you know, calm down, let's just forget about this.

He was still angry, at that time.

Q Now, where is your other brother, if you would, situated while this is going on?

A Okay. So, at this point in time, we're by the garage door. And so, and that's by the kitchen table. And so, my little brother, he's still in the family room, and he's still sitting in the chair.

Q Okay. Are you able to observe him?

A Able to observe him?

Q Your brother, yes. Your, your other brother, are you

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able to see him?
A Oh, yeah.
Q Does he appear afraid, too?
A Hmm -- yeah.
Q What happens next?
A So --
Q We have you at the garage. Do you, at some point, come back into the house?
A Yeah. We all sit down, and like now, he's calm, and he's talking. It was, like, well, how do we move on from this, 'cause you can't just forget about this, or you can't just go on. How are we gonna move on from this point, you know. We're at the end now, we're at the end of the road, and things just awkwardly just stopped.

And you know, I asked, can I go back to my room?

He said, no. You gotta stay downstairs.

And --
Q Now, where did you have to stay? Tell the jury where you had to stay?
A He said I could sit on the couch, or anywhere on the floor.

I chose to sit on the floor, by the couch, by the T.V.

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Q Okay. What happens next?
A Oh, what happens next is, he turns on the T.V., and movie's on. I didn't really go to sleep. I kind of had one eye open, and --
Q Why not? Why didn't you go to sleep? Tell the jury.
A I didn't know if it was, like, true. I didn't know if it was truly over. I thought, like, kill us in our sleep, or something.
Q Were you afraid?
A Yes.
Q What happens next? Tell this jury.
A I was able to get a hold of a phone, at that time. He said we was allowed to get 'em, 'cause he threw my phone at the --
Q And I apologize. You're saying that your phone was thrown at some point. At what point did you -- was your phone removed from you?
A It was when he told me and my little brother to go in the family room, with our mother.
Q And what did he say regarding the phones, he being the defendant? Did he say something regarding your telephones?
A Yeah, he like, you're not calling anyone, you know. No, it's to call 9-1-1. And told us to sit over, where our mom was, you know, on the couch. And he was waving

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his gun at us, pointing it.
Q Indicating, for the record, you, you're pointing your finger out, toward -- so, the gun was pointed towards you?
A Yes.
Q And your brother?
A Yes.
Q And the, the cell phones were taken from you?
A Yes.
Q Okay. What -- did you see where they were put, if you recall?
A Yeah, he threw 'em, he just tossed 'em on the stove. And the battery came out, and all that.
Q Okay. So, both cell phones were taken from you and your brother?
A Yes.
Q So, what happens at that point? I believe, moving forward, you indicated to the jury that you had asked about your phone, or something? Later in, did you say that you asked about using your phone or something? Or you were able to use your phone?
A Yeah, once it, like, all calmed down, where, like, the incident was over, and --
Q Approximately what time would that have been, I'm sorry?

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A That was around twelve o'clock.
Q Okay. What happens at that point?
A I was able to retrieve my phone. And I set an early alarm, on my phone. And I was going to just, like, you know, ride my bike to work, and -- 'cause I didn't want him dropping me off at work.
Q So, what happens next?
A Yeah, I had my phone in my hand, and stuff. We were all laying down, and you know, we all have our eyes to him, 'cause the tension, the tension was still there.

So, the next morning, waking up, he was saying, you know, I'm sorry, I'm sorry, didn't mean for that to happen.

And all, and as I was getting ready to go to work, I said I was gonna ride my bike. He said, no, you don't have to ride your bike, I'll take you .

And he, on that ride to work, it was, like, silent, most of the time. I was still shooken up. I was still teary eyed.

He was, like, you sure you can go to work?

Q Why were you teary eyed? Tell the jury.
A I was, I was teary eyed because, you know, I almost lost my life that day. I was just shooken up. I couldn't believe that he took it that far.
Q Okay.

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Q So, what happens next, once you stop moving, what happens next in that house?
A He keeps going on and on about how he doesn't know who Karen is, and everything. And we're telling him, we don't know who Karen is either.
So, he just keeps going on from there.
Q He, being who?
A My father.
Q Okay. Where is the gun, at that point?
A It's still in his hand.
Q All right. Is it pointed at someone?
A Yeah. He --
Q Who is it pointed at?
A He wave it around, periodically, at all of us.
Q Are you afraid, at that point?
A Yes.
Q Tell the jury, what happens next?
A After that, after he start waving it around, I just, at one point, he was, like, if I kill your mother, I'm gonna have to kill you, too, and your brother, because you guys wouldn't be able to bear it all.
Q What did you think when he said that?
A I thought he was gonna kill us.
Q Were you afraid?
A Yes.

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Q Now, did you have a cell phone?
A Yeah, but he took it from me when -- while we was at the table, because I tried to call the Police.
Q You tried to call the Police?
A Yeah, but he seen it lyin' under the table, and took my phone from me.
Q What did the defendant say when he took your phone, if anything?
A He said, if the Police come here, I'm gonna kill you.
Q So, what did you think, at that point?
A That he was tellin' the truth, that he was gonna kill us.
Q Okay. So, we fast forward to, you're telling us about, you had to move, at some point, and the gun was pointed at each of you, at certain points?
A Yeah.
Q What happens next?
A After a while, he had my mom sit by him, on the couch, after he sat down on the couch. So, he had my mom come sit by him, and he started putting the gun to her side, and hitting her in her head.
Q And what are you doing while this is going on?
A I told him to stop. Then he pointed the gun at me and told me, what you gonna do about it?
Q What did you think at that point?

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A That if I say anything else, that he's gonna kill me.
Q Did you say anything else?
A No.
Q What happens next?
A After that, it starts -- he, like, whispering in my mom's ear. I couldn't really hear what he was saying.

So, at one point, he turned the gun on himself, put it in his mouth, and put it to his head. And he kept putting it back and forth.

And he tried getting my mom to pull the trigger, but she didn't want to do anything. He was, like, one of you pull the trigger.

So, then my brother ran out the house, and my mom ran after him.

Q And what happens at that point?
A Right when I was, like, about to go follow with him, they come back inside the house. So, he had us come back to the family room.
Q Where is the gun, at that point, if you recall?
A It's still in his hand.
Q Did he point it at anyone?
A Not at that moment.
Q What happens next?
A After a while, it was him still yelling at us and everything, he basically told us that we have to sleep

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downstairs.
Q Did you want to sleep downstairs?
A No.
Q So, after you're told to sleep downstairs, what happens next in that house?
A Well, I had to use the bathroom. And he told me to pee, pee in the cup, or pee on the wall. And there was this cup with red pop in it, so I peed in it.
Then my brother had to use the bathroom, too. So, he threw my brother a cup.
Q Is that what you wanted, is that how you wanted to use the rest room?
A No.
Q What happens after that? Tell the jury.
A Well, he tells my brother that he can either pee in a cup or pee on the wall, pee on the wall because I'm burnin' -- I'm gonna burn the house down anyway, with you all in it.
Q What did you think, at that point?
A That he was probably gonna do it.
Q Were you afraid?
A Yes.
Q What happens next?
A Well, the night goes on, and once he finally tells us we can, like, we have to sleep downstairs, he turns the

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T.V. on, but nobody really paid attention to the T.V. because he was just pointing a gun at us and everything.

So, he had -- so, basically, we all started, started like just sitting there. And for a while, he put the gun down, on that table right next to him.

Q Okay.

MR. BROWN: I have nothing further.

THE COURT: Okay.

Go ahead, Mr. Gold.

CROSS-EXAMINATION

BY MR. GOLD:

Q Mr. Lymon, can I call you Samuel?

A Yes.

Q Okay. Samuel, I'm gonna ask you a few questions, and if you're not sure what I'm asking you, just let me know, and I'll, I'll say it again so that we understand it, okay?

A Yes.

Q Fair enough?

Do you know what time it was when your dad had thrown down his telephone, broke, and then he left the house to go to the AT&T store, do you know what time that was?

A Around five.

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Q Okay. Had your mother started making dinner yet?
A Yeah. It was already in the process of being cooked.
Q Okay. And then your dad came back, and do you know whether or not his phone had been repaired?
A It wasn't.
Q Okay. And he was still talking about this Karen person, correct?
A Yes.
Q Do you recall him telling your mother that people could be in danger here, kids in the neighborhood, Karen could come by and shoot up the whole house?
A Yes, and that's --
Q Pardon me?
A Yes, and that's why, the main reason he brought out the gun, because my mom really didn't take him seriously when he was sayin' that.
Q Was your mom laughing at him?
A Yeah, nobody, nobody really cared about it, because we all knew it was a lie.
Q Okay. So, you didn't take him seriously either, is that correct?
A Yes.
Q Did that make him angry?
A Yes.
Q Do neighborhood kids congregate around your garage?

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A No.
Q There came a time when your brother, Samuel, left the house, do you remember that?
A Isaac.
Q I'm sorry, you're Samuel. There came a time when Isaac left the house, do you remember that?
A Yes.
Q And can you give us some idea of approximately what time that was?
A Around eight or nine.
Q Okay. Did he leave the house by himself?
A Yes.
Q And --
A But my mom went out after him.
Q Okay. When he left the house, did he go through the front door, or the garage door?
A Garage door.
Q And how long was he gone before your mom left after him?
A About thirty seconds.
Q Okay. And how long were they gone all together?
A Like, forty seconds, or fifty-five.
Q In other words, they just came right back in, is that correct?
A Yeah.

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Q Okay. When your brother had left the house, and your mom went after him, what, if anything, did your dad do?
A He was still putting the gun in his mouth, and putting it to his head.
Q All right. He was point the gun at himself, is that correct?
A Yeah.
Q Now, you didn't know whether the gun was loaded, correct -- or not, correct?
A I did.
Q You did what?
A I did notice it loaded.
Q And how was that?
A When he brought out the gun, I was sitting in view of where he brought it out. When he brought it out, he pointed it down, pulled it back, and the bullet went into the chamber.
Q Well, you saw him pull it back and so on, but you had no way of knowing if a bullet went in the chamber at that time, did you?
A I seen it.
Q What did you see?
A The bullet go --
MR. BROWN: Object at this point, being argumentative.

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And you scared the hell out of 'em.

I, I couldn't imagine what they must have been going through on the night that this occurred.

The guidelines may seem harsh, and in fact, many cases they are. And perhaps this is one of those cases.

But simply because the guidelines are harsh, isn't enough of a reason for me to go below the guidelines.

However, I will sentence you to the bottom of the guidelines.

As I said before, with respect to the scoring, you can take that up with the Court of Appeals.

But with respect to counts one through three, the torture counts, I have to sentence you to one hundred and twenty-six months to two hundred and forty months in the Michigan Department of Corrections.

With respect to the three counts of unlawful imprisonment, seven to fifteen years in the Michigan Department of Corrections.

With respect to the felonious assault count, two to four years in the Michigan Department of Corrections.

And those will all run concurrent to one

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another, and consecutive to the mandatory two years for the felony firearm.

Since this was a conviction by jury trial, you have an automatic right to appeal your conviction and sentence with the Court of Appeals.

If you can't afford an attorney, one will be appointed for you, and that request must be made within forty-two days.

MR. GOLD: The record should indicate that I'm giving Mr. Lymon --

THE COURT: He's taking advantage of his appellate rights?

MR. GOLD: Yes, I'm --

THE COURT: Okay.

Oh, and you will receive credit for one hundred and forty-one days.

MR. GOLD: Yes.

DEPUTY: You can step back, sir.

(Whereupon the proceedings were concluded for the day at 10:00 a.m.)

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a substantial question of law and fact, both with regard to the issue of torture. And especially with the situation where two victims left, one left, one went after the victim and brought the victim back in. Typically you wouldn't take somebody out of danger and put (unintelligible) --

(CROSSTALK)

THE COURT: At this point (unintelligible) --

(CROSSTALK)

MS. O'CONNOR: Excuse me, your Honor. I think somebody is speaking and they're not a part of the case.

THE COURT: I know, I just muted that person.

MS. O'CONNOR: Oh, Okay.

THE COURT: Right.

And so for these reasons the Court is inclined to grant the motion by the defense. I am going to allow for the appeal bond. And that bond is going to be in the amount of $100,000 cash surety or 10 percent. It will require a GPS tether with house arrest only to not go outside of the house. And it is my understanding from the defense that Mr. Lymon would reside at 24244, Dashian, that's D-a-s-h-i-a-n, Drive Novi, Michigan 48375, with his current wife Julette Lymon and with their nine-year-old daughter Grace Lymon.

I am going to stay this order to allow the

TIMOTHY BAUGHMAN
APPELLEES BRIEF - PEOPLE V POOLE
MSC #164529

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B. Article I, § 16 of the Michigan Constitution does not render a mandatory sentence of life for 1st-degree murderers where statute prohibits parole consideration unconstitutional as to any class or subset of adults; the authority to set the sentence for the offense belongs to the legislature

The Eighth Amendment does not bar a mandatory sentence of life in prison, where statute denies the possibility of any parole consideration whatever, for an adult—a person 18 years of age or older—sentenced to life in prison, nor does the Michigan Constitution.[31] While a state court must, of course, *apply* the Eighth Amendment as construed by the United States Supreme Court, a state is not compelled to construe its *own* fundamental charter in the same fashion; indeed, a state could in its constitution provide no protection against cruel and unusual, or cruel *or* unusual, sentences at all. The matter is one of consideration of the text, history, and structure of the state constitution, to ascertain its original public meaning. Where identical language is employed in the state constitution as in the federal, and nothing in the review of text, history, or structure suggests a different meaning, the meaning may well be–and generally is—the same.[32] But an examination of the text, history, and structure of the provision may on rare occasion lead to a different

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[31] This Court has previously in *People v. Hall*, 396 Mich. 650, 657–658 (1976) upheld a required sentence of life, not subject to parole, for 1st-degree murder, the overruling at least in part which would be required for defendant to obtain relief.

[32] Indeed, this Court has said, in construing several parallel provisions of the state constitution to federal provisions, that absent a compelling reason to conclude otherwise they should be construed the same. See e.g. *People v. Slaughter*, 489 Mich. 302, 311 (fn 14) (2011) (collecting cases regarding Mich. Const. 1963, Art. 1, § 11); *People v. Davis*, 472 Mich. 156, 167–68 (2005) (concerning Mich. Const. 1963, Art. 1, § 15).

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understanding[33] of the state provision than the parallel federal constitutional provision as interpreted by the United States Supreme Court.[34] This Court should conclude that Article 1, § 16 does not include judicial review of the proportionality of legislatively-mandated statutory sentences. *People v Bullock*[35] should be overruled, and the Court should find that the Michigan Constitution provides no basis for requiring case-specific sentencing hearings for any class of offenders convicted of 1st-degree murder, and certainly not for any class of adult offenders. But in all events, just as review for gross disproportionality under the federal constitution supplies defendant with no relief, neither is relief available under the Michigan Constitution if that test is applied.

1. Interpreting the Michigan Constitution

Our state constitution, no less than our federal constitution, is a durable expression of the will of the people, both authorizing and limiting government, and standing outside of and superior to all agencies of government, including the judiciary. Its source of authority is the people of the State: "All political power is inherent in the people. Government is

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[33] And though the interpretation of the federal constitution by the United States Supreme Court must be applied by the state court, the state court may, in construing its own constitution, conclude that the federal construction is mistaken.

[34] In *Sitz v. Dep't of State Police*, 443 Mich. 744, 758 (1993) the Court *found* such compelling reasons with regard to Art. 1, § 11 when applied to sobriety checklanes, noting that the compelling reason test for departure does not create a conclusive presumption which would completely bar State departure from interpretations of parallel federal constitutional provisions by the United States Supreme Court.

[35] *People v Bullock*, 440 Mich. 15 (1992).

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instituted for their equal benefit, security and protection."[36] The judicial branch is as much an agent or servant of the sovereign people as are the legislative and executive branches. It does not stand outside of government, but is a part of it. The judge as servant of the people must search for the public meaning of a constitutional text as understood by the lawgiver. As Madison said, concerning our federal constitution:

> I entirely concur in the propriety of resorting to the sense in which the Constitution was accepted and ratified by the nation. In that sense alone it is the legitimate Constitution. And if that be not the guide in expounding it, there can be no security for a consistent and stable, more than for a faithful, exercise of its powers.[37]

It has been established since the early days of our State that our state constitution is law through the act of ratification by the people, and that the task of the judge is to determine what the provisions of the constitution meant to the ordinary people who made it law. State precedent establishes that a court interpreting a constitutional text should endeavor to place itself

> in the position of the Framers of the Constitution, and ascertain what was meant at the time; for, if we are successful in doing this, we have solved the question of its meaning for all time. It could not mean one thing at the

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[36] See Mich. Const. 1963, Art. I, § 1. The same provision appears in Mich. Const. 1908, Art. II, § 1. In our first State Constitution, this language is divided between Article I, § 1 and § 2, § 1 providing that "First. All political power is inherent in the people" and Art. § 2 providing that "Government is instituted for the protection, security, and benefit of the people; and they have the right at all times to alter or reform the same, and to abolish one form of government and establish another, whenever the public good requires it."

[37] Letter from Madison to Henry Lee (June 25, 1824), reprinted in 9 *The Writings of James Madison* 191-192 (G. Hunt ed., 1910).

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> time of its adoption, and another thing today, when public sentiments have undergone a change.[38]

Certainly new circumstances to which a provision must be applied may arise, but as Justice Campbell said long ago, "That the constitution means nothing now that it did not mean when it was adopted, I regard as true beyond doubt. But it must be regarded as meant to apply to the present state of things as well as to all other past or future circumstances."[39]

As tools to aid in the interpretation of our state constitution, this Court has consistently held that the Address to the People and the constitutional convention debates may be highly relevant in determining the public meaning to the *ratifiers* of particular constitutional provisions.[40] The Address is particularly important in this regard because it represents what the ratifiers—the people—were told about the

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[38] *Pfieffer v Board of Education of Detroit*, 118 Mich 560, 564 (1898). See also *Holland v Clerk of Garden City*, 299 Mich 465, 470-471 (1941)("It is a fundamental principle of constitutional construction that we determine the intent of the framers of the Constitution and of the People adopting it") and *Burdick v Secretary of State*, 373 Mich 578, 584 (1964)("Courts on numerous occasions have gone to the constitutional convention debates and addresses to the people to decide the meaning of the Constitution").

[39] *People v Blodgett*, 13 Mich 127, 140 (1865)(Campbell, J.).

[40] See e.g., *Studier v. Mich. Pub. Sch. Employees' Retirement Bd.*, 472 Mich. 642, 655–656 (2005).

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proposed constitution *before* they voted to adopt it.[41] This Court has emphasized that "the proper objective in consulting constitutional convention debates is not to discern the intent of the framers in proposing or supporting a specific provision, but to determine the intent of the ratifiers in adopting the provision," and so "the primary focus ... should not [be] on the intentions of the delegates . . . but, rather, on any statements they may have made that would have shed light on why they chose to employ the particular terms they used in drafting the provision to aid in discerning what the common understanding of those terms would have been when the provision was ratified by the *People*."[42]

> As Justice Cooley, perhaps our greatest justice, put the matter:
>
> > A constitution is made for the people and by the people. The interpretation that should be given it is that which reasonable minds, the great mass of the people themselves, would give it. For as the Constitution does not derive its force from the convention which framed, but from the people who ratified it, the intent to be arrived at is that of the people, and it is not to be supposed that they have looked for any dark or abstruse meaning in the words employed, but rather that they have accepted them in the sense most obvious to the common understanding, and ratified the

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[41] See *People v. Nutt,* 469 Mich. 565, 590 n. 26 (2004) ("The Address to the People, widely distributed to the public prior to the ratification vote in order to explain the import of the ... proposals, 'is a valuable tool....' "). And see *Mich. United Conservation Clubs v. Secretary of State (After Remand),* 464 Mich. 359, 378 (2001) (Young, J., concurring), noting that the Address was "officially approved by the members of the constitutional convention."

[42] *In re Request for Advisory Opinion Regarding Constitutionality of 2011 PA 38,* 490 Mich. 295, 309-310 (2011).

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> instrument in the belief that that was the sense designed to be conveyed.[43]

The task of the judge when confronting the meaning of a state constitutional text is, then, as a matter of long-established Michigan precedent, to ascertain what the ratifiers "understood themselves to be enacting." As one commentator has said, the text "must be taken to be what the public of that time would have understood the words to mean. . . . In other words, the objective or publicly-accessible meaning of the terms is sought."[44] Whether an interpretation of a provision of our state constitution is entitled to adherence under principles of stare decisis thus involves consideration of whether that decision was itself faithful to the task of the Court as established in the decisions of this Court described above. And "statutes are presumed to be constitutional, and [courts] have a duty to construe a statute as constitutional unless its unconstitutionality is clearly apparent.' "[45]

2. The law the People have made: that Article 1, § 16 of the Michigan Constitution employs the phrase "cruel or unusual" rather than "cruel and unusual" provides no basis to find MCL 791.234(6) and MCL § 750.316 unconstitutional as applied to any class of adults

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[43] Cooley, *A Treatise on the Constitutional Limitations* (1886), p. 81. And see *People v. Smith,* 478 Mich. 292, 298-299 (2007); *Attorney General v. Renihan*, 184 Mich. 272, 281 (1915).

[44] See Randy Barnett, "An Originalism for Nonoriginalists," 45 Loy L Rev 611, 636 (1999).

[45] *In re Certified Questions From United States Dist. Ct. , W. Dist. of Michigan, S. Div.*, 506 Mich. 332, 340 (2020), quoting *People v. Skinner*, 502 Mich 89, 100 (2018), quoting *In re Sanders*, 495 Mich. 394, 404 (2014), in turn citing *Taylor v. Gate Pharm.*, 468 Mich. 1, 6 (2003).

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a. "The law the people have made": article 1, § 16, and the "and" and the "or" of it

There *is* a textual difference between the Eighth Amendment and Article 1, § 16—the former uses the phrase "cruel and unusual punishment" while the latter refers to cruel "*or*" unusual punishment—and this Court in *People v. Bullock* said that the "difference does not appear to be accidental or inadvertent."[46] But little proof was offered for this assertion other than the very fact of the textual difference.[47] Is there anything in the history of the language used that suggests that the use of "or" rather than "and" was designed to accomplish some purpose? And if so, to what end was the choice made?

The Northwest Ordinance was passed on July 13, 1787 by the Confederation Congress establishing the Northwest Territory, which included the territory that later became the State of Michigan, as well as principles for its governance. Included was a provision in Article 2 that "no cruel or unusual punishments shall be inflicted." On August 6, 1789, the Northwest Ordinance of 1789, which essentially continued the 1787 Ordinance, was signed into law under the new Constitution, and it too provided that "no cruel or unusual punishments shall be inflicted." On September 25, 1789 by joint resolution Congress Proposed the Bill of

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[46] *People v. Bullock,* 440 Mich. at 30-31.

[47] "While the historical record is not sufficiently complete to inform us of the precise rationale behind the original adoption of the present language by the Constitutional Convention of 1850, it seems self-evident that any adjectival phrase in the form A *or* B' necessarily encompasses a broader sweep than a phrase in the form 'A *and* B.' The set of punishments which are *either* 'cruel' *or* 'unusual' would seem necessarily broader than the set of punishments which are *both* 'cruel' *and* 'unusual.'" *People v. Bullock,* 440 Mich. at 31 (emphasis in the original).

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Rights Amendments to the States, the tenth of which was what came to be the Eighth Amendment: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." It would be far more than passing strange if Congress proposed to the States an amendment to the Constitution concerning punishments that it intended to be *different* than that it had enacted as to the Northwest Territory only six weeks earlier. And there is no evidence that it so intended.

Indeed, founding-era evidence establishes that no difference was intended when the disjunctive was used rather than the conjunctive in a particular constitution of the era.

- As evidenced by the state constitutions they wrote, the Founders used the phrases "cruel and unusual," "cruel or unusual," and "cruel" interchangeably as referring to a unitary concept.

  *****

  The state constitutions enacted during and shortly after the Bill of Rights' ratification also counsel against a literal interpretation. Pennsylvania and South Carolina each enacted constitutions during 1790, while ratification of the Bill of Rights was still pending. In addition, Delaware and Kentucky enacted constitutions in 1792 during the year following the Bill of Rights' ratification. All of these constitutions prohibited "cruel punishments," omitting entirely any reference to the term "unusual." Numerous state constitutions enacted after the Founding period used this same language. There is no evidence that this formulation was understood to mean anything different from either the Eighth Amendment's proscription of "cruel and unusual punishments" or the ban of the many state constitutions enacted during the Revolutionary and

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post-Revolutionary periods against "cruel or unusual" punishments.[48]

- [T]he phrases "cruel and unusual" and "cruel or unusual" were often used interchangeably, with early American state constitutions often employing "cruel or unusual" instead of the "cruel and unusual" verbiage.[49]

- [N]either the Framers nor their English predecessors attributed much difference between the phrases cruel *and* unusual and cruel *or* unusual. . . . "the available evidence indicates that the Founders understood [both formulations] to capture the same meaning."[50]

And in the debate on ratification of the Constitution, where much concern was expressed regarding the absence of a Bill of Rights, the disjunctive and conjunctive were used interchangeably, and "cruel" and "unusual," however expressed, referred to a unitary concept. At the Massachusetts Ratifying Convention, Abraham Holmes complained that in the absence of a Bill of Rights Congress was not "restrained from inventing the most cruel *and unheard of* punishments . . . RACKS and GIBBETS, may be amongst the most mild instruments of their discipline."[51] The minority

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[48] Stacy, Tom, "Cleaning Up the Eighth Amendment Mess," 14 Wm. & Mary Bill Rts. J. 475, 503-504 (December, 2005) (footnotes omitted).

[49] Bessler, John, "The Anomaly of Executions: The Cruel and Unusual Punishments Clause in the 21st Century," 2 Brit. J. Am. Legal Stud. 297, 313 (2013) (footnotes omitted).

[50] Casale, Robert, and Katz, Johanna, "Would Executing Death-sentenced Prisoners after the Repeal of the Death Penalty Be Unusually Cruel under the Eighth Amendment?," 86 Conn. B.J. 329, 336 (2012) (footnote omitted).

[51] Bernard Bailyn, 1 *The Debate on the Constitution*, p. 912 (emphasis supplied, capitalization in the original).

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dissent of the Pennsylvania Ratifying Convention offered a series of suggested amendments to the proposed Constitution, including that "excessive bail ought not to be required, nor excessive fines imposed, nor cruel *nor* unusual punishments inflicted."[52] The New York ratifying convention proposed amendments to the proposed Constitution constituting a Bill of Rights, and including that "excessive bail ought not to be required, nor excessive fines imposed; nor cruel *or* unusual punishments inflicted."[53] The North Carolina ratifying convention resolved that there should be a Declaration of Rights added to the proposed Constitution, to include a provision that "excessive bail ought not to be required, nor excessive fines imposed, nor cruel *and* unusual punishments inflicted."[54] The phrases were used interchangeably, and nothing suggests any difference in meaning was intended.

Michigan achieved Statehood in 1837, and its first constitution, that of 1835, provided in Article 1, § 18 that "Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unjust punishments shall not be inflicted." There is no historical evidence that the textual change from the Northwest Ordinance—from "cruel or unusual" to "cruel and unjust"—was meant to accomplish some change from the prohibition in the Northwest Ordinance. In the Constitution of 1850, Article 6, § 31, our constitution returned essentially to the language

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[52] Bernard Bailyn, 1 *The Debate on the Constitution*, p. 532 (emphasis supplied).

[53] Bernard Bailyn, 2 *The Debate on the Constitution*, p. 536 (emphasis supplied).

[54] Bernard Bailyn, 2 *The Debate on the Constitution*, p. 567 (emphasis supplied).

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used in the Northwest Ordinance: "cruel or unusual punishment shall not be inflicted." And the 1908 Constitution, in Article 2, § 15, continued that language, which also appears in our current constitution: "cruel or unusual punishment shall not be inflicted." The People can discover nothing in any convention record or journal that indicates that the text employed in the Northwest Ordinance, the text employed in the Constitution of 1835, or the texts employed in the Constitutions of 1850, 1908, and 1963 were intended to mean anything different. Again, "the phrases 'cruel and unusual,' 'cruel or unusual,' and 'cruel'" were employed "interchangeably as referring to a unitary concept" throughout the country.

And as to text itself, this Court said in *Bullock* that "it seems self-evident that *any* adjectival phrase in the form 'A *or* B' necessarily encompasses a broader sweep than a phrase in the form 'A *and* B.'"[55] But this is not necessarily so. While "and" is generally taken to be "used to join words or groups of words; added to; plus," "[o]r, on the other hand, while used as 'expressing an alternative, contrast, or opposition," is also often used "to indicate ... (3) the synonymous, equivalent, or substitutive character of two words or phrases,' as in '[the off [or] far side], [lessen [or] abate].'"[56] In any event, here history gives context to the expression—no difference in meaning was intended by the use on occasion of "or" rather than "and" to couple "cruel" and "unusual"; indeed, no difference in meaning was intended by the occasional use of "cruel" standing alone.

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[55] *People v. Bullock*, 440 Mich. at 30-31 (emphasis added).

[56] Webster's Third New International Dictionary (1981).

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And as Justice Holmes once said, "a page of history is worth a volume of logic."[57]

b. "The law the people have made": that Article 1, § 16 of the Michigan Constitution employs the phrase "cruel or unusual" rather than "cruel and unusual" provides no basis to find MCL 791.234(6) and MCL § 750.316 unconstitutional as applied to any class of adults under the text of the Michigan provision

Though the *Bullock* opinion offered little support for its assertion that "use of the phrase 'cruel or unusual' in the Michigan constitution rather than 'cruel and unusual' does not appear to be accidental or inadvertent," assume that it is accurate. Does it afford any basis for finding MCL 791.234(6) and MCL § 750.316 unconstitutional as applied to any class of adults? It does not.

What would an "unusual" punishment be? It requires reference to its context of use along with "cruel." Surely the constitutional provision would not ban all innovations in punishment, such as use of electronic monitoring devices. Justice Holmes pointed out over a century ago, with regard to the phrase "cruel or unusual" in the Massachusetts constitution, that "the word 'unusual' must be construed with the word 'cruel,' and cannot be taken so broadly as to prohibit every humane improvement not

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[57] *New York Tr. Co. v. Eisner*, 256 U.S. 345, 349, 41 S. Ct. 506, 507, 65 L. Ed. 963 (1921).

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previously known in [the state]."[58] And Professor Stinneford[59] has thoroughly explicated the point.

"Unusual" as used both the Eighth Amendment and Article I, § 16 does not mean "out of the ordinary," or any innovation in punishment would be prohibited by these provisions. Rather, as demonstrated by Professor Stinneford, in this context as historically understood "unusual" means "'contrary to long usage' or 'immemorial usage.'"[60] In the 17th and 18th centuries "[a]ctions that comported with long usage were often said to be 'usual,'" while "[a]ctions that were contrary to long usage, on the other hand, were described as 'unusual.'"[61] Indeed, "[t]hroughout the first half of the nineteenth century, American courts that were called upon to determine whether a punishment was 'cruel and unusual' almost invariably noted that a punishment could only be 'unusual' if it was contrary to the long usage of the common law."[62] And so

> the provisions in the various state constitutions and bills of rights for preserving the common law and prohibiting cruel punishments reflected a general consensus on two points: First, the government should not impose cruel punishments. Second, the common law was essentially reasonable, so that governmental efforts to "ratchet up" punishment beyond what was permitted by the common law were presumptively contrary to reason. Given this dual consensus, the words

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[58] *In re Storti*, 60 N.E. 210, 211 (Mass., 1901).

[59] Professor of Law, University of Florida Levin College of Law.

[60] John F. Stinneford, "The Original Meaning of 'Unusual': The Eighth Amendment As A Bar to Cruel Innovation," 102 NW. U. L. Rev. 1739, 1745 (2008).

[61] Id., at 1770.

[62] Id., at 1771.

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> "cruel" and "unusual" acted as synonyms when employed in the context of punishment. The word "cruel" stated the abstract moral principle, and the word "unusual" provided a concrete reference point for determining whether that principle had been violated. Thus, it makes sense that some states outlawed "cruel punishments," some outlawed "cruel and unusual punishments," and some outlawed "cruel or unusual punishments." *Each formulation is simply a different way of saying the same thing.*[63]

Similarly, "cruel" has reference to historically employed punishments; a punishment is "cruel" if "its effects are unjustly harsh in light of longstanding prior punishment."[64] The first use of the phrase "cruell and unusual punishments" appeared in the English Bill of Rights of 1689, which was the model the prohibition on cruel and unusual punishments in the Virginia Declaration of Rights, and, ultimately, the Eighth Amendment.[65] The likely English impetus was the case of Titus Oates, who was convicted of only perjury for falsely claiming there was a popish plot to kill the king, the claim resulting in many executions. Justice Withins sentenced Oates to be dragged across the City of London while being whipped "from Aldergate to Newgate," and two days later from Newgate to Tyburn, to pay a fine, to be pilloried four times a year for life, and to life imprisonment.[66] Oates survived scourging, and petitioned Parliament after the adoption of the Bill of Rights to suspend his punishment on the ground that it was cruel and unusual, with which

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[63] Id., at 1799 (emphasis suppled).

[64] John F. Stinneford, "The Original Meaning of 'Cruel'," 105 Geo. L. J. 441, 464 (2016).

[65] Id., at 474.

[66] Id., at 477.

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the members of Parliament agreed because the punishment was too harsh for the crime of conviction in "light of longstanding prior practice."[67] Justice Cooley well put the matter in his treatise, relating the provision to historical practice:

> It is somewhat difficult to determine precisely what is meant by cruel and unusual punishments. Probably a punishment declared by statute for an offense which was punishable in the same way at the common law could not be regarded as cruel or unusual in the constitutional sense. And probably any new statutory offence may be made punishable to the extent permitted by the common law for similar offences. But those degrading punishments which in any State *had become obsolete before its existing constitution was adopted*, we think may well be held to be forbidden by it as cruel and unusual.[68]

Plainly, a mandatory sentence of life imprisonment, the law not permitting parole, is not a degrading punishment for any class of adults

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[67] Id.

[68] Cooley, *Constitutional Limitations*, at 329.

If "unusual" punishments must be cruelly so, and include reinstitution of those long obsolete, this solves the "one-way ratchet" problem. That is, if a punishment is found unconstitutional because "evolving standards of decency" have turned against it, society may never decide it has made a mistake and return to more rigorous punishment, for any such legislation is perforce unconstitutional. But if a punishment that has been set aside only becomes "cruel and unusual" if in long disuse, society has the ability to return to a former punishment, and the ratchet turns both ways. Professor Stinneford suggests one hundred years as the relevant time period: "The relevant reference point for determining whether a punishment is cruel and unusual is not some abstract and absolute notion of unnecessary pain, but rather the range of pain (or risk of pain) caused by traditional punishment practices that have been used within the last one hundred years. States are free to experiment in order to find more humane methods of punishment without worrying that the moment they adopt a new practice, the old one becomes unconstitutional." Stinneford, "The Original Meaning of 'Cruel,'" at 504.

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that had become obsolete before the adoption of the Michigan constitutions.[69] It is not unconstitutional under the Michigan cruel or unusual punishment provision.

c. Gross proportionality review should not be applied to MCL 791.234(6) and MCL § 750.316

What would the ratifiers of the Michigan Constitutions have understood themselves to be enacting in 1835 when they ratified the language "Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unjust punishments shall not be inflicted"; and in 1850 when they ratified "Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted"; and in 1908 when they ratified a text almost identical to that of 1850; and finally in 1963, when that language was again continued? Because, as the People have argued, "or" and "and" were used interchangeably at the time of the Founding, one must return to the beginning. What was the understanding at the time of the Founding, and in 1835?

The People will not belabor the point, but direct the Court to Justice Scalia's lead opinion in *Harmelin v Michigan*,[70] joined by Chief

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[69] For example, see the Revised Statutes of 1846, Chapter 153, providing the 1st-degree murder "shall be punished by solitary confinement at hard labor in the state prison for life" (the Revised States of 1838 had provided in Chapter 3 that 1st-degree murder was punishable by death, and 2nd-degree murder by life in prison, or any term of years); see also Compiled Laws of 1948, MCL 750.316, 1st-degree murder punished by "solitary confinement at hard labor in the state prison for life." And see Compiled Laws of 1948, MCL 791.32, precluding parole for those convicted of 1st-degree murder, reenacting § 4 of Ch. 3 of Act 255 of 1937) (now see MCL 791.234(6)).

[70] *Harmelin v. Michigan* 501 U.S. 957, 976, 111 S.Ct. 2680, 115 L.Ed.2d 836 (1991).

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Justice Rehnquist as to the proportionality discussion, which the People believe applicable to the Michigan provision.[71] The People agree that:

- [T]he Clause disables the Legislature from authorizing particular forms or "modes" of punishment—specifically, cruel methods of punishment that are not regularly or customarily employed.[72]

- [T]o use the phrase "cruel and unusual punishment" [or cruel or unusual punishment] to describe a requirement of proportionality would have been an exceedingly vague and oblique way of saying what Americans were well accustomed to saying more directly. The notion of "proportionality" was not a novelty. . . . There is little doubt that those who framed, proposed, and ratified the Bill of Rights were aware of such provisions, yet chose not to replicate them.[73]

- We think it enough that those who framed and approved the Federal Constitution chose, for whatever reason, not to include within it the guarantee against disproportionate sentences that some State Constitutions contained. It is worth noting, however, that there was good reason for that choice . . . . While there are relatively clear historical guidelines and accepted practices that enable judges to determine which *modes* of punishment are "cruel and unusual," *proportionality* does not lend itself to such analysis.[74]

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[71] And Justice Thomas has also made essentially the same points. See e.g. *Graham v Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2011)(Thomas, J., dissenting).

[72] *Harmelin*, 111 S.Ct. at 2691 - 2692.

[73] *Harmelin*, 111 S.Ct. at 2692.

[74] *Harmelin*, 111 S.Ct. at 2692. And see Stinneford, "The Original Meaning of 'Unusual': the Eighth Amendment as a Bar to Cruel Innovation,"at

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- The real function of a constitutional proportionality principle, if it exists, is to enable judges to evaluate a penalty that *some* assemblage of men and women *has* considered proportionate—and to say that it is not. For that real-world enterprise, the standards seem so inadequate that the proportionality principle becomes an invitation to imposition of subjective values.[75]

This was the understanding that informed the punishment provision of the Northwest Ordinance, and the Michigan Constitution of 1835, with subsequent constitutions ratified with no understood change to that understanding.

Proportionality review should be rejected as a matter of Michigan law. It inevitably involves the court in matters that are legislative. As Justice Scalia pointed out in the *Roper*[76] case:

> the American Psychological Association (APA), which claims in this case that scientific evidence shows persons under 18 lack the ability to take moral responsibility for their decisions, has previously taken precisely the opposite position before this very Court. In . . . *Hodgson v. Minnesota* . . . the APA found a "rich body of research" showing that juveniles are mature enough to decide whether to obtain an

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1757 (Fall 2008): "The *Roper* majority wanted to strike down the death penalty for seventeen-year-olds, despite the fact that the evidence did not demonstrate that such executions violated any societal moral consensus, at least within the United States, and so it simply pretended that the evidence supported the desired result. One may like the results of *Roper* and still find the case profoundly troubling. *If evolving standards of decency is merely window-dressing for judicial will*, then it is not merely an incorrect standard; it is not a standard at all. In the long run, a standardless standard will cause more harm than good to those criminal defendants who seek the protection of the Eighth Amendment" (emphasis supplied).

[75] *Harmelin*, 111 S.Ct. at 2697.

[76] Roper v. Simmons, 125 S.Ct. at 1222 (Scalia, J., dissenting).

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> abortion without parental involvement. Brief for APA as *Amicus Curiae,* . . . The APA brief, citing psychology treatises and studies too numerous to list here, asserted:
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> > "[B]y middle adolescence (age 14–15) young people develop abilities similar to adults in reasoning about moral dilemmas, understanding social rules and laws, [and] reasoning about interpersonal relationships and interpersonal problems."
>
> . . . . courts—which can only consider the limited evidence on the record before them—are ill equipped to determine which view of science is the right one. Legislatures "are better qualified to weigh and 'evaluate the results of statistical studies in terms of their own local conditions and with a flexibility of approach that is not available to the courts.'"

Further, if the constitutional proportionality of a sentence "is an ever changing reflection of the evolving standards of decency' of our society, it makes no sense for the Justices then to *prescribe* those standards rather than *discern* them from the practices of our people. On the evolving standards hypothesis, the only legitimate function of this Court is to identify a moral consensus of the American people. By what conceivable warrant can nine lawyers presume to be the authoritative conscience of the Nation?"[77]

The *Morris* decision, quoting Justice Cooley's treatise, best explains the matter:

> defendant claims that, as properly understood, [cruel or unusual punishment] means, when used in this connection, punishment out of proportion to the offense. If by this is meant the degree of punishment, we do not think the contention correct. . . . in England . . . . the declaration was intended to forbid the imposition of punishment of a kind not known to the law or not warranted by the law. Justice

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[77] Id.

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> Cooley says: "Probably any punishment declared by statute for an offense which was punishable in the same way at the common law could not be regarded as cruel or unusual, in the constitutional sense; and probably any new statutory offense may be punished to the extent and in the mode permitted by the common law for offenses of similar nature. But those degrading punishments, which in any state had become obsolete before its existing constitution was adopted, we think may well be held forbidden by it as cruel and unusual.[78]

Finally, to conclude here, Justice Riley quoted the Prosecuting Attorneys Association amicus brief:

> I believe that the amicus curiae supplemental brief of the Prosecuting Attorneys Association correctly identifies the problems with an evolving standards test. . . . "if 'evolving standards of decency' as to the appropriate (proportionate) sentence for a crime are to be the measure of the constitutionality of a legislatively set penalty, how is such an inquiry to be carried out? What is the measure? What informs the judgment? What tools does a court have to make it? What enables a court to overrule society's expression of its 'standard of decency,' communicated through statute, imposing a different standard, which is also supposed to be *society's* standard and not the court's? Would not the court's role be to *discover* or *identify* society's 'standard of decency'—not what it should be, but what it *is,* and how better could society express its standard of decency than through its elected lawmakers? The alternative for the judiciary is that
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> > it is for *us* (the judiciary) to judge, not on the basis of what we perceive the Eighth Amendment originally prohibited, or on the basis of what we perceive the society its democratic processes now overwhelmingly disapproves, but on the basis of what we think "proportionate" and "measurably contributory

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[78] *People v. Morris*, 80 Mich. 634, 638–39 (1890).

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> to acceptable goals of punishment"—to say and mean that, is to replace judges of the law with a committee of philosopher kings.[79]

3. Even under review for "gross disproportionality" there is no basis to find MCL 791.234(6) and MCL § 750.316 unconstitutional as applied to any class of adults

Even if *Bullock* is followed, the test there is whether the legislatively established sentence is "*grossly* disproportionate"[80]; the Court does not superintend the legislature for an abuse of discretion, as it does the sentencing of trial courts under *Steanhouse*.[81] Michigan's test assesses proportionality by considering:

> whether a penalty may be considered cruel or unusual is to be determined by a three-pronged test that considers (1) the severity of the sentence imposed and the gravity of the offense, (2) a comparison of the penalty to penalties for other crimes under Michigan law, and (3) a comparison between Michigan's penalty and penalties imposed for the same offense in other states. . . . under the Michigan Constitution, the prohibition against cruel or unusual punishment included a prohibition on grossly disproportionate sentences.[82]

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[79] People v. Bullock, 440 Mich. at 63-64 (Riley, J. dissenting).

[80] "{W]e conclude . . . that the penalty at issue here is so grossly disproportionate as to be 'cruel or unusual.'" *People v. Bullock*, 440 Mich. at 37.

[81] "[T]he standard of review to be applied by appellate courts reviewing a sentence for reasonableness on appeal is abuse of discretion."*People v. Steanhouse*, 500 Mich. 453, 471 (2017).

[82] *People v. Benton*, 294 Mich. App. 191, 204 (2011).

Some cases, including *Bullock*, include "the goal of rehabilitation." But where the gravest of all crimes—1st-degree murder—has been committed, nothing in the constitution requires that the legislature consider rehabilitation