



U.S. Department of Justice

Civil Rights Division

*Disability Rights Section  
950 Pennsylvania Ave, NW  
Washington, DC 20530*

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**By Electronic & First-Class Mail**

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**Re: The United States' Findings and Conclusions Based on its Investigation of the State of Tennessee and the Shelby County District Attorney General's Office under Title II of the Americans with Disabilities Act, DJ No. 204-70-85**

Dear Attorney General Skrmetti, Director Rausch, and District Attorney Mulroy:

The United States Department of Justice (the Department) has investigated the State of Tennessee (the State), including its Bureau of Investigation (TBI), and the Shelby County District Attorney General's Office (the SCDAG) under Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131–12134, and its implementing regulation, 28 C.F.R. pt. 35. The Department opened this investigation in response to complaints alleging discrimination on the basis of disability in the enforcement of Tennessee's human immunodeficiency virus (HIV)-specific criminal laws, including the aggravated prostitution statute, Tenn. Code Ann. § 39-13-516.

Title II prohibits public entities from discriminating against qualified individuals with disabilities or excluding them from participation in, or denying them the benefits of, the public entity's services, programs, or activities. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). The State, including the TBI, and the SCDAG are public entities under the ADA. 42 U.S.C. § 12131(1); 28 C.F.R. § 35.104. Title II authorizes the United States to investigate complaints, make findings of fact and conclusions of law, and attempt to secure voluntary compliance where violations are found. 42 U.S.C. § 12133; 28 C.F.R. pt. 35, subpt. F.

The Department's investigation of the State and the SCDAG's compliance with Title II included interviews with individuals with HIV arrested for and convicted of aggravated prostitution as well as review of documents produced by the SCDAG, the Memphis Police Department, and the State of Tennessee. Based on its investigation, the Department has determined that the State and the SCDAG subject people living with HIV to harsher criminal penalties—solely because of their HIV status—in violation of Title II of the ADA. By enforcing this facially discriminatory law, the State and the SCDAG discriminate against people living with HIV on the basis of their disability. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). This letter sets forth the Department's findings of fact and conclusions of law as well as the minimum steps the State and the SCDAG must take to meet their legal obligations and remedy the identified violations.

## **I. Findings of Fact**

The State and the SCDAG discriminate against individuals with disabilities by enforcing Tennessee's aggravated prostitution statute, which elevates to a felony conduct that would otherwise be a misdemeanor, solely because the individual charged knows they have HIV, regardless of any actual risk of harm. Aggravated prostitution is also categorized as a "violent sexual offense" mandating registration on the Tennessee Sex Offender Registry (SOR), in most cases for life. The SCDAG prosecutes individuals under the aggravated prostitution statute and makes the determination to elevate misdemeanor prostitution charges to felony aggravated prostitution charges based on individuals' HIV status. The State maintains the SOR and enforces the registration requirements against people convicted of aggravated prostitution. It does this through the TBI. Most people convicted of aggravated prostitution would not otherwise be required to register for the SOR for other offenses, so the State's enforcement of the SOR requirements is based on a conviction linked to individuals' HIV status in most cases.

### **A. The State's Aggravated Prostitution Statute**

In 1991, Tennessee enacted the aggravated prostitution statute that makes it a Class C felony "when, *knowing that such person is infected with HIV*, the person engages in sexual activity as a business or is an inmate in a house of prostitution or loiters in a public place for the purpose of being hired to engage in sexual activity." Tenn. Code Ann. § 39-13-516 (emphasis added). "Sexual activity" is defined to include any sexual relations; the law does not further define "sexual relations." There is no requirement that the activity create a particular risk of harm. Individuals charged with aggravated prostitution are ineligible for judicial diversion, which allows a person facing criminal charges to have the charges dismissed and expunged if they plead guilty and successfully comply with conditions set by a court. A person convicted of

a Class C felony is subject to imprisonment for three to 15 years and a fine up to \$10,000.<sup>1</sup> By contrast, if someone without HIV engages in similar conduct, they could be prosecuted only for a Class B misdemeanor, the penalties for which include up to six months' imprisonment and up to a \$500 fine. *Compare* Tenn. Code Ann. § 40-35-111(b)(3) *with* Tenn. Code Ann. § 40-35-111(e)(2).

Individuals with aggravated prostitution convictions also must register with the TBI as sex offenders under Tennessee law—most must do so for life. The TBI maintains the centralized state SOR. Tenn. Code Ann. §§ 38-6-101, 40-39-206. While many other individuals on the SOR may petition the TBI to terminate their registration requirement after 10 years, individuals convicted of a violent sexual offense, including aggravated prostitution, are required to comply with registration, verification, and tracking requirements for life. Aggravated prostitution was reclassified as a violent sexual offense in 2010.<sup>2</sup>

Individuals on the SOR are restricted in where they may live, work, and go in public. Registrants may not live or accept employment within 1,000 feet of any school, childcare facility (including churches that operate childcare centers), or public park or playground. People convicted of aggravated prostitution also may not be on the premises of any of these facilities when they have reason to believe children under 18 are present if they do not have a legitimate reason, such as having custody of a child at that location. For example, a parent on the SOR may only drop off or pick up a child from school if they provide written notice of their registration to the school. People convicted of aggravated prostitution may not be alone with minors in a private area. For those living in densely populated cities like Memphis, where the aggravated prostitution statute is most enforced, these requirements make it difficult for people on the SOR to find anywhere they can live or work without violating the SOR's requirements.

SOR registration requirements are also burdensome and expensive for individuals convicted of aggravated prostitution, many of whom are low income. Individuals typically must report to the SOR in person four times a year to update their registration. Once a year, individuals on the SOR must pay a \$150 fee, although individuals who are indigent or financially unable to pay may have the fee waived.

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<sup>1</sup> In comparison, other sexual offenses classified as Class C felonies include sexual battery by an authority figure, Tenn. Code Ann. § 39-13-527, statutory rape by an authority figure, *id.* § 39-13-532, certain instances involving continuous sexual abuse of a child, *id.* § 39-13-518(c)(3), and sexual exploitation of a minor less than 13 years old via electronic means, *id.* § 39-13-529(e)(2).

<sup>2</sup> 2010 Tenn. Pub. Acts, c. 1138, §§ 4-5, eff. July 1, 2010. Individuals with a single conviction for aggravated prostitution before July 1, 2010 are still required to register as sex offenders but could petition to be removed from the SOR after 10 years provided they remained compliant with its requirements and had no new sex offense convictions. Tenn. Code Ann. §§ 40-39-202(20)(A)(iii), 40-39-207(d). Many individuals with aggravated prostitution convictions before July 1, 2010 still face the lifetime registry rule because they had more than one conviction for the offense. *Id.* § 40-39-207(g)(2)(A).

Individuals on the SOR must register within 48 hours of establishing or changing their residence, or if they begin working or attending school. Additionally, a registrant must report any “material change in employment or vocational status” within 48 hours. These material changes include termination, switching locations, or even changing shifts. If an individual is reincarcerated for any reason, they must “immediately” report to the facility their status as a sex offender and also notify their registering agency. Individuals must also register within 48 hours of their release from incarceration.

Finally, individuals on the SOR for aggravated prostitution face public disclosure of information about their registry and HIV status—a harmful violation of their privacy. Individuals convicted of aggravated prostitution are identified as violent sexual offenders on their driver’s licenses, and must carry their driver’s licenses or other government-issued photo identification cards whenever outside their home—or they could be prosecuted for a Class E felony punishable by a fine of up to \$250.

In addition, a significant amount of information about them is provided on the TBI’s publicly-searchable SOR website, including their photo; name; date of birth; the sexual offenses of which the individual has been convicted and other criminal history; work, school, and home addresses; driver’s license number; parole information; race and gender; and physical description. Along with the individual’s listed sexual offenses, a person visiting the site can click to see text of the statute under which they have been convicted. Thus, for individuals with an aggravated prostitution conviction, their appearance on the SOR reveals their HIV status to the public. This public disclosure can lead to harassment by individuals who search the SOR, and potential discrimination by employers and housing providers.

If an individual violates SOR requirements, the TBI informs the appropriate district attorney general, law enforcement agency, and probation or parole officers. A violation of SOR requirements, including the failure to timely report, constitutes a Class E felony, which is ineligible for suspension, diversion, or probation until a minimum sentence is served. A first violation is punishable by at least 90 days’ imprisonment and a \$350 fine; a second violation by at least 180 days’ imprisonment and a \$600 fine; and third and subsequent violations by at least one year of imprisonment and a \$1,100 fine. *Id.* §§ 40-39-208(c)-(e).

## **B. Advancement of Prevention and Treatment Options for HIV**

Since the passage of Tennessee’s aggravated prostitution statute in 1991, there has been significant progress in the understanding of and treatment of HIV. Beliefs and assumptions that individuals with HIV will spread it, or that having HIV is a death sentence, are now outdated and unfounded.

Between 1991 and 2000, a wave of diagnostic tools and treatments, including antiretroviral therapy (ART), were authorized by the U.S. Food and Drug Administration (FDA). The spread of the AIDS epidemic continued to slow. In 2010, the National Institutes of Health announced the results of a study showing that pre-exposure prophylaxis (or PrEP) substantially reduced the risk of HIV infection among men who have sex with men. In 2011, the Centers for Disease Control (CDC) issued interim guidance to health care providers on the use of PrEP as a

prevention strategy and it was approved by the FDA in 2012. Beginning in 2014, researchers reported that antiretroviral therapy was highly effective at preventing sexual transmission of HIV when an HIV-positive partner is virally suppressed. In September 2017, the CDC announced that people living with HIV who are on treatment and have undetectable viral loads have effectively no risk of transmitting the virus to sexual partners. Rates of transmission have continued to fall while rates of viral suppression continue to rise. As of 2021, more than half of people diagnosed with HIV were virally suppressed.<sup>3</sup>

The CDC has called for states to repeal or update outdated laws and practices that criminalize behavior by people living with HIV, noting that most HIV criminalization laws were passed when “very little” was known about HIV transmission and treatment and do not reflect current scientific and medical evidence and advances, including availability of ART and PrEP. The CDC also notes that HIV criminalization laws “have not increased disclosure and may discourage HIV testing, increase stigma against people with HIV, and exacerbate disparities.”<sup>4</sup>

### **C. Enforcement of Tennessee’s Aggravated Prostitution Law**

Enforcement of Tennessee’s aggravated prostitution law involves local police and prosecutors, as well as the State of Tennessee. District Attorneys General are empowered to prosecute “all violations of the state criminal statutes” and are vested with exclusive authority to prosecute such violations at the trial level. Tenn. Code Ann. § 8-7-103(1). The SCDAG brings aggravated prostitution charges either by filing a criminal information or seeking a grand jury indictment.

While the aggravated prostitution statute applies statewide, it has been enforced most frequently in Shelby County. A June 2022 study by the Williams Institute at the UCLA School of Law found that Shelby County was home to 74% of individuals on the SOR for aggravated prostitution statewide, despite only comprising 13% of the state’s population.<sup>5</sup> Over 90% of

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<sup>3</sup> See, e.g., HIV.gov, *A Timeline of HIV and AIDS*, <https://www.hiv.gov/hiv-basics/overview/history/hiv-and-aids-timeline> (last visited Nov. 29, 2023); CDC, *HIV and AIDS Timeline*, <https://npin.cdc.gov/pages/hiv-and-aids-timeline#2010> (last updated Jan. 9, 2023); CDC, *HIV and AIDS Timeline*; CDC, *HIV Treatment as Prevention*, <https://www.cdc.gov/hiv/risk/art/index.html> (last reviewed Aug. 9, 2023); CDC, *Viral Suppression and Barriers to Care*, <https://www.cdc.gov/hiv/statistics/overview/in-us/viral-suppression.html> (last reviewed June 23, 2023).

<sup>4</sup> CDC, *HIV Criminalization and Ending the HIV Epidemic in the U.S.*, <https://www.cdc.gov/hiv/policies/law/criminalization-ehe.html> (last updated Jan. 19, 2023).

<sup>5</sup> See Nathan Cisneros, Brad Sears, & Robin Lennon-Dearing, UCLA Sch. of L., Williams Inst., *Enforcement of HIV Criminalization in Tennessee 2* (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/HIV-Criminalization-TN-Jun-2022.pdf>.

people arrested for aggravated prostitution in Shelby County were Black, with the law being heavily enforced against Black women, including transgender women.<sup>6</sup>

Although aggravated prostitution convictions in Shelby County were most prevalent from 2007 through 2012—with 63 convictions during those years alone—they have continued thereafter. Records revealed at least 14 people who were prosecuted under the aggravated prostitution statute in Shelby County between January 1, 2017, and August 31, 2022. For context, during this same period, only two aggravated prostitution convictions occurred in Tennessee outside of Shelby County.

Most individuals who are prosecuted for aggravated prostitution in Shelby County were initially arrested by the Memphis Police Department’s Organized Crime Unit as part of decoy operations, where an undercover police officer poses as a potential customer as a means of enforcing prostitution laws. An individual’s HIV status is typically only recorded in an arrest record or affidavit if the suspect volunteers that information to an officer. As a result, most individuals eventually prosecuted for aggravated prostitution are originally charged only with misdemeanor prostitution by the Memphis Police Department.

The SCDAG is responsible for elevating the prostitution misdemeanor charges to aggravated prostitution felony charges. Under Tennessee law, an individual convicted for prostitution offenses must submit to HIV testing and place her records on file with the court. Tenn. Code Ann. § 39-13-521(e). When available, the SCDAG may view an individual’s HIV test results to determine whether there is probable cause to prosecute a person for aggravated prostitution. *Id.* If a person’s HIV results are positive, the SCDAG will either charge the person by criminal information with aggravated prostitution or seek a grand jury indictment on an aggravated prostitution charge.

Almost all individuals convicted of aggravated prostitution in Shelby County have been convicted by guilty plea. Individuals are often given a “suspended” sentence which allows them to be put on probation first. In many of these cases, the SCDAG will pursue a petition to revoke suspended sentences if the individual violates the terms of their probation (including for failure to comply with SOR requirements or to possess required identification). Once a suspended sentence is revoked, an individual cannot remain on probation. As a result of these revocations, individuals convicted of aggravated prostitution often end up serving time in jail or prison. According to the Tennessee General Assembly’s Fiscal Review Committee, the Tennessee Department of Corrections had an average 2.6 admissions in each of the last 10 years for individuals with aggravated prostitution convictions, and the average time served on these convictions is 1.88 years (after adjusting for pretrial jail credits).

While initial enforcement of the law rests with local police and prosecutors, the State is also involved in enforcing the law. The State’s Attorney General (AG) is vested with full rights, powers, and exclusive authorities to prosecute criminal cases at the state appellate level. Tenn. Code Ann. § 8-6-109(b)(2). The AG may also issue opinions or guidance to District Attorneys

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<sup>6</sup> *Id.* at 28.

General, the TBI, or other state officials concerning compliance with federal law. Tenn. Code Ann. §§ 8-6-109(b)(5)-(6). Finally, the AG's Criminal Appeals Division may advise District Attorneys General on legal issues case-by-case, when such advice is requested.

The State is involved in enforcing the aggravated prostitution statute through the TBI's maintenance and administration of the SOR. Almost all individuals who are on the SOR for aggravated prostitution have no other convictions that would require them to register as sex offenders. Yet as required for their aggravated prostitution conviction, they must register with the SOR for life—solely because they have HIV.

If an individual does not comply with the SOR reporting requirements, state law requires the TBI to provide that information to District Attorneys General, local law enforcement, and probation and parole officers. Warrants are regularly issued for violating the SOR or failing to possess identification, and individuals are regularly arrested, prosecuted, and incarcerated for these violations.

#### **D. Complainants**

The Department's investigation revealed complainants in Memphis who have been harmed by Tennessee's HIV criminalization laws. Information about these complainants—including detailed information about one as an example of the harms caused by this law—is below.

The complainants had aggravated prostitution convictions from years ranging from 2000 to as recently as 2020. Most of the complainants were arrested by undercover officers. Several were arrested while experiencing drug addiction and homelessness and were engaging in sex work to meet their basic survival needs. At least two complainants also have a serious mental health disability.

Several complainants were incarcerated because of their aggravated prostitution convictions, serving sentences ranging from seven months to four years. All complainants also served probation. One complainant was harassed by other incarcerated individuals while in prison because of her HIV status. Several complainants also were unaware that they would need to register on the SOR for life, or what the repercussions of SOR registration would be. Several said that it was a hardship to pay the registry fee, or that their fee was waived because of indigency.

Complainants said it was difficult finding housing, both because of the SOR restrictions on living near schools, childcare centers, or parks, and because landlords often run background checks and will not rent to someone on the SOR. At least two complainants have experienced homelessness because they could not find housing. Several complainants are forced to live with family members because they cannot find other housing; they would prefer to live independently but cannot.

Several complainants also said it is difficult or impossible to find employment because of being on the SOR. They said many jobs are unavailable because of the likelihood that the job

could cause contact with children and therefore violate the registry requirements. One complainant wants to work for a daycare but cannot because the State has classified her as a violent sex offender. Another had a job offer rescinded based on a background check. One complainant also wanted to get her General Education Diploma or GED but could not enroll in the program because it was offered at a place where children could be present.

Being on the SOR also limits complainants' ability to interact with friends and family. Two described how hard it was to be restricted from spending time with their grandchildren, including having to miss graduations, school programs, and sporting events. One complainant said that she feels like she cannot explain to her grandchildren why she cannot be there. Another complainant has children, and being on the SOR means she is not supposed to take them places where other children are present, including the park. One complainant said that being on the SOR makes living a normal life hard, as she cannot go on dates to parks or the movies, or even engage in recreation at the library or swimming pools. Another said that she feels "isolated" and cannot even attend her church.

Complainants are also distressed because of being on the SOR. Several are upset that being on the SOR violates their privacy by revealing their HIV status. One complainant was outraged that when she failed to report for mandatory SOR re-registration, the designated agency publicized her name and last known address on Facebook and in the news, along with two individuals who had failed to report and who had been convicted of rape. Another feels upset to be lumped in as a "violent" sex offender with individuals convicted of rape and child molestation.

#### S.C.<sup>7</sup>

S.C. is a Black transgender woman who was arrested in 2010 as part of a decoy operation in Memphis. That year, Tennessee began to classify aggravated prostitution as a violent sex offense.

The consequences S.C. continues to experience because of her aggravated prostitution conviction serve as an example of the ongoing harms that other convicted individuals also face. S.C. has had trouble finding housing in safe neighborhoods that does not violate the registry requirements and has experienced periods of homelessness as a result. She could not access transitional housing for people living with HIV after being released from jail because it was near a school. She would like to legally change her name to match her gender identity but cannot do so, even if she marries, because she is on the SOR. She has also struggled with the violation of her privacy resulting from having her aggravated prostitution conviction—and thus her HIV status—made public. For example, S.C. was harassed by a neighbor who found out that S.C. was HIV-positive from the SOR. She described her conviction as "consum[ing]" because of its mental, emotional, and financial effects. Because of her conviction, S.C. has experienced depression and pursued mental health treatment.

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<sup>7</sup> To protect this individual's privacy, coded initials have been used.



S.C. also emphasized that Tennessee's aggravated prostitution laws do not just impact the person convicted, but also their friends and families because of the restrictions imposed by the SOR. S.C. has a nephew, and due to the fact that she is on the SOR, she cannot take him to the park, zoo, or any other places where other children might be. She cannot even babysit for him because she cannot be alone with him. S.C. would also like to start a family of her own via adoption, but she knows that her status as a violent sex offender will not allow her to do so.

In 2016, S.C. was temporarily displaced by a fire at her residence. The Red Cross placed her in a hotel but, because it was a weekend, she was unable to report the change in her living situation until Monday. When she went to update her address, she was given a violation and placed into custody. She then spent nearly a month in jail and struggled to find housing after her release. Because of the violation and related incarceration, S.C. lost her job.

## **II. Conclusions of Law**

Based on the above factual findings, the Department has determined that the State of Tennessee, including the TBI, and the SCDAG has discriminated against individuals with disabilities. Title II of the ADA states that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132. This provision protects individuals with disabilities from discrimination in all programs, services, or activities of the SCDAG, including the enforcement of criminal laws that subject people to harsher penalties based simply on their HIV status. The SCDAG's enforcement of the aggravated prostitution law and enforcement of the registry requirements for people convicted of aggravated prostitution discriminate against people living with HIV on the basis of disability. 42 U.S.C. § 12132; 28 C.F.R. §§ 35.130(a). The State's maintenance and administration of the SOR and its registration requirements for people convicted of aggravated prostitution likewise discriminate against people living with HIV because of their disability.

In particular, public entities may not deny individuals with disabilities the opportunity to participate in or benefit from its aids, benefits, services, or programs or afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others. 28 C.F.R. § 35.130(b)(1)(i), (ii), (vii). This prohibition extends to circumstances where an individual's participation is mandatory, such as enforcement of criminal laws. Public entities may not provide individuals with disabilities opportunities that are not equal to, or are different or separate from, those afforded to individuals who do not have disabilities. 28 C.F.R. §§ 35.130(b)(1)(ii), (iv). Public entities may impose legitimate safety requirements necessary to safely operate their services, programs, or activities, but only if such requirements "are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities." *Id.* § 35.130(h).

Tennessee's aggravated prostitution statute subjects people living with HIV to more severe criminal sanctions, including the lifetime SOR requirement, based solely on their HIV-positive status. The SCDAG examines individuals' HIV records and determines whether to pursue felony charges, rather than misdemeanor charges, based solely on their HIV-positive

status. The State, through the TBI, then enforces the SOR registration and reporting requirements as a result of convictions based solely on individuals' HIV-positive status.

The aggravated prostitution statute does not require any individualized determinations. It is a blanket criminalization of people living with HIV, which is not grounded in current medical knowledge. Laws that facially discriminate against people with disabilities, like the aggravated prostitution statute, violate Title II of the ADA, and the SCDAG and the State must cease enforcing it.

### **III. Remediation**

To remedy the deficiencies discussed above and protect the civil rights of individuals with HIV living in the State, the SCDAG and the State should promptly implement the following minimum remedial measures:

- 1) As to the SCDAG:
  - a. Cease enforcement of the aggravated prostitution statute, including new prosecutions, probation violations for individuals convicted of aggravated prostitution, prosecutions for violating the SOR requirements for individuals on the SOR solely for aggravated prostitution convictions, and pursuit of revocation of suspended sentences for individuals convicted of aggravated prostitution.
  - b. Adopt or revise written policies to explicitly state that the SCDAG may not discriminate against, exclude from participation, or deny the benefits of their services, programs, or activities to qualified individuals with disabilities because they have HIV, such as by subjecting someone to more severe charges or sanctions solely because of HIV status.
  - c. Take steps to rectify ongoing or potential consequences resulting from cases the SCDAG prosecuted under the aggravated prostitution statute that resulted in conviction, including developing a protocol to seek the vacating of convictions, and taking steps to eliminate the balance of any costs, fees, or fines owed.
  - d. Appropriately train and educate all SCDAG prosecuting attorneys about HIV, the nondiscrimination requirements of Title II of the ADA, and the new or revised policies to be disseminated by the SCDAG.
  
- 2) As to the State:
  - a. Cease enforcement of the aggravated prostitution statute, including sex offender registration requirements and restrictions triggered solely by aggravated prostitution convictions.
  - b. Through the TBI, remove individuals from the SOR who are listed solely for aggravated prostitution convictions. For any individuals who would remain on the SOR for other convictions, remove all references to aggravated prostitution on their SOR entry. Refrain from adding any new individuals to the SOR where the addition is based on an aggravated prostitution conviction.

- c. Through the TBI, terminate reporting requirements and cease notification of law enforcement as to the compliance status of individuals on the SOR solely for convictions under the aggravated prostitution statute, pending their removal from the registry.
  - d. Through the TBI, expunge all State records indicating that those with aggravated prostitution convictions (but no other sexual offenses) were ever registered on the SOR, and alert all agencies who were provided information regarding those with aggravated prostitution convictions (including the Department of Motor Vehicles, courts, police departments, sheriff's departments, and the Federal Bureau of Investigation) that this information is no longer valid.
  - e. Through the TBI, notify all individuals who have been removed from the SOR or who have had references to their aggravated prostitution convictions removed.
  - f. Through the State AG, issue an advisory opinion stating that enforcement of the aggravated prostitution statute and its related SOR requirements violate the ADA. The advisory opinion should be circulated to the State's Legislature and District Attorneys General statewide.
  - g. Through the State Governor, submit to the Tennessee General Assembly a request to repeal the aggravated prostitution statute and its related SOR requirements.
  - h. Pay compensatory damages to aggrieved individuals for injuries caused by enforcement of the aggravated prostitution statute, including for SOR fees, court costs and fines, bonds, and attorneys' fees paid by the aggrieved individuals.
- 3) Provide the United States with written status reports delineating all steps taken to comply with these requirements, including the dates on which each step was taken, and, where applicable, information sufficient to demonstrate compliance.

We hope to work cooperatively with the State and the SCDAG to resolve the Department's findings. If either the SCDAG or the State declines to enter into negotiations, or if our negotiations do not succeed, the United States may take appropriate action, including initiating a lawsuit. 42 U.S.C. § 12133; 28 C.F.R §§ 35.173-74. Please also note that this letter is a public document that will be posted on the Civil Rights Division's website and shared with the complaining parties. A complainant may still file a private suit pursuant to 42 U.S.C. § 12133.

Please contact Stephanie Berger ([stephanie.berger@usdoj.gov](mailto:stephanie.berger@usdoj.gov)) and Ali Szemanski ([ali.szemanski@usdoj.gov](mailto:ali.szemanski@usdoj.gov)) within 14 days of the date of this letter if you are interested in working with the United States to reach an appropriate resolution.

Sincerely,

*Rebecca B. Bond*

Rebecca B. Bond

Chief

Disability Rights Section