



SMART

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

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Byrne JAG Grant Reductions Under SORNA

34 U.S.C. § 20927(a) sets forth a penalty for jurisdictions that fail to substantially implement Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA):

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 title 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.

Thus, registration jurisdictions that fail to substantially implement SORNA are subject to a 10 percent penalty reduction in its Byrne Justice Assistance Grant (Byrne JAG) formula funds.

Each of the 50 states, five principal territories, the District of Columbia and some federally recognized Indian tribes currently qualify for annual allocations under the Byrne JAG formula and therefore are subject to the reduction if they fail to substantially implement the requirements of SORNA.

Calculating allocations under the Byrne JAG formula is a multistep process. First, initial allocations to the states, territories and the District of Columbia are calculated based on population and violent crime statistics, and certain adjustments are made to ensure the minimum amount of funds for each state, territory and the District of Columbia. These initial allocations determine the amount that goes to each jurisdiction, but not the amount that goes to the jurisdiction's government itself. Rather, of this initial allocation 60 percent goes directly to the jurisdiction, whereas 40 percent goes to qualifying units of local government and tribes. If a jurisdiction fails to substantially implement SORNA, the 10 percent reduction in their Byrne JAG formula funds will be applied to the 60 percent in direct grants to states, and not the 40 percent in grants to local governments and tribes within the jurisdiction. More information about the penalty calculation is at <https://www.bja.gov/Funding/JAGFAQ.pdf>.

For practical purposes, the penalty will be applied in the fiscal year following the deadline for implementation. For example, if a jurisdiction has been found after review by the SMART Office to have not substantially implemented SORNA or is no longer substantially implementing SORNA in 2018, the reduction will be 10 percent of the FY 2019 Byrne JAG award, imposed when the FY 2019 awards are made.

For funds withheld, SORNA provides reallocation (34 U.S.C. § 20927(c)):

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

For any jurisdiction that has been penalized and wishes to have these funds reallocated to be used solely for implementation of SORNA, that jurisdiction must submit its request in writing to the SMART Office. Requests must include a detailed plan and timeline for substantial implementation. The final decision on such requests will be made by the Assistant Attorney General for the Office of Justice Programs, U.S. Department of Justice.

Jurisdictions that implement SORNA have an ongoing obligation to maintain that status, which will be determined annually by the SMART Office. This process need not be onerous, particularly if the jurisdiction has made no significant changes to its relevant legislation or sex offender registration and notification system. The Byrne JAG reduction penalty may be applied each year a jurisdiction has not implemented SORNA or has been determined by the SMART Office to no longer be substantially implementing SORNA.

Tribal Jurisdictions

A number of Indian tribes qualify for direct awards under the Byrne JAG formula. The eligibility for Byrne JAG awards to tribes is determined by reference to the share of the average violent crime within the state in which the tribe is located. If a tribe that elects to implement SORNA is also the recipient of a Byrne JAG formula award for any given year, that tribe does potentially face the 10 percent reduction of that award.

However, there is a separate and significant penalty for tribes; that is, a tribe's registration and notification obligations could be delegated to the state in which the tribe's lands are located if the tribe has been found to have not substantially implemented SORNA. As a result, there are two separate penalties that tribes could face; however, the SMART Office has determined that these tribes will not be doubly penalized. The SMART Office will work with tribes to determine whether implementation is likely to occur within a reasonable amount of time, or whether delegation to the state is appropriate. If it is determined that delegation to the state is appropriate, no Byrne JAG penalty will be imposed on the tribe.

Further, if a tribe has either voluntarily or involuntarily delegated its registration and notification obligation to the state, it no longer functions as a SORNA jurisdiction and will no longer be subjected to these penalties.

To download all of the documents, click [here](#).