



Proponent Testimony for HB 2515 – Relief from KORA requirements

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American Civil Liberties Union of Kansas
House Corrections and Juvenile Justice
Thursday, February 3 at 1:30 PM – 546 S**

Committee Chairs and Members of the Committee,

Thank you for the opportunity to present testimony today. My name is Aileen Berquist. I am the Community Engagement Manager and lobbyist for the ACLU of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the civil rights and liberties of every person in our state.

Imagine someone you know is arrested for possession of methamphetamine with the intent to sell. They are convicted and sent to prison. Following release and post-release supervision, they are ready to put their mistakes behind them and make different choices. Instead, they find themselves listed on the online Kansas public offender registry.

Now, they must regularly register with their local sheriff's office and pay a fee. Every major life decision, like buying a car, moving, starting a new job, or enrolling in school, may require additional steps to make sure their registration is accurate. If they are visiting family or friends in another part of the state and will be away from home for more than three nights, they must register in that county. Failure to comply with any additional registration or check-in can result in additional law enforcement engagement. Even registering one day late because an office was closed can have serious consequences.

And those are just the logistical harms created by Kansas' current offender registration laws. If you were to look someone up in the database, you would find not only their name and photo, but their current address, related addresses, vehicle information—including their license plate number—and personally identifying information like birthmarks and tattoos. This is publicly available information—allowing anyone around the world access to their personal information. This is an enormous violation of privacy for someone who has served their time and poses no additional threat to their community.

Kansas has some of the most restrictive offender registries in the country: "A Kansas News Service analysis found no other state imposes such demanding rules on such a wide range of people."¹ And these restrictions have ballooned in recent decades,² with seemingly no evidence to prove that such registries promote public safety.³ Despite this lack of evidence, the Kansas Supreme Court overruled its own conclusion that these registries are punitive, on the grounds that they boost public safety.⁴

¹ <https://www.kcur.org/news/2018-08-31/kansas-unmatched-tracking-of-ex-convicts-attracts-one-legal-challenge-after-another>

² Appendix A, Summary of changes to Kansas offender registration law from 1993-present

³ <https://www.kcur.org/news/2018-08-31/kansas-unmatched-tracking-of-ex-convicts-attracts-one-legal-challenge-after-another>

⁴ <https://www.kcur.org/news/2021-09-21/kansas-courts-uphold-the-nations-toughest-rules-for-tracking-people-after-conviction>

We need an exit ramp in Kansas for people who have served their time, completed all parts of their sentence, and don't pose a threat to their communities. This committee has the chance to make that happen by creating a sensible way for drug offenders to petition to get off the registry.

Additionally, we request that no docket fee or risk assessment fee be charged as they limit the ability of petitioners to access this process. These fees impose more penalties on people who are looking to become contributing members of their community—we do not need to add additional barriers to reentry. Imposing additional fees onto people as they navigate rent, food, transportation, and childcare is detrimental to successful reintegration.⁵

We support HB 2515, with the caveat that the docket fees and risk assessment fees be removed so that people can smoothly transition back into their community. We have attached additional resources for your review. Thank you for the opportunity to present testimony here today.

Additional Resources

<https://www.kcur.org/news/2018-08-31/kansas-unmatched-tracking-of-ex-convicts-attracts-one-legal-challenge-after-another>

<https://www.kcur.org/news/2021-09-21/kansas-courts-uphold-the-nations-toughest-rules-for-tracking-people-after-conviction>

<https://www.kcur.org/news/2018-02-20/can-registries-cover-too-many-crimes-kansas-legislation-suggests-a-rollback#stream/0>

⁵ <https://finesandfeesjusticecenter.org/content/uploads/2022/01/FFJC-Policy-Guidance-Fee-Elimination-1.13.22.pdf>

Year, title of act, eff. date	Who is required to register as an offender	Brief summary of what it requires offender to do	Length of registration, penalty for violation, relief from registration	Where changes can be found and what info is accessible
<i>(New provisions/changes shown in italics throughout this chart)</i>				
<p><i>1993, Habitual Sex Offender Registration Act, Eff. 7/1/93</i></p>	<p><i>People convicted a 2nd or subsequent time of a sexually violent crime (includes attempts, conspiracies, and solicitations) in Kansas or another state, or an offense a court found to be sexually motivated</i></p>	<p><i>*within 30 days, must register with sheriff in county of residence</i> <i>*report changes within 10 days</i> <i>*information required: name; date of birth; offense(s) committed, and county and date of conviction(s); a photograph; fingerprints; and social security number</i></p>	<p><i>Register 10 years</i></p> <p><i>Can petition court to relieve one from their duty to register</i></p> <p><i>Violation of HSORA is a Class A nonperson misdemeanor</i></p>	<p><i>L. 1993, ch. 253</i></p> <p><i>Not open to inspection by the public; law enforcement access only</i></p>
<p><i>1994, Sex Offender Registration Act, Eff. 7/1/93</i></p>	<p><i>People convicted after the effective date of the act of any sexually violent crime (incl. 1st offense) in Kansas or another state, or an offense a court found to be sexually motivated</i></p>	<p><i>*within 15 days, must register with sheriff in county of residence</i></p> <p><i>*report changes within 10 days</i></p> <p><i>*information required: same as 1993 list</i></p>	<p><i>Register 10 years for a 1st conviction; for life for a 2nd or subsequent conviction</i></p> <p><i>Can petition court to relieve one from their duty to register</i></p> <p><i>Violation is a Class A nonperson misdemeanor</i></p>	<p><i>L. 1994, ch. 107</i></p> <p><i>Open to public inspection in sheriff's office</i></p>

1995, same title & eff. date	All same as 1994			
1996, same title and effective date	Same as 1994, plus: <i>people subject to a diversionary agreement or probation order, either adult or juvenile, requiring registration</i>	*within 15 days, must register with sheriff in county of residence *report changes within 10 days *information required: name; date and place of birth; offense(s) committed, and county and date of conviction(s); social security number; <i>sex and age of victim;</i> <i>current address;</i> <i>identifying characteristics such as race, sex, age, hair and eye color, scars and blood type;</i> <i>occupation and name or employer;</i> <i>driver's license and vehicle information;</i> photograph; fingerprints; and <i>DNA exemplars, unless already on file</i>	Register 10 years for a 1st conviction; for life for a 2 nd or subsequent; <i>or the length provided in diversion agreement or probation order</i> Can petition court to relieve duty to register Violation is a Class A nonperson misdemeanor	L. 1996, ch. 224 (HB 2741) Open to public inspection in sheriff's office
<i>State v. Myers</i> , 260 Kan. 669, 923 P.2d 1024 (1996)				

<p>1997, <i>Kansas Offender Registration Act</i></p> <p>Effective date still 7/1/93</p>	<p>Same as 1996, plus:</p> <p><i>People convicted of aggravated kidnapping, or kidnapping or criminal restraint (but not by a parent) if victim is under 18</i></p> <p><i>People convicted, on or after the effective date of the act, of the following if the victim is under 18: adultery, same-sex sodomy, promoting prostitution, patronizing a prostitute, lewd and lascivious behavior, or unlawful sexual relations</i></p> <p><i>People convicted of capital murder, 1st or 2nd degree murder, or voluntary or involuntary manslaughter</i></p>	<p>*within 15 days, must register with sheriff in county of residence</p> <p><i>*every 90 days after initial registration, KBI will mail a form to last reported address; person has to sign and return within 10 days; failure to do so is a violation of act</i></p> <p>*give written notice within 10 days of any changes to sheriff and the KBI, and also make sure sheriff in new county received the form from KBI</p> <p>*information required is everything from 1996, plus: <i>documentation of any treatment received for a mental abnormality or personality disorder; and anticipated future residence</i></p>	<p>Same time periods for registration as 1996</p> <p>Can petition court to relieve duty to register, but <i>for people convicted of a sexually violent crime, not until registering for at least 10 years for each conviction; court receives a report about offender and must make specific findings</i></p> <p>Violation is a Class A nonperson misdemeanor</p>	<p>L. 1997, ch. 181 (House Sub. for SB 264)</p> <p>Open to public inspection at sheriff's office, <i>except any victim identifiers are disclosed only to law enforcement agencies</i></p>
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1998	All same as 1997			
1999	Same as 1997	<p><i>*within 10 days, must register with sheriff in county of residence</i></p> <p><i>*every 90 days after initial registration, KBI will mail a form to last reported address; person has to sign and return within 10 days</i></p> <p><i>*give written notice to sheriff and the KBI within 10 days of changes, and make sure sheriff in new county received the form from KBI</i></p> <p><i>*information required is the same as 1997</i></p> <p><i>*nothing in KORA “shall create a cause of action against the state or an employee of the state acting within the scope of the employee’s employment as a result of requiring an offender to register or an offender's failure to register”</i></p>	<p>Same registration periods as 1997 but people convicted of <i>an aggravated offense (i.e. involving penetration) also register for life (provisions expire 6/30/09, but sunset was removed in 2006)</i></p> <p><i>Non-lifetime offenders can petition court to relieve them from duty to register, but not until registering for at least 10 years for each conviction; if person registers for a sexually violent crime, the court receives a report about offender and must make specific findings; lifetime offenders are not eligible (that provision expires 6/30/09)</i></p> <p><i>Anyone required to be registered prior to 7/1/99 who would not have been required to register on and after 7/1/99 shall be entitled to be relieved of the requirement by applying to the sentencing court</i></p> <p><i>Violation is a severity level 10 nonperson felony</i></p>	<p>L. 1999, ch. 164 (SB 149)</p> <p>Same public inspection as 1997</p>

2000	Same as 1997	Same as 1997 or 1999	Same as 1999	Same public inspection as 1997
2001	Same as 1997, <i>plus sexually violent predators</i>	<p>*same time limits for notification and methods of notification as 1997/1999, but adds “nonresident student or worker” as those who have to provide info within 10 days (those people are defined as those who cross into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student)</p> <p>*info required is same as 1997, <i>plus school, and occupation, name of employer and place of employment</i></p>	<p>Same registration periods as 1999, <i>but adds that sexually violent predators register for life</i></p> <p><i>No person required to register as an offender pursuant to the Kansas offender registration act shall be granted an order relieving the offender of further registration under this act.</i></p> <p>(Except this provision remains: Anyone required to be registered prior to 7/1/99 who would not have been required to register on and after 7/1/99 shall be entitled to be relieved of the requirement by applying to the sentencing ct.)</p> <p>Same penalty for violating as 1999</p>	<p>L. 2001, ch. 208 (HB 2176)</p> <p><i>Open to inspection by the public at the sheriff's office, at KBI, and on any internet website sponsored or created by a sheriff's department or the KBI; except any victim identifiers are disclosed only to law enforcement agencies</i></p>

2002	Same as 2001, <i>plus people adjudicated as a juvenile offender for sexually violent crimes</i>	Same time limits for notification, methods of notification, and info required as 2001	Same registration periods as 2001, <i>but adds that a juvenile registers until they are 18 or at the expiration of five years from date of adjudication, whichever is longer</i> No relief from registration (except 1999 language), same as 2001 Same penalty as 1999	L. 2002, ch. 55 (HB 2399) Same public inspection as 2001
2003	Same as 2002	Same time limits for notification, methods of notification, and info required as 2001	Same registration periods, no relief from registration, and same penalty as 1999 (<i>emphasizes that violations include all duties set out in K.S.A. 22-4904 through 22-4907</i>)	L. 2003, ch. 123 Same public inspection as 2001
2003	<i>Smith v. Doe</i>			
2004	No material changes			
2005	Same as 2002	Same time limits for notification, methods of notification, and info required as 2001	Same registration periods as 2002, <i>but 10-year period (5 for juvenile adjudications) does not include time spent incarcerated or when a person “knowingly or willfully fails to comply with the registration requirement”</i> No relief from registration (except 1999 language), same as 2001	L. 2005, ch. 202 (HB 2314) Same public inspection as 2001, <i>plus website must identify whether an</i>

			<p>Same penalty as 1999</p> <p><i>K.S.A. 60-1610 creates a rebuttable presumption “that it is not in the best interest of the child to have custody or residency granted to a parent who [i]s residing with an individual who is subject to registration requirements of the Kansas offender registration act ... or any similar act in any other state, or under military or federal law”</i> (note: this provision exists in 2020 as K.S.A. 23-3205: Rebuttable presumption against best interest of child in certain instances)</p>	<p><i>offender is a sex offender or not; requires state DOE to notify schools and KDHE to notify child care centers about websites (and how sheriff can help them use the registry and “provid[e] additional information on registered offenders”)</i></p>
2006	<p>Same categories as 2002, and adds:</p> <p><i>any person who, on or after 7/1/06, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony</i></p>	<p>Same time limits for notification, methods of notification, and info required as 2001, plus:</p> <p><i>*creates new requirement that offenders report in person twice a year to the sheriff’s office where the person resides</i></p> <p><i>*creates a \$20 fee the offender must pay each time the person reports</i></p>	<p><i>Penalty for violation increases from a severity level 10 nonperson felony to a severity level 5 person felony</i></p> <p><i>Provides for new offense every 30 days of noncompliance</i></p> <p><i>Special sentencing rule makes all violations presumptive imprisonment, but permits the court to impose an optional nonprison sentence for people in grid boxes 5-E through 5-I</i></p>	<p>L. 2006, ch. 214 (SB 506)</p> <p>ch. 212 (HB 2576) for increase in penalty and addition of special sentencing rule to K.S.A. 21-4704 (now K.S.A. 21-6804)</p>

		<p><i>*every person must have their photo taken each time</i></p> <p><i>*requires offender to renew their license or ID card every year (as opposed to every four years like usual)</i></p> <p><i>*license/ID “shall be readily distinguishable indicating that such person is a registered offender”</i></p>	<p>A juvenile registers until they are 18 or at the expiration of five years from date of adjudication, whichever is longer, <i>but only for crimes that would be SL 1 or offgrid, and gives courts discretion to make juveniles not register for other offenses, or to make registration private</i></p> <p><i>Out-of-state offenders register for the length of time required by that state or Kansas, whichever length of time is longer</i></p> <p>Same no relief from registration (except 1999 language)</p>	<p>Same public inspection as 2005</p>
2006 SORNA				
2007	<p>Same categories as 2006, and adds as registerable offenses:</p> <p><i>Possession with intent to sell or sale of certain drugs (any amount);</i></p> <p><i>Possession of precursors;</i></p>	<p><i>Eliminates KBI mailing verification forms to offenders and instead requires all offenders to make in-person visits four times a year</i></p> <p>§ <i>All of the \$20 fees collected “shall be credited to a special fund of the sheriff’s office which shall be used solely for law enforcement and criminal prosecution purposes....”</i></p>	<p>Same registration periods and penalty for violating as 2006</p> <p>No relief from registration (except 1999 language), same as 2001</p> <p><i>Expands venue for prosecution to counties where offender resides, is temporarily domiciled, or “is required to be registered under this act”</i></p>	<p>L. 2007, ch. 183 (SB 204)</p> <p>Same public inspection as 2005</p>

	<i>Drug manufacturing or attempting to manufacture, unless personal use finding made;</i> <i>aggravated human trafficking if victim is under 18</i>	Same time limits for notification and info required as 2006, except <i>adds the registration number of each license plate on any vehicle normally operated by the offender</i>		
2008	Same categories; <i>adds electronic solicitation to definition of sexually violent crime</i>	Same	Same	L. 2008, ch. 74 (SB 477)
2009	No material changes			L. 2009, ch. 32
2010	Same categories; <i>adds unlawful sexual relations committed on or after 7/1/10 to definition of sexually violent crime</i>	Same	Same registration time periods, venue and penalties as 2006/2007, except as part of recodification, <i>the legislature specifically made all KORA violations be strict liability offenses</i>	L. 2010, ch. 147 (SB 434) ch. 136 (HB 2668)
2011	The same categories, <i>only reorganized, and adds lifetime registration for kidnapping and</i>	<i>*within 3 business days, must register with sheriff in county of residence, employment, or school, or intended residence, employment, or school</i>	<i>Increases registration periods from 10 years or life to 15, 25, or lifetime, depending on offense (exs.: violent/drug offenders went from 10 to 15; some sex offenders went from 10 to 25 while others</i>	L. 2011, ch. 95 (SB 37)

	<p>aggravated kidnapping regardless of victim's age</p> <p><i>Removes personal use exception from manufacturing registration requirement, and adds as qualifying convictions any attempts, conspiracies, or solicitations to commit the enumerated drug offenses</i></p> <p><i>Excludes people adjudicated as a juvenile offender for an act that would, if committed by an adult, be a sexually violent crime, if the court finds that the act involved non-forcible sexual conduct, the victim was at least 14, and the offender was not</i></p>	<p>and report changes within 3 business days (used to be 10 days on both) to the old and new (if applicable) agencies as well as written notice to the KBI</p> <p><i>*for people who cannot physically register in person are subject to verification requirements determined by registering agency</i></p> <p><i>*at registering law enforcement agency's discretion, permits violent and drug offenders to report three times in person and one time by certified letter</i></p> <p><i>*transient offenders can be made to register every 30 days or more often, at the discretion of the registering agency</i></p> <p>Information required: <i>*name and all aliases</i></p>	<p>went from 10 to life; some juveniles went from 5 to life)</p> <p><i>Upon a conviction for second registerable offense, offender has to register for life (exs.: two drug convictions, or one drug and one violent, or one drug and one sex)</i></p> <p><i>Changes penalty for violating from a SL 5 to a SL 6 for a first offense, SL 5 for a second, and SL 3 for a third or subsequent or for an aggravated violation (i.e. one lasting more than 180 days)</i></p> <p>A new offense every 30 days noncompliance or every 180 days</p> <p><i>Expands venue for prosecution to counties not only where offender resides, but also where they are required to be registered, where they are located during noncompliance, or where conviction requiring registration occurred</i></p> <p><i>Emphasizes that a KORA violation is the "failure by an offender to comply with any and all provisions of such act"</i></p>	<p>Same public access as 2005 (i.e. most of the info set out two columns over is publicly available)</p> <p><i>If someone is a confidential informant or been provided a new identity, they must register but it will not be open to public inspection</i></p>
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	<p><i>more than four years older than the victim</i></p> <p><i>Expands definitions of many terms (ex. “reside” and “employment”)</i></p>	<p><i>*date and place of birth, and alias dates/places</i></p> <p><i>*title and statute number of offense(s) committed, county/state/country and date of conviction(s), and case numbers</i></p> <p><i>*current residential address, and any anticipated future residence and any temporary lodging information [including] address, phone number, dates of travel if staying 7 or more days, or if transient, places stayed and frequented since last reporting</i></p> <p><i>*all phone numbers at which the offender maybe contacted</i></p> <p><i>*any and all schools and satellite schools attended or expected to attend and their locations and phone numbers</i></p>	<p><i>Amends adult and juvenile expungement statutes to forbid expungement of any conviction or any part of the offender’s criminal record while the offender is required to register as provided in KORA</i></p> <p><i>Expands no relief from registration provision to include people with out-of-state convictions or adjudications</i></p> <p><i>Repeals 22-4912 (which had been around since 1999), which had provided that anyone required to be registered prior to 7/1/99 who would not have been required to register on and after 7/1/99 shall be entitled to be relieved of the requirement by applying to the sentencing court</i></p> <p><i>On and after June 1, 2006, prohibits cities and counties from adopting or enforcing residence restrictions for offenders</i></p>	
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		<p><i>*social security number and any alias numbers</i></p> <p><i>*name and number of offender's probation or parole officer</i></p> <p><i>*identifiers such as race, ethnicity, sex, age, hair and eye color, height and weight, scars, blood type</i></p> <p><i>*occupation and name or employer, as well as address and telephone number, and name of any anticipated employer</i></p> <p><i>*all current driver's license or ID card including a photocopy of all such DLs or IDs and their numbers, states of issuance and expiration dates</i></p> <p><i>*vehicle information, including license plate number, any other identifier and description of any vehicle owned or operated by offender or regularly drives either for</i></p>		
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		<p><i>work or personal use, and information RE: the location of any of those vehicles</i></p> <p><i>*license plate number, registration number or other description of any aircraft or watercraft owned or operated by offender and where stored</i></p> <p><i>*all professional licenses, designations, and certifications</i></p> <p><i>*any and all email addresses and any and all online identities and any information RE: online social networks</i></p> <p><i>*sex and date of birth or purported age of victim</i></p> <p><i>*photograph; fingerprints and palm prints; DNA</i></p> <p><i>*all travel and immigration documents</i></p> <p>Same fee -- \$20 four times a year but no fee to report</p>		
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		<p>changes between, and <i>provides for waiver of fee if indigent or transient</i> Same DL or ID card yearly renewal, but also <i>surrender all DLs or IDs from other states (NEW?)</i></p> <p><i>Notify registering agency and KBI within 21 days of travel outside the U.S.</i></p>		
2012	<p>Same categories as 2011, but <i>makes all sexual battery convictions registerable</i> (not just ones with victim under 18); same with aggravated human trafficking (all are lifetime regardless of victim’s age) <i>Expands definitions of some terms (ex. “reside” means a place a person stays more than 3 consecutive days rather than 7); adds</i></p>	<p>Offenders must register after conviction or adjudication rather than after sentencing or disposition</p> <p>Same as 2011, except <i>offender must report in person to registering agency 21 days before international travel and provide written notice to KBI, as well as itinerary with destination, means of transport, and duration of travel</i></p> <p><i>Adds all personal web pages and internet screen</i></p>	<p>Same as 2011, <i>except that if the court orders an expungement of a conviction or adjudication that requires registration, the offender must continue to register, but it will not be made public (unless the offender has another conviction/adjudication that also requires registration, in which case the other one will continue to be public)</i></p>	<p>L. 2012, ch. 149 (HB 2568)</p> <p>Same public access, but <i>removes from KBI or other website the address and other info for the offender’s employer, but such website “shall contain a statement that employment information is publicly available at the</i></p>

	<i>“adjudications” to all references to “convictions”</i>	<i>names to list of info required to be provided</i>		<i>registering agency or by signing up for community notification” via website</i>
2013	<p>Same categories, and adds:</p> <p><i>Changes effective date for juvenile adjudications from 4/14/94 to 7/1/2002</i></p> <p><i>Changes effective date for applicable drug offenses to “on or after July 1, 2007”</i></p>	Same as 2011	<p>Same penalties, nonremoval, and expungement provisions as 2011, but</p> <p><i>also creates new crime of failing to pay \$20 fee at the quarterly registration visits – it is a Class A misdemeanor to not pay within 15 days, and a SL 9 person felony if, within 15 days of most recent registration, two or more full payments have not been made</i></p> <p><i>K.S.A. 22-3717(d)(1)(D), (d)(2) amended to provide that people serving postrelease supervision (PRS) no longer have to serve the PRS term plus the good time and program credit they earned, and can ask for early discharge from PRS -- except that does not apply to people who register because of a court finding that their crime was sexually motivated and thus registerable</i></p>	<p>L. 2013, ch. 127 (SB 20)</p> <p>ch. 76 (HB 2170) for postrelease supervision consequence</p>

2014	Same categories; <i>adds some versions of aggravated human trafficking and commercial sexual exploitation to definition of sexually violent crime</i>	Same as 2011	Same as 2012	L. 2014, ch. 117
2015	No changes made			
2016	Same categories; <i>specifically excludes convictions or adjudications of unlawful transmission of a visual depiction of a child or aggravated unlawful transmission</i>	Same as 2011	Same severity levels and other provisions as 2012, except that a violation <i>is a nonperson offense if the registration offense is a nonperson offense, and violation remains a person offense if the registration offense is a person offense – if the person registers for both nonperson and person offenses, then violation is a person offense</i>	L. 2016, ch. 64 (SB 407) ch. 96 (HB 2501) ch. 97 (HB 2463)
2016	<i>Doe v. Thompson, State v. Redmond, State v. Buser, State v. Petersen-Beard</i>			
2017	Same categories; <i>adds promoting the sale of sexual relations</i>	Same as 2011	Same as 2016	L. 2017, ch. 78 (SB 40)
2018	No changes made			
2019	No changes made			
2020	No changes made			