

ACLU Kansas
Hot Topics Series

Kansas
Offender
Registration Act



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Across the country, people convicted of serious crimes are required to register with the state after completing their sentence. Registry laws allow the state to keep close tabs on people long after they have served their time, forcing them to notify the state any time they change addresses, cross state lines, and more.

While many may think this only applies for certain crimes, in reality it covers a wide range of offenses, some drastically less serious than the public may assume. Kansas has some of the strictest requirements for post-sentence registration, which dramatically increases the scope—and harm—of this registry.

On its face, the Kansas Offender Registration Act makes it nearly impossible for people to restart their lives after incarceration. This registration makes it difficult for individuals to find and maintain housing and employment, drastically decreasing their ability to rebuild successfully. Failure to abide by the registry's excessive rules brings harsh punishment, including jail time that can rival the original offense. By making it public, this registry destroys any sense of privacy for the individual, and can serve to bring harm their way.

Though it may not be commonly understood, the Kansas Offender Registration Act causes harm to those affected by it. By understanding more about the registry, we hope one can understand the need for its change.

What is the Kansas Offender Registration Act?

Just as in other states, Kansas requires individuals to register if convicted for certain crimes.

Although the public tends to think registry laws are reserved for the most egregious crimes, this is not the case in Kansas. Kansas has some of the strictest and widest sweeping registration laws in the country. This means Kansas law requires registration following conviction for a wide range of

offences. Combined with the strictness of the requirements, this makes Kansas registry laws some of the harshest in the country.

The Kansas Offender Registration Act, or “KORA,” governs who must register with the state after completion of a prison sentence and for how long. What began as Kansas’ “Habitual Sex Offender Registration Act” in 1993 has, over the past few decades, been steadily expanded by the state’s legislature to become more public, inclusive of more offenses, and more punitive.

Rather than including only serious sex offenses like most states, KORA now applies to an array of drug and violent offenses. Compared to other states, Kansas law under KORA also includes more stringent rules that people on the registry must follow, and harsher penalties for noncompliance.

NOTE: Although the Kansas Offender Registration Act is often abbreviated to “KORA,” its not to be confused with the Kansas Open Records Act, also often abbreviated to “KORA.” This two acts and subsequent systems are separate.)

Registration Requirements

Registration under KORA is an onerous task. Within three days of release from incarceration, and then four times a year thereafter, a registrant must report in-person to their county sheriff's registration office.¹ This registration requires paying a \$20 fee each time, in addition to the financial burdens of traveling to and from the Sheriff's office, which may be a significant distance.

It also requires registrants to miss work, because registration must occur during normal business hours. During each registration, the registrant must report any changes to their living, work, or school arrangements, new social media or email accounts, or changes with their vehicle registration.

In addition to general reported pieces of information, which are updated and maintained in a database run by the Kansas Bureau of Investigation, the information recorded in the registry includes personal information: social security numbers, race, ethnicity, skin tone, age, height, weight, hair and eye color, tattoos and scars, and even blood type.² The registration record must also include "documentation of

any treatment received for a mental abnormality or personality disorder of the offender; [and] for purposes of documenting the treatment received, registering law enforcement agencies, correctional facility officials, treatment facility officials and courts may rely on information that is readily available to them from existing records and the offender."³

If someone subject to KORA move to another county, or changes the county where they attend school or work, they must report in-person to the registering law enforcement agency of that new county within three days. If they are "transient" in another county, they must also report in-person within three days of arrival, then register every 30 days – or more, at the agency's discretion – and provide a list of all locations where they have slept and frequented since the last check-in. Finally, they must provide a list of where they can be contacted, intend to sleep, or otherwise plan to frequent during the time period until the next required check-in. This level of surveillance is burdensome for anyone, but for those experiencing houselessness, or those with intellectual and developmental disabilities, meeting these requirements can be especially difficult, if not impossible.

Under current law, all persons required to register must do so for a minimum of 15 years. For certain offenses, people must register for 25 years, or for their entire lifetime. Currently, there is no "early exit" from registration requirements under the KORA. No matter how much someone has turned their life around and worked to move forward as a productive member of their community, they must still register under KORA.

Legal Consequences for Noncompliance

The penalties of failing to comply are high – in all cases, failing to register or report as required under the Act is considered a serious felony, and each subsequent violation increases the severity of punishment imposed. This means that, in some cases, someone who failed to comply with just one KORA requirement may face a prison sentence equal to or greater than the sentence they already served for their original conviction.

Take for example someone who was convicted of drug possession with intent to distribute. This is the lowest level offense that requires registration under KORA. If that person failed to

report their new job in the next county over within three days, they could face a new prison sentence of 17 to 46 months—about the same as the 14-51 months sentence they already served for their underlying conviction.⁴

In some cases, people required to register under the KORA may have received an initial sentence of probation, and therefore never even been incarcerated for their original crime. Yet, if they miss one minor reporting requirement under the KORA, they could face months in prison. The severity of this cannot be overstated: a person who originally received probation could be incarcerated for simply failing to report a new tattoo or email account on time, or adhere to one of the other many registration requirements, even if they substantially adhered to the all stringent requirements under the Act—including, perhaps more importantly, not consuming drugs.⁵

It does not matter if this violation occurred after a person had been compliant with all of their registration requirements for the last 14 years. If, in year 15, the person forgets to report just one thing required under the Act, they can be punished just the same.

Even worse, violations of registration requirements lead to compounded punishment. For every 30 days someone is out of compliance, they face a separate offense. And three or more noncompliance offenses constitute a level three felony—which, according to Kansas’s sentencing grid, is equivalent to voluntary manslaughter.⁶

Public Registration is Humiliating, Destabilizing, and Punitive

Registries also allow a significant amount of a registrant’s information, including their address, to be made easily accessible to the public online. While registries do not prevent harm, abuse, or recidivism, they can have deeply troubling consequences for the registrants, who face inescapable ostracization. Inclusion on the registry can and has led to: struggles finding and maintaining employment or housing, denial of access to treatment facilities or sober living, harassment, and issues with depression and even suicide.⁷

Registries have had unintended, negative consequences for the community, as well, in some cases actually leading to increased harm.

In Kansas, the KORA registry has become “an online shopping portal for methamphetamine and other drugs.”⁸ Nationwide, offender registries have also enabled vigilante justice, sometimes resulting in murder.⁹ This is especially dangerous to consider as the number of people included in Kansas’ registry has grown exponentially in the past decade.

Importantly, KORA establishes in-person reporting requirements after someone has already served any sentence or incarceration associated with their original conviction. Many of these requirements even resemble those required by probation and parole. As Kansas Supreme Court Justice Eric Rosen has noted, KORA’s registration requirements are inherently punishment, a line of reasoning on the rise in courts around the country.¹⁰ Breaking this trend, when the Kansas Supreme Court found that KORA’s requirements are not punishment,¹¹ the Court did so by abruptly reversing precedent that had been established in several previous rulings. This reversal came only after a notable change to the court’s composition.¹²

Changing KORA

For several years, Kansas lawmakers have pondered changes to make the state's offender registry less restrictive. During the 2020 and 2021 legislative sessions, lawmakers proposed reducing penalties for failing to register and changing some of the violent and drug offense registration requirements. They also considered adding an avenue for registrants to petition for removal through an application process. The 2021 bill had bipartisan support, including from law enforcement, but died in committee. Most recently, in fall of 2021, the Kansas Criminal Justice Reform Commission Subcommittee on Proportionality and Sentencing considered whether drug offenders' information on the same public registry as sex offenders should be made only available to law enforcement. The Subcommittee also considered potential changes to reduce the penalty for failing to register.

Some legislators have wondered openly if the KORA goes too far. It does. However, they have failed to act on their concerns. Meanwhile, the number of Kansans included in the registry has ballooned to nearly 1% of the state's total population.

As Kansas continues to consider the myriad of ways its criminal legal system perpetuates harm, the state can no longer ignore the clear impacts of maintaining KORA in its current form. KORA fails to protect communities, entrenches poverty, and prolongs punishment without any rational purpose. It is long past time for reform.

Potential changes should, at a minimum, include:

- Strictly **limitting the types of offenses** for which registration is required under the Act.
- **Reducing the length of time** that people must register.
- Providing a way for all affected individuals to **petition for early removal** from the registry.
- Drastically **reducing the consequences for violations** of the Act.
- Allowing for remote registration options and other mechanisms that will **reduce the impact of registration on individuals' daily lives**.

¹ Kan. Stat. Ann. § 22-4905. http://ksrevisor.org/statutes/chapters/ch22/022_049_0005.html ² Kan. Stat. Ann. § 22-4907. http://ksrevisor.org/statutes/chapters/ch22/022_049_0007.html ³ *Ibid.*, (15). ⁴ Jennifer Roth, "Testimony of the Kansas Association of Criminal Defense Lawyers: Proponent," House Corrections and Juvenile Justice Committee (Feb. 22, 2021), p. 3, available at: http://kslegislature.org/li/b2021_22/committees/ctte_h_corr_juv_jus_1/documents/testimony/20210222_09.pdf. ⁵ State v. Stoll, No. 117,081 (Kan. 2021). ⁶ Andrew Bahl, "Kansas has some of the strictest offender registration requirements in the country. Could that change?" TOPEKA CAPITAL-JOURNAL (Nov. 21, 2021), <https://www.cjonline.com/story/news/accident/2021/11/21/advocates-push-loosen-kansas-criminal-offender-registration-requirements-public-safety/8626064002>. ⁷ Sarah Lustader, "What is the Purpose of Sex Offense Registries?" THE APPEAL (Dec. 10, 2019), available at: <https://theappeal.org/what-is-the-purpose-of-sex-offense-registries>; Maggie Hall, "Sex offender registries don't prevent re-offending (and vigilante justice is real)," THE CONVERSATION (Jan. 9, 2019), available at: <https://theconversation.com/sex-offender-registries-dont-prevent-re-offending-and-vigilante-justice-is-real-109573>; Dara Lind, "Why the sex offender registry isn't the right way to punish rapists," VOX (Jul. 5, 2016), available at: <https://www.vox.com/2016/7/5/11883784/sex-offender-registry> ⁸ Celia Llopis-Jepsen, "Can Registries Cover Too Many Crimes? Kansas Legislation Suggests a Rollback," KCUR 89.3 (Feb. 20, 2018), available at: <https://www.kcur.org/news/2018-02-20/can-registries-cover-too-many-crimes-kansas-legislation-suggests-a-rollback>. ⁹ Rob Csernyik, "How Sex Offender Registries Can Result in Vigilante Murder," VICE, (Mar. 28, 2018), available at: <https://www.vice.com/en/article/ne9ew7/how-sex-offender-registries-can-result-in-vigilante-murder>; Hall, supra note 7; "Registered Sex Offenders Fall Victim to 'Vigilante Justice,'" PRISON LEGAL NEWS (Sept. 2, 2016), available at: <https://www.prisonlegalnews.org/news/2016/sep/2/registered-sex-offenders-fall-victim-vigilante-justice/> ¹⁰ State v. N.R., No. 119,796 (Kan. 2021) (Rosen. J, dissenting opinion). ¹¹ State v. Petersen-Beard, 304 Kan. 192, 377 P.3d 1127 (2016). ¹² Celia Llopis-Jepsen, "Kansas' Unmatched Tracking of Ex-Convicts Attracts One Legal Challenge After Another," KCUR 89.3 (Aug. 31, 2018), available at: <https://www.kcur.org/news/2018-08-31/kansas-unmatched-tracking-of-ex-convicts-attracts-one-legal-challenge-after-another>. ¹³ Stephen Koranda, "Kansas Tracks Ex-Convicts Like No Other State, But Lawmakers Wonder If They've Gone Too Far," KCUR 89.3 (Feb. 17, 2020), available at: <https://www.kcur.org/government/2020-02-17/kansas-tracks-ex-convicts-like-no-other-state-but-lawmakers-wonder-if-theyve-gone-too-far>; Noah Taborda, "Bill in Kansas House would give offenders a way out of public registries for sex, drugs, and violence," KANSAS REFLECTOR (Feb. 3, 2021), available at: <https://kansasreflector.com/2021/02/23/bill-in-kansas-house-would-give-offenders-a-way-out-of-public-registries-for-sex-drugs-violence/> ¹⁴ House Bill No. 2349, Committee on Corrections and Juvenile Justice, (2021), available at http://www.kslegislature.org/li/b2021_22/asures/hb2349. ¹⁵ Noah Taborda, "Criminal justice panel hashes out potential changes to Kansas offender registry," KANSAS REFLECTOR (Sept. 20, 2021), available at <https://kansasreflector.com/2021/09/20/criminal-justice-panel-hashes-out-potential-changes-to-kansas-criminal-offender-registry>. ¹⁶ *Ibid.*