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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 69

Revision Date: January 25, 1993
Title: "...registration of and information about sex offenders..."
Sponsor: Representative Barnes
Requestor: Representative Barnes

Department Affected: Department of Law
BRU: Prosecution, Legal Services
Component: Prosecution - All
COMPONENT SERIAL NO. 0085 through 0091

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Peques, Director Phone: 465-3672
Division: Administrative Services Division Date: January 25, 1993
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law Date: January 25, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 69

ANALYSIS (Continued):

This bill establishes a comprehensive program for the registration and community notification of sex offenders. The department's fiscal analysis follows below.

Section 1. This section states the legislature's findings and policy.

Section 2. This section amends AS 11.56 to make it a class B misdemeanor for a person to knowingly fail to register as a sex offender, as required by proposed AS 12.63.010. The department cannot predict the number of offenders who might violate this provision.

Section 3. This section amends AS 12.55 to require that when a defendant is convicted of a sex offense by a court of this state, that written judgment must set out the registration requirements contained in proposed AS 12.63.010.

Section 4. This section establishes an offender registration program requiring all sex offenders within the state to register with the Department of Public Safety. Registrants would have to provide a variety of information including name, address, place of employment, aliases used, current photograph, and fingerprints. This provision will not have a fiscal impact on the Department of Law, but it will probably have a fiscal impact on the Department of Public Safety.

Section 5. This section provides that the duty of sex offenders to register ends 10 years following the sex offender's unconditional discharge from a conviction for an unclassified, class A, or class B felony sex offense. This duty would also end 5 years following the sex offender's unconditional discharge for a class C felony, a class A misdemeanor, or a class B misdemeanor sex offense. This section also provides that information about a sex offender that is contained in the central registry is confidential and not subject to public disclosure except the sex offender's name, address, place of employment, date of birth, crime for which convicted, date of conviction, place and court of conviction, and length of sentence.

Section 6. This section provides that the Department of Public Safety display notice of the registration requirements in proposed AS 12.63.010 at a place where the public may apply for a driver's license, identification card, or vehicle registration. This section will not have an impact on the Department of Law.

Section 7. This section amends AS 33.30 to provide that the commissioner of corrections shall, at the earliest possible date, or at least 10 days before release, send written notice to the nearest Alaska State Trooper post and to the chief of police in the community where a sex offender will reside. This section will not impact the Department of Law. This section also provides that, if an inmate convicted of a sex offense escapes, the commissioner of corrections shall immediately notify the chief of police of the community and the state trooper post closest to where the inmate resided immediately before the inmate's arrest and conviction. There will not be a fiscal impact for the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 69

ANALYSIS (Continued):

Section 8. This section amends AS 33.30 to require that the Department of Corrections provide written notice to a sex offender of the registration requirements of proposed AS 12.63.010, and to require that the department obtain a signed acknowledgment of receipt of notice from the sex offender at the time of the sex offender's release from a correctional facility, or immediately after taking supervision of a sex offender under the Interstate Corrections Compact or AS 33.36.110.

Section 9. This section amends AS 33.30.901 to provide the meaning of "sex offense" given in proposed AS 12.63.100.

Section 10. This section amends Alaska Rule of Criminal Procedure (11c) to provide that when accepting a plea of guilty or nolo contendere, where the defendant is charged with a sex offense, the court shall inform the defendant in writing of the registration requirement under proposed AS 12.63.010. This section will not have a fiscal impact on the Department of Law.

Section 11 and Section 13. These sections have the effect of changing the Alaska Rule of Criminal Procedure 32(b) to coincide with the notice requirements of Section 3.

Section 12. this section applies the registration provisions based upon the date of conviction and the effective date of the bill.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB69

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act relating to registration BRU: Institutions
of sex offenders" Component: Institutions
 Sponsor: Rep Barnes
 Requestor: Rep Barnes COMPONENT SERIAL NO. 1860

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEDUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	-0-	-0-	-0-	-0-	-0-	-0-
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary) It is estimated that approximately 50 - 55 sex offenders would require notification per year, or slightly over 4 a month. This duty can be absorbed without additional staff since paperwork must be completed at time of release. The bill also makes it a Class B misdemeanor for a sex offender to knowingly fail to register as required. If 50 sex offenders are released each year, it is estimated that 24% would fail to register, and of that number, 4 would likely be sentenced to some incarceration. A more detailed analysis will follow.

Prepared by: Dana LaTour, Special Assistant *DL* Phone: 465-3376
 Division: Office of the Commissioner Date: 1-26-93
 Approved by Commissioner: Lloyd G. Rupp *LGR* Date: 1-26-93
 Agency: Office of the Commissioner

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(7)

Date Referred: February 8, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-26-93

The JUDICIARY Committee considered:

CSHB 69 (STA)

CS FOR HOUSE BILL NO. 69(STA)

SEX OFFENDER REGISTRATION

"An Act relating to registration of and information about sex offenders and amending Alaska Rules of Criminal Procedure 11(c) and 32(b)."

RECOMMENDATIONS:

be replaced with

CSHB 69 (JUD)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS:

(Dept/Date)

fiscal impact Public Safety

fiscal note(s)

zero fiscal note

zero fiscal note(s)

Law

2/8/93

Corrections

2/8/93

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian S. Porter</i>	<input checked="" type="checkbox"/>				
<i>Gail Phillips</i>	<input checked="" type="checkbox"/>				
<i>Donna ...</i>	<input checked="" type="checkbox"/>				
<i>Pete ...</i>	<input checked="" type="checkbox"/>				

Brian S. Porter
CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: 2-26-93
Place: CAPITOL 120

Subject of Meeting: HB64 Anti-Stalking
HB69 Sex Offender Registration
~~HB97 Parental Care - Child in State Custody~~
HB100 Prosecution of Juvenile Felons

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Margot Knuth	Law - Crim				465-4049	<input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N	Any
Lee Ann Leppas	DPS				465-4322	<input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N - All Questions	Any
Jen Tucci	Self	41105 Portage Blvd Juneau AK 99801		789 3726		<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	HB69
Allysa Yunish	Self	9202 Emily Way Juneau AK 99801	99801	789-3236	Same	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	HB69
MARCIA MCKENZIE	CBVSA	BOX 111200 JUNEAU	99803		465-4356	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	HB64 + HB69
						<input type="checkbox"/> Y <input type="checkbox"/> N	
						<input type="checkbox"/> Y <input type="checkbox"/> N	
						<input type="checkbox"/> Y <input type="checkbox"/> N	
						<input type="checkbox"/> Y <input type="checkbox"/> N	
						<input type="checkbox"/> Y <input type="checkbox"/> N	
						<input type="checkbox"/> Y <input type="checkbox"/> N	
						<input type="checkbox"/> Y <input type="checkbox"/> N	

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: February 24, 1993

Place: Capitol Room 120

Subject of Meeting: HB 69 Sex Offender Registration
HB 97 Parental Care for Child in State Custody

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
BRIAN McCLASKEY	Self	3931 Brentwood Cir	99502	243-0015	265-6443	Y <input checked="" type="radio"/> N	
Jean Marcott	Self	935 West 73rd Ave	99518	349-1946	265-6504	Y <input checked="" type="radio"/> N	
DOBRA VANDERBILT	Self	P.O. Box 220925	99502	248-3669	659-8644	Y <input checked="" type="radio"/> N	
VEN PIERCE	SELF	BEAR MOUNTAIN, WASH	99513	349-1946	651-4551	Y <input checked="" type="radio"/> N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: February 24, 1993

Place: Capitol Room 120

Subject of Meeting: HB 69 Sex Offender Registration
HB 97 Parental Care for Child in State Custody

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
						Y N	
Elmer A. Lindstrom	Special Assistant DHSS				465-3030	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 97
Debra Gerrish	Myself	9202 Emily Way	99801	789-3231	789-3231	<input checked="" type="radio"/> Y <input type="radio"/> N	69
C. C. Swackhammer	DPS			790-3389	465-4322	<input checked="" type="radio"/> Y <input type="radio"/> N <i>if needed</i>	69
Cindy Smith	Network on Domestic Violence	4196th #116	99801	6-3650		Y <input checked="" type="radio"/> N	69
SONYA BRUNDMAN	DFYS	AOB Rm 407	99811		465-3209	Y <input checked="" type="radio"/> N	97
MARCIA MCKENZIE	CDVSA	Box 111200, JUNEAU	99811		465-4356	Y <input checked="" type="radio"/> N	69
Cindy Spanner		POB 22859, JUNEAU	99802	324-3314		Y <input checked="" type="radio"/> N	209
Leslie Alldredge	SELF	1621 Helena Drive	99515	345-2002	265-8426	Y <input checked="" type="radio"/> N	69
W Pat Metz	SELF	4610 Edinburgh Ave	99515	243-7044	263-4306	Y <input checked="" type="radio"/> N	69
Helen Kinsig	DPS	PO Box 1112620, JUNEAU	99811		465-2104	<i>write for ques.</i> Y <input type="radio"/> N	HB 97
Lee Ann Lucas	DPS			789-9105	465-4322	<i>write for ques.</i> Y <input type="radio"/> N	HB 69

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: February 10, 1993

Place: Capitol Room 120

Subject of Meeting: HB 69 - Registration of Sex Offenders; HJR 9 - Const. Amendment: Taxing Power

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
MARCIA MCKENZIE	COUNCIL ON DOM VIOL + SEXL ASSLT	Box 111200 JUNEAU	99811		465-4356	Y <input checked="" type="radio"/> N	HB 69
Margot Kault					4040	Y N	HB 69
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: February 10, 1993

Place: Capitol Room 120

Subject of Meeting: HB 69 - Registration of Sex Offenders; HJR 9 - Const. Amendment: Taxing Power

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Doug Wooliver	Rep. Ramona Ornes					(Y) N	HB 69
Fesca Terrel	NFIB	9159 Skywood 4196th	99814		789-4278	(Y) N	HJR 9
Cindy Smith	Network on Domestic Violence	Sex. Assault	99801			(Y) N	HB 69
C E Swackhammer	DPS	450 Whittier Junction	99801			(Y) N	HB 69
Terry Martin	Dist. 14	luch			465-3783	(Y) N	HJR 9
W. J. Fudge	DOC					Y ? N	HB 69
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

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Alaska State Legislature



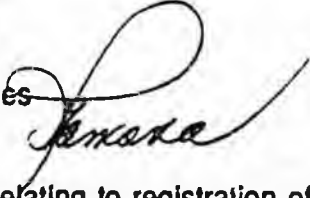
Official Business

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720

MEMORANDUM

TO: Representative Al Vezey, Chair
House State Affairs Committee

FROM: Representative Ramona L. Barnes
Speaker of the House 

SUBJECT: Scheduling of HB 69, "An Act relating to registration of and information about sex offenders and amending Alaska Rules of Criminal Procedure 11(c) and 32(b)."

DATE: January 27, 1993

This memo is a request to schedule HB 69 for hearing before the House State Affairs Committee.

HB 69 requires all persons who are present in Alaska and have been convicted of sex crimes in Alaska or any other state to register with the Alaska State Troopers and, for a period of years, to provide the Troopers with updated information including their places of residence and employment.

Of the information provided, the name, address, place of employment, date of birth, crime for which convicted and date of conviction would be subject to public disclosure. While technically much of this information is already available, as a practical matter it is extremely difficult to obtain. This is particularly disturbing in light of the fact that a recent report from STAR in Anchorage indicates that Alaska has the highest incidence of child abuse in the nation as well as the second highest incidence of sexual assault.

By improving the access to information regarding sex offenders that reside in Alaska, HB 69 will better enable employers, volunteer coordinators and others to effectively screen those who may work around children or in any other position where people may be vulnerable.

By requiring sex offenders to keep the State Troopers informed as to their whereabouts, HB 69 will enable law enforcement personnel keep better track of them. This is important because not only do sex offenders tend to have multiple victims, but they also frequently repeat their crimes even after serving time in prison. By being required to register, sex offenders may not only be less likely to commit such crimes again but, if they do, law enforcement personnel will have a better chance of identifying them as well as a better idea of where to find them.

Thank you for the prompt scheduling of HB 69.

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Haire indicted on 10 sexual abuse charges

STEVE PILKINGTON
WRITER

A grand jury indicted a 36-year-old Anchorage man Tuesday on charges of sexual abuse, extortion and providing drugs to juveniles in recent months.

Russell D. Haire, who was arrested earlier this month, remains in custody on \$20,000 bail and faces more than 20 additional charges of sexual abuse of minors and tampering with a witness.

Prosecutors have said they will file more charges related to molestation.

Prosecutors said the ages of the alleged victims range from 7 to 13.

Prosecutors said the ages of the alleged victims range from 7 to 13 and include boys and girls. Three children were listed as witnesses before the grand jury Tuesday.

The case began after police said a 10-year-old girl on Feb. 4 told the principal of North Star Elementary School that she witnessed Haire having sex with some of her friends. The charges

accuse Haire of criminal conduct between November 1991 and February 1992.

Haire is accused of taking nude photographs of some of the children, having sex with them, showing them pornographic movies in his Campbell Place home and distributing marijuana to a minor.

Haire told police when he was arrested two days later that he

had pictures of nude children in his possession, but he denied taking them, court records show.

Prosecutors said Haire eventually could face charges of criminal conduct with as many as 17 children.

A District Court judge on Feb. 11 refused to release Haire to his father's custody. The judge also refused a prosecutor's request to raise Haire's bail.

Haire is scheduled to be arraigned today on the 10-count indictment in Anchorage Superior Court before Judge Rene Gonzalez.



Russell D. Haire

Alleged molester freed, rearrested

By A.J. HOSTETLER
The Associated Press

PHILADELPHIA — A man with AIDS who may have paid hundreds of boys and young men to have sex with him was rearrested Saturday night after two more teen-agers made allegations against him, police said.

The man known to many as "Uncle Ed," was back in custody Saturday evening, less than a day after he posted 10 percent of his \$3 million bail. He was first arrested Wednesday.

Lt. James Mooney of the Sex Crimes Unit said the two latest accusers were identified Friday. They bring to four the number of teen-agers who have made allegations.

Mooney said police have identified other youths and he expects additional charges will be filed as the investigation continues.

District Attorney Lynne Abraham, who Friday announced the arrest, said her office signed an agreement with the suspect and his lawyer letting officials say he was an AIDS victim so those who had sexual



"Uncle Ed"

contact with him could take appropriate steps.

Abraham wouldn't release the suspect's name because of a state AIDS confidentiality law, but a court official speaking on condition of anonymity identified him as Edward Savitz, 50, and one of his lawyers, Steve Lacheen, confirmed that Saturday.

AIDS telephone hot lines were inundated after Friday's announcement. A police mug shot of the man was released, and a hot line operator said some callers recognized the man as someone they knew more than a decade ago as "Fast Eddle."

One of the suspect's lawyers on Saturday disputed allegations of dangerous sexual conduct and complained that reports of the arrest were feeding "AIDS hysteria."

Savitz faces a preliminary hearing Wednesday on charges of involuntary deviate sexual intercourse, sexual abuse of children, indecent assault and corrupting the morals of a minor.

Neighbors gave authorities information that led to his arrest, Abraham said. Afterward, he admitted he has had AIDS for at least one year.

Local AIDS hot lines were jammed.

"There were 300 to 400 calls packed into a couple of hours," Francis L. Stoffa Jr., executive director of the AIDS Task Force

2340 Judge upholds sex-offender registration

By Christopher Jarvis
Journal American Staff Writer

The state's sex-offender registration law applies to people convicted of sex crimes before the law went into effect, a King County Superior Court judge ruled Tuesday.

The decision by King County Superior Court Judge Arthur Piehler cleared the way for the trial of Kenneth James White, a 26-year-old man convicted of molesting a 6-year-old boy in 1987, two years before the requirement became law.

When White was released from the Washington State Penitentiary in November 1990, he told authorities he planned to move into a house in Bellevue.

He did not register with the King County police. Since his release, he has lived primarily on the streets or in shelters. He currently is in the King County Jail.

White now becomes the first person to go to trial in King County accused of a felony charge of failing to register as a sex offender.

Defense attorney Gary Nacht had argued that White shouldn't have to register because his crime occurred before the Community Protection Act of 1990 went into effect.

He said the law is unconstitutional if it applies to people convicted before the law was on the books, because it adds punishment to the 31-month prison sentence White served.

To register is an added burden that could draw public attention. That, Nacht argued, could bring about additional punishment in the form of harassment, as it has in other cases.

"These things have happened and you have to speculate they will happen again," he said. To apply it to people convicted before the law existed amounts to a "scarlet letter" being pinned unfairly on White, Nacht said.

Increasing punishment after the fact, he said, has been ruled unconstitutional in court decisions dating back to the 18th Century.

Upon White's release from prison, "he was to be a free man. He was to be able to put this incident behind him and get on with his life," Nacht said.

King County Deputy Prosecutor Kyle Aiken disputed Nacht's contention, saying the law is not punishment but merely allows police to know the whereabouts of former offenders.

In addition, it is no more punishment than the state Department of Licensing's regulation that people should report a change of address.

Among other things Nacht is expected to argue in the trial, which is being heard without a jury, is that White failed to receive adequate notice upon his release that he was required to register.

Bellevue, WA
(King Co.)
Journal American
(Cir. D. 30,000)

JAN 22 1992

Allen's P. C. S. Est. 1888

Monroe, WA
(Snohomish Co.)
Monroe Monitor
(Cir. W. 3,500)

JUN 19 1991

Allen's P. C. B. Est. 1888

Numerous sex offenders reside in Sno. county

The Snohomish County Sheriff's Office recently reported that 350 sex offenders are registered in the county.

A bill was passed in February requiring sex offenders to notify local law enforcement agencies when they are released from custody and take up residence in a community. Offenders have been and will be arrested for failure to register in Snohomish County.

Of the 350 sex offenders registered in the county, 160 live in unincorporated areas and 190 live in various cities and towns. The vast majority of the sex offenders reside along the I-5 corridor, where the majority of the general population also resides.

The sex offender law accomplishes several things. It provides, through registration, a degree of sex offender monitoring after the offender is no longer in state custody or under some sort of state supervision. The law provides a forum through which the public can be reasonably informed about sex offenders and about specific offenders who may pose a continuing threat to the community.

The data bank of registered offenders also provides investigators with potential resource information if a registered offender should re-offend.

The sheriff's office said the public should not be lulled into a false sense of security by assuming that all sex offenders are either in custody or registered with a law enforcement agency. Sex offenders, known and unknown, remain at large and still pose a threat within their own family circles and within the community at large.

Examples of how this
community have
used the law -

Tacoma, WA
(Pierce Co.)
Tacoma News Tribune
(Cir. D. 108,436)
(Cir. S. 120,490)

JUN 30 1991

Allen's P. C. B. Est. 1888

Kent-area group strikes a deal with sex offender

By Gastin Suttle
The News Tribune

A Kent-area block-watch group has struck a deal with a convicted sex offender living in its neighborhood: find him a job, and he will obey the rules.

The 22-year-old man arrived at the Timberlane community this month after serving about 1½ years in a state penitentiary for raping a 16-year-old girl at knife point in 1988, said King County Lt. David Maehren.

The man's arrival alarmed community members, who formed the block-watch group primarily to figure out what to do about his presence, said Lori Herrboldt, one of 22 captains in the neighborhood group.

Block-watch members decided to help the man instead of shun him because "if he's chased out of the area, he's just going to go somewhere else," Herrboldt said.

"If we can turn him around, that will make him an asset to us rather than a threat," she added.

The man has agreed not to go near children for any reason, and he will accept counseling if a counselor can be found, Herrboldt said.

In return, community members will do their best to find him a job.

Herrboldt will accompany him on interviews next week to show potential employers he has community members' support, she said. Although the agreement has a lot of support, some block-watch members "still want to shoot him," Herrboldt said.

But most residents agree it is in their best interest that the offender is working; that way, he is easier to keep track of, she said.

"We wanted to know he was behaving himself ... how he was spending his time," she said.

Maehren commended the block-watch group's response to the offender's presence. Many neighborhoods, he said, would attempt to drive the man out of town.

The Timberlane group's response is "much more constructive, and we're pleased with that," he said.

Maehren also said the group's display of optimism is necessary because "when you're dealing with difficult problems, you often have to be optimistic."

But Maehren cautioned that the community should not be so optimistic that it fails to guard against the offender's presence.

The group should "temper that (optimism) with some realism," he said.

Editorial

Fair warning

12/84

A recent sentence by Superior Court Judge Thomas Schulz should be fair warning to child abusers. Like rape, people are now more inclined to report cases of sexual abuse of children, prosecutors are more likely to take the cases to court and judges aren't afraid to impose strict sentencing. A Ketchikan man was recently sentenced by Schulz to 19 years in jail for sexual abuse of a minor. That term will be added to a five-year sentence the man is already serving for the same charge.

Nineteen years sounds like a stiff penalty, but in some cases it doesn't approach justice. In this case, the man had a prior conviction from Washington state. Despite that, his wife obtained a state license for a child care facility in Ketchikan — where the man abused an 8-year-old boy. While awaiting sentencing on that charge, he sexually abused still another child.

One could argue that justice has been served. The mother of the 3-year-old sued the state and collected about \$1.5 million for her claims that the state was negligent in not warning child care clients of the man's tendencies and for not revoking the child care license. And the man has now been sentenced on both charges.

But the sad part of the story is that a convicted abuser was able to go as far as he did. There were just enough cracks in the system to let him through. And there are still more cracks available, depending on probation.

But people's perceptions of child abuse are changing. Just a few years ago, rape victims were the ones who felt guilty of a crime. Now people are beginning to acknowledge that it's the perpetrator, not the victim, who deserves the scrutiny. As that perception changed, women became more likely to report rapes and pursue convictions.

The same thing is happening with child abuse. People, including family members, are more willing to admit that it's the children, not the adult perpetrator, who are the victims. In some cases, treatment for the offender may help solve the problem. In other cases, stiff sentencing is the only answer.

Public reporting on child abuse cases is another factor that can help stem its growth. If abusers know they face criminal prosecution, they should also know that their name will appear in public.

But more important than shaming the criminal, public information about child abuse can help people understand and come to terms with it. As each child abuse case is reported, it serves as an example to someone else who might be living with it — and thinking they're alone with it.

Unfortunately, public scrutiny might embarrass the... as well. We're confident that will change. The first step is under

Ketchikan Daily News 12/84

February 4, 1992, All-Alaska Weekly

Hearing set for molester

BETHEL—A public hearing before a state professional board is set for convicted child molester John Hawkins, Ph.D. who seeking his license to practice as a psychologist, according to *The Tundra Drums*.

The Board of Psychologist and Psychological Associate Examiners will hear the re-licensing case in Bethel February 17. The hearing was originally scheduled for last November in Anchorage.

Hawkins, 72, had his psychologist's license revoked following a 1984 conviction of sexually abusing a 13-year old girl. He spent two years in prison and underwent several years of court-ordered sex offender treatment.

Prior to his conviction, Hawkins was a clinical psychologist for the Yukon-Kuskokwim Health Corporation and the Lower Kuskokwim School District.

This is Hawkins' second attempt to get his license back. He was denied it by the board in 1989.

Hawkins' public statements about child-molestation have been controversial.



Associated Press

event Thursday, joined long-track speedskater as the only two American double-medal winners at the 1992 Winter Olympic Games.

Winners, losers

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MEDALS

Through Saturday

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Unified Team	8	8	8	22
Austria	6	7	8	21
Norway	6	8	9	20
Italy	4	6	4	14
United States	6	4	2	11
France	6	6	1	9
Finland	3	1	3	7
Japan	1	2	4	7
Canada	2	2	2	6
South Korea	2	1	1	4
The Netherlands	1	1	2	4
Sweden	1	3	3	4
Soviet Union	1	0	2	3
China	0	3	0	3
Luxembourg	0	2	0	2
Czechoslovakia	0	0	2	2
New Zealand	0	1	0	1
North Korea	0	0	1	1
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Olympics coverage, Page C-4

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ICS, Back Page)

Time doesn't heal trauma

Victims of sex abuse hit time limit on prosecutions

By ANNA FARNESKI
Staff Writer

As the white-haired man sat at the defense table, leaning forward to hear the judge's comments, tears welled in the eyes of a 28-year-old woman sitting alone in the courtroom visitors' gallery.

The droplets rolled down her face, over the dark circles beneath her blue eyes. She wiped the tears on her skirt. Her gaze returned to the scholarly-looking man.

Attending George "Biff" McGlauffin's sentencing hearing in late January was as close as the young woman will ever get to justice. McGlauffin cannot be punished for what he did to her when she was 9 years old.

A boarder at her parents' home, McGlauffin befriended her, treated her like a daughter . . . and then like a mistress. He showered her with gifts and attention, but robbed her of her childhood.

McGlauffin, 64, was sentenced to eight years in jail Jan. 25 after a judge earlier found him guilty of raping and sexually abusing a 5-year-old girl—not the woman in court—between 1981 and 1983.

Based on evidence from the state and pornographic photos of young boys and girls shot by McGlauffin, the prosecutor estimated that the retired laborer sexually abused at least three other young children in the mid-1970s in Fairbanks. But McGlauffin, 64, could not be prosecuted for those alleged crimes because the statute of limitations on the crimes prevents the state from filing charges.

The young woman who wept silently was one of the girls in the photographs. McGlauffin admitted to the crime in court and in a letter to the judge.

"It's like we don't matter," the woman said in an interview later. "Why don't we matter?"

According to mental health experts, victims of childhood sexual abuse are often so traumatized by the abuse that they repress the memories for years. In the interim, they are often plagued with depression, anger, food disorders, drug and alcohol abuse and suicidal tendencies.

Often, their minds do not allow them to recall the events, or deal with them, until they are mature adults. By that time, the state cannot prosecute, so the perpetrator remains free.

Advocates for victims of sexual assault and sex abuse throughout the state want the statute of limitations for prosecution lengthened, and they have gone to the Legislature for help.

At his hearing in January, McGlauffin asked the judge for leniency. He has heart problems,

The numbers

Alaska's sex abuse rate is six times the national average, according to the state Division of Family and Youth Services.

Alaska: One of every 105 children is abused.
Nation: One of every 633 children is abused.

he said, and he hasn't touched a child since 1983. His niece, a speech writer for President George Bush, sent the judge a letter asking for a light sentence. She used White House letterhead.

McGlauffin's attorney said the man has rehabilitated himself.

Despite his conviction, McGlauffin adamantly denied any misconduct with children, with one exception. He admitted to sexual relations with the 28-year-old woman at the sentencing hearing, who is referred to as "R" in the court record.

With "R," McGlauffin said, he was able to "experiment to my heart's content. She was a very loving, responsive, imaginative young person."

But the grown woman doesn't associate such feelings with the experience. While growing up after that time, she always thought nobody liked her. Even now, intimacy with her husband is difficult. Despite help from a therapist, she has nightmares and often cannot sleep.

Sex abuse victims in Fairbanks, including McGlauffin's 28-year-old victim, have gathered more than 400 signatures from Fairbanks residents supporting a bill to change the statute of limitations.

Under current state law, a victim must report the crime before his or her 17th birthday and within 10 years of the offense, or the state cannot prosecute. Compared to other states, Alaska's statute of limitations on sex abuse is short, according to legislators and advocates for victims.

The topic is "hot one" in Juneau these days, legislators said. National attention focused on the issue last year after celebrities, such as comedian Roseanne Arnold announced they had been sexually abused as children.

"It's topical and there's a lot of interest and support," said Rep. Mark Boyer, D-Fairbanks. "My guess is we'll see a change in the statutes."

Boyer's HB 378 would remove any time limitation on reporting sexual abuse. It would also raise the age of consent from 16 to 18. Sens. Arlisa Sturgulewski, Virginia (See ABUSE, Back Page)

Ketchikan man charged with sexual abuse of minors

ASSOCIATED PRESS

KETCHIKAN — A grand jury has charged a Ketchikan man with 24 counts of second-degree sexual abuse of a minor and related charges.

Richard Dunker, 39, was charged with bringing six boys, aged 11 to 16, to his apartment, giving them alcohol, tobacco and money and trying to get them to have sex with him and pose for videotaping sessions.

The grand jury returned the

indictments on Friday.

Dunker was arrested March 19. He was jailed on \$100,000 bail. If convicted, he could receive more than 70 years in jail.

The charges included second-degree sexual abuse of a minor, attempted sexual abuse of a minor, indecent exposure, contributing to the delinquency of minors, unlawful exploitation of minors and attempted exploitation of minors.

Five minors testified to the grand jury, along with Ketchikan

Police Officer Dale Young and police Lt. Michael Hunter.

According to an affidavit filed in support of a search warrant, the investigating officer interviewed at least two of the boys. One said Dunker gave him wine coolers and paid him to lie on the floor naked with another teen-aged boy and all in his underwear. The boy said Dunker would show pornographic videotapes to the boys in his apartment.

Dunker paid one boy \$20 to watch a video of men engaged in

sex acts and asked the boy if he would like to do those things with him.

It was not immediately known if any of the minors agreed to the sex acts.

"He told (the boy) that it wasn't so bad," Jacobson wrote. Dunker paid the boy to allow Dunker to videotape him with his clothes on, the boy said.

Dunker had the boy visit his apartment 60 times, the boy said, but also told him to come to his boat.

"Dunker wanted his relationship with the boys to be secret from his girlfriend with whom he shares an apartment," Jacobson wrote.

"The boy told me that Dunker masturbates while the boys are present and does this while watching the pornographic videos. He was naked in front of (the boy) on one occasion and on another occasion he flashed him showing his genitals," Jacobson wrote.

According to court records,

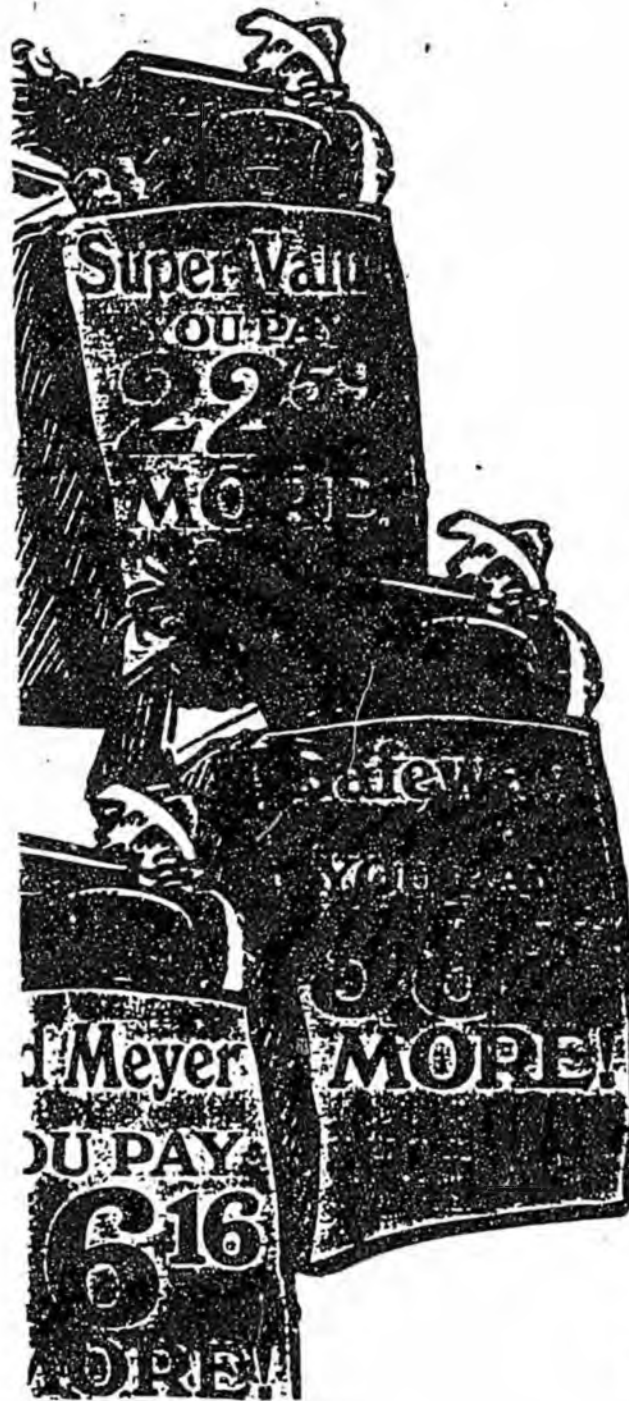
Dunker told two of the boys that if they knew any pretty young girls that wanted to be videotaped, to bring them to the apartment.

"He requested pretty young ones that were about 6- or 7-years-old," Jacobson wrote.

Another young boy told detective Young that he had been offered beer but did not drink it. He said he was offered \$25 to be videotaped nude on several occasions but did not agree to it.

Revamp of

Prices Beat!



ABUSE

(Continued from Page A-1)

Collins and Lyman Hoffman also introduced similar bills.

Boyer said he and other legislators have been bombarded with mail on the issue.

He began researching the status of limitations after a victim here pointed out the problem to him. "At first I was skeptical because of all the national media attention given to people like Roseann Barr, but once I looked at the issue and did the research, I thought, boy, this was serious."

What's fair?

However, not everyone is pleased at the thought of an increase in the statute of limitations on sex abuse crimes. Assistant Public Defender Paul Canarsky, who defended McGlauffin, said the change would be costly to the state and unfair to defendants.

Canarsky said defendants would have to rely on old evidence. He also predicted that the prosecutors would use already scarce funds to try old cases. Prosecutors would decline more current cases, he said.

"The thing about the statute of limitations, though, is that it also embodies a common sense approach," he added. "Unless it's something really, really serious like murder, the mistakes a person has made in the past should be left behind them."

Canarsky said he objects to special rules for a class of crimes. The statute of limitations for most crimes is five years. There is none for murder.

Law enforcement officials say they would welcome a change in the rules. They said the additional cases would not be too expensive or time-consuming.

Karla Taylor Welch, the assistant district attorney who prosecutes sex abuse cases here, said that in the past year there were four cases in which she could not prosecute individuals on alleged crimes because of the statute of limitations. Two of the men, including McGlauffin, were convicted on other sexual abuse charges, but two of the men remain free.

In McGlauffin's case, Welch said, it would have been easy to convict, because McGlauffin saved hundreds of photos that he took of the boys and girls he molested.

Alaska State Trooper Sgt. Jim McCann, who investigated the McGlauffin case, said he routinely learns of abuse cases in which the statute of limitations has expired. "That sort of thing happens all the time, we're getting more and more," he said.

"It hurts, and it's not very easy for us to look into the eyes of the victim that sits before us and say 'I'm sorry there's nothing for us to do.'"

McCann disagrees with a statute of limitations on any crime.

"What do we owe this perpetrator?" he asked. "Why is it not fair if we can prove 10 or 15 years later that he's a pedophile. If we can make the case, who cares?"

OLYMPICS

(Continued from Page A-1)

disappointments in '84 and '88, the one-man ski squad from Luxembourg claimed two medals here, without further detail.

Alaska State Legislature



Official Business

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720

SPONSOR STATEMENT

TO: All Members, House of Representatives

FROM: Representative Ramona L. Barnes
Speaker of the House

Ramona JAN 27 RECD

SUBJECT: HB 69, "An Act relating to registration of and information about sex offenders and amending Alaska Rules of Criminal Procedure 11(c) and 32(b)."

DATE: January 27, 1993

HB 69 requires all persons who are present in Alaska and have been convicted of sex crimes in Alaska or any other state to register with the Alaska State Troopers and, for a period of years, to provide the Troopers with updated information including their places of residence and employment.

Of the information provided, the name, address, place of employment, date of birth, crime for which convicted and date of conviction would be subject to public disclosure. While technically much of this information is already available, as a practical matter it is extremely difficult to obtain. This is particularly disturbing in light of the fact that a recent report from STAR in Anchorage indicates that Alaska has the highest incidence of child abuse in the nation as well as the second highest incidence of sexual assault.

By improving the access to information regarding sex offenders that reside in Alaska, HB 69 will better enable employers, volunteer coordinators and others to effectively screen those who may work around children or in any other position where people may be vulnerable.

By requiring sex offenders to keep the State Troopers informed as to their whereabouts, HB 69 will enable law enforcement personnel keep better track of them. This is important because not only do sex offenders tend to have multiple victims, but they also frequently repeat their crimes even after serving time in prison. By being required to register, sex offenders may not only be less likely to commit such crimes again but, if they do, law enforcement personnel will have a better chance of identifying them as well as a better idea of where to find them.

I would invite and encourage others to join me in support of this much needed legislation.

[Handwritten signature]

8-LS03950
Luckhaupt
2/24/93

CS FOR HOUSE BILL NO. 69(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES BARNES, Ulmer, Phillips, Nordlund, Porter, Olberg, James, B.Davis, Green, Sanders, Toohy, Mackie

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to registration of and information about sex offenders and
2 amending Alaska Rules of Criminal Procedure 11(c) and 32(b)."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

- 5 (1) sex offenders pose a high risk of reoffending after release from custody;
- 6 (2) protecting the public from sex offenders is a primary governmental interest;
- 7 (3) the privacy interests of persons convicted of sex offenses are less important
- 8 than the government's interest in public safety; and
- 9 (4) release of certain information about sex offenders to public agencies and
- 10 the general public will assist in protecting the public safety.

11 * Sec. 2. AS 11.56 is amended by adding a new section to article 5 to read:

12 Sec. 11.56.840. FAILURE TO REGISTER AS A SEX OFFENDER. A person
13 who knowingly fails to (1) register, (2) file the written notice of change of address, (3)
14 file the annual written notice or statement, or (4) supply blood or saliva samples, as

1 required in AS 12.63.010, is guilty of a class A misdemeanor.

2 * Sec. 3. AS 12.55 is amended by adding a new section to read:

3 Sec. 12.55.148. JUDGMENT FOR SEX OFFENSES. (a) When a defendant
4 is convicted of a sex offense by a court of this state, the written judgment must set out
5 the requirements of AS 12.63.010.

6 (b) In this section, "sex offense" has the meaning given in AS 12.63.100.

7 * Sec. 4. AS 12 is amended by adding a new chapter to read:

8 CHAPTER 63: REGISTRATION OF SEX OFFENDERS.

9 Sec. 12.63.010. REGISTRATION OF SEX OFFENDERS AND RELATED
10 REQUIREMENTS. (a) A sex offender who is physically present in the state shall
11 register as provided in this section. The sex offender shall register within

12 (1) seven days of release from a state correctional facility;

13 (2) seven days of conviction for a sex offense if the sex offender is not
14 sentenced to a term of incarceration; or

15 (3) 14 days of becoming physically present in the state, unless the sex
16 offender is a probationer or parolee being supervised by the state as the receiving state
17 under AS 33.36.110 - 33.36.120, in which case the sex offender shall register within
18 seven days of becoming physically present in the state.

19 (b) A sex offender required to register under (a) of this section shall register
20 in person at the Alaska state trooper post or local police department located nearest to
21 where the sex offender resides at the time of registration. To fulfill the registration
22 requirement, the sex offender shall

23 (1) complete a registration form that includes, at a minimum, the sex
24 offender's name, address, place of employment, date of birth, each conviction for a sex
25 offense for which the duty to register has not terminated under AS 12.63.020, date of
26 sex offense convictions, place and court of sex offense convictions, all aliases used,
27 and driver's license number;

28 (2) allow the Alaska state troopers or local police to take a complete
29 set of the sex offender's fingerprints and to take the sex offender's photograph.

30 (c) If a sex offender changes residence within the state after having registered
31 under (a) of this section, the sex offender shall provide written notice of the change

1 to the Alaska state trooper post or local police department located nearest to the new
2 residence within 10 days of the change.

3 (d) A sex offender required to register under (a) of this section shall annually,
4 during the term of a duty to register under AS 12.63.020, on a date set by the
5 department at the time of the sex offender's initial registration, provide written notice
6 to the department of any changes to the information initially provided under (b)(1) of
7 this section, or if there are no changes, a statement to that effect.

8 (e) A sex offender whose requirement to register under (a) of this section
9 arises on or after January 1, 1997, shall provide ^{an adequate} ~~two~~ specimens of blood, and a saliva
10 sample. The specimens and samples shall be forwarded to the department for genetic
11 typing analysis, including analysis of deoxyribonucleic acid (DNA).

12 Sec. 12.63.020. TERMINATION OF SEX OFFENDER DUTY TO
13 REGISTER. The duty of a sex offender to comply with the requirements of
14 AS 12.63.010 ends for each sex offense ^{life} ~~20~~ ²⁰ ~~year~~ ^{year} ~~or~~ ^{or} ~~more~~ ^{more} ~~than~~ ^{than} ~~10~~ ¹⁰ ~~years~~ ^{years}

15 (1) ^{life} ~~20~~ years following the sex offender's unconditional discharge from
16 a conviction for an unclassified, class A, or class B felony sex offense;

17 (2) 10 years following the sex offender's unconditional discharge from
18 a conviction for a class C felony, or a class A misdemeanor sex offense.

19 Sec. 12.63.100. DEFINITIONS. In this chapter,

20 (1) "department" means the Department of Public Safety;

21 (2) "sex offender" means a person convicted of a sex offense in this
22 state or another jurisdiction regardless of whether the conviction occurred before, after,
23 or on the effective date of this section;

24 (3) "sex offense" means a crime, or an attempt to commit a crime,
25 under AS 11.41.410 - 11.41.455, AS 11.61.125, AS 11.66.110, former AS 11.15.120
26 or 11.15.134, or former AS 11.40.110, 11.40.130, or 11.41.200, or a similar law in
27 another jurisdiction;

28 (4) "unconditional discharge" has the meaning given in AS 12.55.185.

29 * Sec. 5. AS 18.65 is amended by adding a new section to read:

30 Sec. 18.65.087. CENTRAL REGISTRY OF SEX OFFENDERS. (a) The
31 Department of Public Safety shall maintain a central registry of sex offenders required

1 to register under AS 12.63.010 and shall adopt regulations necessary to carry out the
2 purposes of this section and AS 12.63. A post of the Alaska state troopers or a police
3 department that receives information under AS 12.63.010 shall forward the information
4 within five working days of receipt to the central registry of sex offenders.

5 (b) Information about a sex offender that is contained in the central registry,
6 including sets of fingerprints, is confidential and not subject to public disclosure except
7 as to the sex offender's name, address, photograph, place of employment, date of birth,
8 crime for which convicted, date of conviction, place and court of conviction, and
9 length of sentence.

10 (c) The Department of Public Safety

11 (1) shall adopt regulations

12 (A) to allow a sex offender to review sex offender registration
13 information that refers to that sex offender, and if the sex offender believes the
14 information is inaccurate or incomplete, to request the department to correct the
15 information;

16 (B) ensure the appropriate circulation to law enforcement
17 agencies of information contained in the central registry;

18 (C) implement the collection and analysis program authorized
19 in AS 12.63.010(e);

20 (2) shall provide to local police departments the forms and directions
21 necessary to allow sex offenders to comply with AS 12.63.010;

22 (3) may adopt regulations to establish fees to be charged for registration
23 under AS 12.63.010 and for information requests.

24 * Sec. 6. AS 28.05 is amended by adding a new section to read:

25 Sec. 28.05.048. SEX OFFENDER REGISTRATION. The department shall
26 display notice of the registration requirements of AS 12.63.010 at a place where the
27 public may apply for a driver's license, identification card, or vehicle registration.

28 * Sec. 7. AS 33.30 is amended by adding a new section to read:

29 Sec. 33.30.012. NOTICE OF RELEASE, PAROLE, COMMUNITY
30 PLACEMENT, WORK RELEASE PLACEMENT, FURLOUGH, OR ESCAPE OF
31 SEX OFFENDER. (a) At the earliest possible date, and in no event later than 10

1 days before release, the commissioner shall send written notice of release, parole,
2 community placement, work release placement, or furlough of a specific inmate
3 convicted of a sex offense to:

4 (1) the chief of police of the community, if any, in which the inmate
5 will reside; and

6 (2) the Alaska state trooper post located nearest to where the inmate
7 will reside.

8 (b) If an inmate convicted of a sex offense escapes from a correctional facility,
9 the commissioner shall immediately notify the chief of police of the community and
10 Alaska state trooper post located closest to where the inmate resided immediately
11 before the inmate's arrest and conviction.

12 * Sec. 8. AS 33.30 is amended by adding a new section to read:

13 Sec. 33.30.035. NOTICE TO SEX OFFENDERS OF REGISTRATION
14 REQUIREMENT. The department shall provide written notice to a sex offender of
15 the registration requirements of AS 12.63.010, and shall obtain a signed
16 acknowledgement of receipt of notice from the sex offender

17 (1) at the time of the sex offender's release from a state correctional
18 facility;

19 (2) immediately after taking supervision of a sex offender under the
20 Interstate Corrections Compact or AS 33.36.110.

21 * Sec. 9. AS 33.30.901 is amended by adding a new paragraph to read:

22 (14) "sex offender" has the meaning given in AS 12.63.100.

23 * Sec. 10. Alaska Rule of Criminal Procedure 11(c) is amended to read:

24 (c) PLEAS OF GUILTY OR NOLO CONTENDERE. The court shall not
25 accept a plea of guilty or nolo contendere from a defendant without first addressing
26 the defendant personally and

27 (1) determining that the defendant [HE] understands the nature of the
28 charge; and

29 (2) informing the defendant [HIM] that by the [HIS] plea of guilty or
30 nolo contendere the defendant [HE] waives the [HIS] right to trial by jury or trial by
31 a judge and the right to be confronted with the witnesses against the defendant

1 [HIM]; [AND]

2 (3) informing the defendant [HIM]:

3 (i) of the mandatory minimum punishment, if any, and
4 the maximum possible punishment provided by the statute defining the
5 offense to which the plea is offered, and

6 (ii) that the defendant has the right to plead not guilty
7 or to persist in that plea if it has already been made, or to plead guilty;
8 and

9 (4) if the defendant is charged with a sex offense as defined in
10 AS 12.63.100, informing the defendant in writing of the requirements of
11 AS 12.63.010.

12 * Sec. 11. The provisions of AS 12.55.148, added by sec. 3 of this Act, have the effect of
13 changing Alaska Rule of Criminal Procedure 32(b) by adding a requirement that a judgment
14 containing notification of the requirements of AS 12.63.010 be provided to a defendant
15 convicted of a sex offense.

16 * Sec. 12. APPLICABILITY. A sex offender whose most recent conviction for a sex
17 offense occurred before the effective date of this Act and whose duty to register has not
18 terminated under AS 12.63.020, added by sec. 4 of this Act, before January 1, 1994, shall
19 register under AS 12.63.010, added by sec. 4 of this Act, on the date the duty to register arises
20 under AS 12.63.010 or by January 1, 1994, whichever occurs later. In this section, "sex
21 offender" and "sex offense" have the meanings given by AS 12.63.100, added by sec. 4 of this
22 Act.

23 * Sec. 13. AS 12.55.148, added by sec. 3 of this Act, takes effect only if sec. 11 of this
24 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
25 Constitution of the State of Alaska.

8-LS0395R
Luckhaupt
2/26/93

CS FOR HOUSE BILL NO. 69(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BARNES, Ulmer, Phillips, Nordlund, Porter, Olberg, James, B.Davis, Green, Sanders, Toohey, Mackie

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to registration of and information about sex offenders and
2 amending Alaska Rules of Criminal Procedure 11(c) and 32(b); and providing for
3 an effective date."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

- 6 (1) sex offenders pose a high risk of reoffending after release from custody;
- 7 (2) protecting the public from sex offenders is a primary governmental interest;
- 8 (3) the privacy interests of persons convicted of sex offenses are less important
- 9 than the government's interest in public safety; and

10 (4) release of certain information about sex offenders to public agencies and
11 the general public will assist in protecting the public safety.

12 * Sec. 2. AS 11.56 is amended by adding a new section to article 5 to read:

13 Sec. 11.56.840. FAILURE TO REGISTER AS A SEX OFFENDER. A person
14 who knowingly fails to (1) register, (2) file the written notice of change of address, or

1 (3) file the annual written notice or statement, as required in AS 12.63.010, is guilty
2 of a class A misdemeanor.

3 * Sec. 3. AS 11.56.840 is repealed and reenacted to read:

4 Sec. 11.56.840. FAILURE TO REGISTER AS A SEX OFFENDER. A person
5 who knowingly fails to (1) register, (2) file the written notice of change of address, (3)
6 file the annual written notice or statement, or (4) supply a blood sample, as required
7 in AS 12.63.010, is guilty of a class A misdemeanor.

8 * Sec. 4. AS 12.55 is amended by adding a new section to read:

9 Sec. 12.55.148. JUDGMENT FOR SEX OFFENSES. (a) When a defendant
10 is convicted of a sex offense by a court of this state, the written judgment must set out
11 the requirements of AS 12.63.010.

12 (b) In this section, "sex offense" has the meaning given in AS 12.63.100.

13 * Sec. 5. AS 12 is amended by adding a new chapter to read:

14 CHAPTER 63. REGISTRATION OF SEX OFFENDERS.

15 Sec. 12.63.010. REGISTRATION OF SEX OFFENDERS AND RELATED
16 REQUIREMENTS. (a) A sex offender who is physically present in the state shall
17 register as provided in this section. The sex offender shall register within

18 (1) seven days of release from a state correctional facility;

19 (2) seven days of conviction for a sex offense if the sex offender is not
20 sentenced to a term of incarceration; or

21 (3) 14 days of becoming physically present in the state, unless the sex
22 offender is a probationer or parolee being supervised by the state as the receiving state
23 under AS 33.36.110 - 33.36.120, in which case the sex offender shall register within
24 seven days of becoming physically present in the state.

25 (b) A sex offender required to register under (a) of this section shall register
26 in person at the Alaska state trooper post or municipal police department located
27 nearest to where the sex offender resides at the time of registration. To fulfill the
28 registration requirement, the sex offender shall

29 (1) complete a registration form that includes, at a minimum, the sex
30 offender's name, address, place of employment, date of birth, each conviction for a sex
31 offense for which the duty to register has not terminated under AS 12.63.020, date of

1 sex offense convictions, place and court of sex offense convictions, all aliases used,
2 and driver's license number;

3 (2) allow the Alaska state troopers or municipal police to take a
4 complete set of the sex offender's fingerprints and to take the sex offender's
5 photograph.

6 (c) If a sex offender changes residence within the state after having registered
7 under (a) of this section, the sex offender shall provide written notice of the change
8 to the Alaska state trooper post or ~~local~~ ^{MUNI.} police department located nearest to the new
9 residence within 10 days of the change.

10 (d) A sex offender required to register under (a) of this section shall annually,
11 during the term of a duty to register under AS 12.63.020, on a date set by the
12 department at the time of the sex offender's initial registration, provide written notice
13 to the department of any changes to the information initially provided under (b)(1) of
14 this section, or if there are no changes, a statement to that effect.

15 Sec. 12.63.020. DURATION OF SEX OFFENDER DUTY TO REGISTER.

16 (a) The duty of a sex offender to comply with the requirements of AS 12.63.010 for
17 each sex offense

18 (1) continues for the lifetime of a sex offender convicted of an
19 unclassified or class A felony sex offense;

20 (2) ends 20 years following the sex offender's unconditional discharge
21 from a conviction for a class B or class C felony sex offense;

22 (3) ends 10 years following the sex offender's unconditional discharge
23 from a conviction for a class A misdemeanor sex offense.

24 (b) The department shall adopt, by regulation, procedures to notify a sex
25 offender who, on the registration form under AS 12.63.010, lists a conviction for a sex
26 offense that is a violation of a former law of this state or a law of another jurisdiction,
27 of the duration of the offender's duty under (a) of this section for that sex offense.

28 Sec. 12.63.100. DEFINITIONS. In this chapter,

29 (1) "department" means the Department of Public Safety;

30 (2) "sex offender" means a person convicted of a sex offense in this
31 state or another jurisdiction regardless of whether the conviction occurred before, after,

1 or on the effective date of this section;

2 (3) "sex offense" means a crime, or an attempt to commit a crime,
3 under AS 11.41.410 - 11.41.455, AS 11.61.125, AS 11.66.110, former AS 11.15.120
4 or 11.15.134, or former AS 11.40.110, 11.40.130, or 11.41.200, or a similar law in
5 another jurisdiction;

6 (4) "unconditional discharge" has the meaning given in AS 12.55.185.

7 * Sec. 6. AS 12.63.010 is amended by adding a new subsection to read:

8 (e) A sex offender whose requirement to register under (a) of this section
9 arises on or after January 1, 1997, shall provide a specimen of blood adequate for
10 genetic typing analysis, including analysis of deoxyribonucleic acid (DNA).

11 * Sec. 7. AS 18.65 is amended by adding a new section to read:

12 Sec. 18.65.087. CENTRAL REGISTRY OF SEX OFFENDERS. (a) The
13 Department of Public Safety shall maintain a central registry of sex offenders required
14 to register under AS 12.63.010 and shall adopt regulations necessary to carry out the
15 purposes of this section and AS 12.63. A post of the Alaska state troopers or a
16 municipal police department that receives information under AS 12.63.010 shall
17 forward the information within five working days of receipt to the central registry of
18 sex offenders.

19 (b) Information about a sex offender that is contained in the central registry,
20 including sets of fingerprints, is confidential and not subject to public disclosure except
21 as to the sex offender's name, address, photograph, place of employment, date of birth,
22 crime for which convicted, date of conviction, place and court of conviction, and
23 length of sentence.

24 (c) The Department of Public Safety

25 (1) shall adopt regulations to

26 (A) allow a sex offender to review sex offender registration
27 information that refers to that sex offender, and if the sex offender believes the
28 information is inaccurate or incomplete, to request the department to correct the
29 information;

30 (B) ensure the appropriate circulation to law enforcement
31 agencies of information contained in the central registry;

1 (C) implement the collection and analysis program authorized
2 in AS 12.63.010(e);

3 (2) shall provide to municipal police departments the forms and
4 directions necessary to allow sex offenders to comply with AS 12.63.010;

5 (3) may adopt regulations to establish fees to be charged for registration
6 under AS 12.63.010 and for information requests.

7 * Sec. 8. AS 28.05 is amended by adding a new section to read:

8 Sec. 28.05.048. SEX OFFENDER REGISTRATION. The department shall
9 display notice of the registration requirements of AS 12.63.010 at a place where the
10 public may apply for a driver's license, identification card, or vehicle registration.

11 * Sec. 9. AS 33.30 is amended by adding a new section to read:

12 Sec. 33.30.012. NOTICE OF RELEASE, PAROLE, COMMUNITY
13 PLACEMENT, WORK RELEASE PLACEMENT, FURLOUGH, OR ESCAPE OF
14 SEX OFFENDER. (a) At the earliest possible date, and in no event later than 10
15 days before release, the commissioner shall send written notice of release, parole,
16 community placement, work release placement, or furlough of a specific inmate
17 convicted of a sex offense to:

18 (1) the chief of police of the community, if any, in which the inmate
19 will reside; and

20 (2) the Alaska state trooper post located nearest to where the inmate
21 will reside.

22 (b) If an inmate convicted of a sex offense escapes from a correctional facility,
23 the commissioner shall immediately notify the chief of police of the community and
24 Alaska state trooper post located closest to where the inmate resided immediately
25 before the inmate's arrest and conviction.

26 * Sec. 10. AS 33.30 is amended by adding a new section to read:

27 Sec. 33.30.035. NOTICE TO SEX OFFENDERS OF REGISTRATION
28 REQUIREMENT. The department shall provide written notice to a sex offender of
29 the registration requirements of AS 12.63.010, and shall obtain a signed
30 acknowledgement of receipt of notice from the sex offender

31 (1) at the time of the sex offender's release from a state correctional

1 facility;

2 (2) immediately after taking supervision of a sex offender under the
3 Interstate Corrections Compact or AS 33.36.110.

4 * Sec. 11. AS 33.30.901 is amended by adding a new paragraph to read:

5 (14) "sex offender" has the meaning given in AS 12.63.100.

6 * Sec. 12. Alaska Rule of Criminal Procedure 11(c) is amended to read:

7 (c) PLEAS OF GUILTY OR NOLO CONTENDERE. The court shall not
8 accept a plea of guilty or nolo contendere from a defendant without first addressing
9 the defendant personally and

10 (1) determining that the defendant [HE] understands the nature of the
11 charge; and

12 (2) informing the defendant [HIM] that by the [HIS] plea of guilty or
13 nolo contendere the defendant [HE] waives the [HIS] right to trial by jury or trial by
14 a judge and the right to be confronted with the witnesses against the defendant
15 [HIM]; [AND]

16 (3) informing the defendant [HIM]:

17 (i) of the mandatory minimum punishment, if any, and
18 the maximum possible punishment provided by the statute defining the
19 offense to which the plea is offered, and

20 (ii) that the defendant has the right to plead not guilty
21 or to persist in that plea if it has already been made, or to plead guilty;
22 and

23 (4) if the defendant is charged with a sex offense as defined in
24 AS 12.63.100. informing the defendant in writing of the requirements of
25 AS 12.63.010.

26 * Sec. 13. The provisions of AS 12.55.148, added by sec. 4 of this Act, have the effect of
27 changing Alaska Rule of Criminal Procedure 32(b) by adding a requirement that a judgment
28 containing notification of the requirements of AS 12.63.010 be provided to a defendant
29 convicted of a sex offense.

30 * Sec. 14. APPLICABILITY. A sex offender whose most recent conviction for a sex
31 offense occurred before the effective date of this Act and whose duty to register has not

1 terminated under AS 12.63.020, added by sec. 5 of this Act, before January 1, 1994, shall
2 register under AS 12.63.010, added by sec. 5 of this Act, on the date the duty to register arises
3 under AS 12.63.010 or by January 1, 1994, whichever occurs later. In this section, "sex
4 offender" and "sex offense" have the meanings given by AS 12.63.100, added by sec. 5 of this
5 Act.

6 * Sec. 15. AS 12.55.148, added by sec. 4 of this Act, takes effect only if sec. 13 of this
7 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
8 Constitution of the State of Alaska.

9 * Sec. 16. Sections 3 and 6 of this Act take effect January 1, 1997.

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✓ STATES WITH CONSTITUTIONAL
"RIGHT TO PRIVACY" PROVISION

STATUTES AND LEGISLATION REGARDING MANDATORY SUBMISSION TO BLOOD
TESTING/DATABANKING

- ✓ 1. ARIZONA - ARIZ. REV. STAT. ANN. 31-281 (1990);
- ✓ 2. CALIFORNIA - CAL. PENAL CODE 290.2 (1990);
3. COLORADO - COLO. REV. STAT. 17-2-201 (1990);
- ✓ 4. FLORIDA - FLA. STAT. ANN. 943.325 (1990);
5. GEORGIA - CODE OF GEORGIA 24-4-60 (1992);
- ✓ 6. HAWAII - HAWAII REV. STAT. ANN. 706-603 (1992);
- ✓ 7. ILLINOIS - ILL. REV. STAT. Ch. 38-5-4-3 (1990);
8. INDIANA - IND. CODE 20-12-34.5 et. seq. (1990);
9. IOWA - IOWA CODE ANN. 13.10 (1990);
10. KANSAS - 1991 KANSAS LAWS Ch. 92 (S.B. No. 329);
11. KENTUCKY - 1992 KENTUCKY LAWS Ch. 175 (HB 631);
- ✓ 12. LOUISIANA - LOUISIANA REV. STAT. 15:535 (1991);
13. MICHIGAN - MICH. COMP. LAWS. ANN. 750.520m (1990) (effective
10/1/91);
14. MINNESOTA - MINN. STAT. ANN. 609.3461 (1990);
15. MINNESOTA - MINN. STAT. ANN. 299C.155 (1990);
16. MISSOURI - MISSOURI STAT. ANN. 650.050 (1991);
17. NEVADA - NEV. REV. STAT. 176.111 (1990);
18. OREGON - OREGON REV. STAT. 181.085 (1991);
19. SOUTH DAKOTA - S.D. CODIFIED LAWS. ANN. 23-5-14 et. seq.
(1990);
20. TENNESSEE - TENN. CODE ANN. 38-6-113 (1991);
21. VIRGINIA - VA. CODE 19.2-310.2 (Code of 1950 as amended,
1990); and
- ✓ 22. WASHINGTON - Wash. Rev. Code 43.43.732 et. seq. (1990).

Alaska State Legislature

Legislative Research Agency




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February 26, 1993

MEMORANDUM

TO: Representative Brian Porter

FROM: Gordon S. Harrison, Director 

RE: **The Right of Privacy in State Constitutions**

You about state constitutional guarantees of the right to privacy. Alaska is among ten states with an explicit constitutional right of privacy. The ten states are Alaska, Arizona, California, Florida, Hawaii, Illinois, Louisiana, Montana, South Carolina and Washington. Several states have a statutory right of privacy. Attached is a summary of state and federal privacy laws (constitutional and statutory) compiled by Robert E. Smith, publisher of the *Privacy Journal*.

Attachment

**COMPILATION OF STATE
AND FEDERAL PRIVACY LAWS**

1992 Edition

By
ROBERT ELLIS SMITH

With James S. Sulanowski

Published by PRIVACY JOURNAL
An Independent Monthly on Privacy in a Computer Age

PRIVACY STATUTES/STATE CONSTITUTIONS (Including the Right to Publicity)

Alaska—"Right of Privacy. The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." Art. 1, sec. 22, Alaska Constitution, 1972.

Arizona—"Right to Privacy. No person shall be disturbed in his private affairs, or his home invaded, without authority of law." Art. II, sec. 8, Ariz. Constitution, 1912, as amended.

California—"All people are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety, happiness, and privacy." Art. I, sec. 1, Cal. Constitution, Nov. 1972. State courts thus far have interpreted this state right to privacy as identical to the federal right to privacy recognized by U.S. Supreme Court decisions.

Any person who knowingly uses another's name, voice, or likeness in a commercial way, without consent, is liable for damages. Heirs and descendants have property rights in certain commercial uses of a deceased celebrity's name, voice, signature, or likeness for 50 years after death. Cal. Civil Code sec. 990 and 3344.

Delaware—Violation of privacy is a class A misdemeanor. Del. Code. tit. 11, sec. 1335.

Florida—"Searches and Seizures. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. Articles or information obtained in violation of this right shall not be admissible in evidence." Art. I, sec. 12, Fla. Constitution, 1968.

"Every natural person has a right to be let alone and free from governmental intrusion into his private life except as otherwise provided for herein. This section shall not be construed to limit the public's right of access to public records and

meetings as provided by law." Art. I, sec. 23, approved in 1980 election.

A person has a right of action in court for the unauthorized use of his or her name or picture for commercial advantage. Fla. Stat. Ann. sec. 540.08

No person shall have more than one choice of venue for damages for invasion of privacy. Sec. 770.05. Adverse judgment in any jurisdiction bars any other action founded on same publication. Sec. 770.06. Cause of action for damages shall be deemed to have accrued at the time of the first publication. Sec. 770.07.

Georgia—Illegal to invade privacy and illegal to be a "peeping Tom." Ga. Code Ann. sec. 26-3002.

Hawaii—Art. 1, sec. 6 of the constitution provides for a right to privacy. Sec. 7 protects against unreasonable searches and seizures.

Illinois—"Searches, seizures, privacy and interceptions" provision is similar to Florida's. Art. I, sec. 6, Ill. Constitution, 1970. "Every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation. He shall obtain justice by law, freely, completely, and promptly." Art. I, sec. 6 and 12.

Actions for publication of matter that violates the right to privacy must be commenced within one year. Ill. Ann. Stat. ch. 83, para. 14.

Kentucky—"The traditional right of privacy terminates at death but the right of publicity, which is the right of protection from appropriation of some element of an individual's personality from commercial exploitation, does not terminate [until 50 years after] death." Ky. Rev. Stat. sec. 391.170.

Louisiana—"Right to Privacy. Every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches and seizures, or invasions or privacy. No warrant shall issue without probable cause supported by oath or affirmation, and particularly describing the place to be searched, the persons or things to be seized, and the lawful purposes or reason for the search. Any person adversely affected by a search or seizure conducted in violation of this Section shall have standing to raise its illegality in

the appropriate court." Art. I, sec. 5, La. Constitution, 1975.

Illegal to be a "Peeping Tom," defined as "one who peeps through windows or doors, or other like places, situated in or about the premises of another for the purpose of spying upon or invading the privacy of persons spied upon." La. Rev. Stat. sec. 14:284.

Maine—"1. A person is guilty of violation of privacy if, except in execution of a public duty or as authorized by law, he intentionally:

"A. Commits a civil trespass on a property with intent to overhear or observe any person in a private place; or

"B. Installs or uses in a private place without consent of a person entitled to privacy therein, any device for observing, photographing, recording or broadcasting sounds or events in that place; or

"C. Installs outside a private place without consent, any device for hearing sounds that not ordinarily be audible.

"2. 'Private place' means a place where one may reasonably expect to be safe from surveillance but does not include a place to which the public or a substantial group has access." Me. Rev. Stat. Ann. tit. 17-A, sec. 511.

Massachusetts—"A person shall have a right against unreasonable, substantial or serious interference with his privacy." Courts may award damages for violations. Mass. Gen. Laws Ann. ch. 214, sec. 1B. State law explicitly recognizes the "misappropriation" right of action. Ch. 214, sec. 3A.

Montana—"Right of Privacy. The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest." Art. II, sec. 10, Mont. Constitution, 1972.

Nebraska—Since 1979, the state has recognized the traditional rights of action for invasion of privacy: intrusion, portrayal in a false light, and misappropriation of a person's image or name. One-year statute of limitations. Neb. Rev. Stat. sec. 20-201-211.

New York—First paragraph of the state's constitutional provision on privacy is identical to the Fourth Amendment of the U.S. Constitution. The second paragraph is as follows: "The right of the people to be secure against unreasonable interception of telephone and telegraph

communications shall not be violated, and ex parte orders or warrants shall issue only upon oath or affirmation of that there is reasonable ground to believe that evidence of a crime may thus be obtained, and identifying the particular means of communication, and particularly describing the person or persons whose communications are to be intercepted and the purpose thereof." Art. I, sec. 12, N.Y. Constitution, 1938.

State law recognizes the "misappropriation" tort (or "right of publicity"). N.Y. Civil Rights Law, sec. 50 (McKinney).

Oklahoma—State law recognizes the "misappropriation" right of action. Okla. Stat. Ann. tit. 21, sec. 839.1.

The right of publicity is extended to 100 years beyond the death of the individual. Tit. 12, sec. 1448-9.

Pennsylvania—Among the "inherent rights of mankind" is "acquiring, possessing and protecting property and reputation." Pa. Constitution Art. 1, sec. 1.

Rhode Island—"It is the policy of this state that every person in this state shall have a right to privacy," which includes freedom from intrusions, from appropriation of one's name or likeness, from "unreasonable publicity given to one's private life," and from "publicity that reasonably places another in a false light before the public." R.I. Gen. Laws sec. 9-1-28.1, enacted in 1980.

South Carolina—Art. 1, sec. 10, S.C. Constitution, 1970, prohibits unreasonable searches and "unreasonable invasions of privacy."

Tennessee—The right of publicity extends 10 years after the death of an individual "whether or not such rights were commercially exploited by the individual during the individual's lifetime." Tenn. Code Ann. sec. 47-25-1101 to 1108.

Texas—The right of publicity for celebrities extends beyond death. Tex. Stat. tit. IV, ch. 26, sec. 26.001.

Utah—"Offenses against privacy" law resemble Maine's. Utah Codes Ann. sec. 76-9-401. Utah recognizes the "misappropriation" tort. Sec. 76-4-8.

Virginia—By statute, the "right of publicity" is recognized. Va. Code sec. 8.01-40.

Washington—Provisions identical to Arizona's Art. I, sec. 7, Wash. Constitution, 1889, as amended.

Wisconsin—The state recognizes the right to sue for an invasion of privacy, except for a disclosure that holds you in a "false light." Wis. Stat. Ann. sec. 893.19(10) and 895.50.

Federal law—The Lanham Act on trademark registration states, "No trademark by which the goods of the application may be distinguished from the goods of others shall be refused registration on account of its nature unless it (a) consists of or comprises immoral, deceptive or scandalous matter, or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute...(c) consists of or comprises a name, portrait or signature identifying a particular living individual except by his written consent." 15 U.S.C. 1052(a). Forty-six states have similar language in their trademark laws. These provisions affect registration, but not misuse alone, of another person's name.

Note: Most states recognize the concept of a right to privacy in their common law, with the apparent exception of Minnesota, Nevada, North Dakota, and Wyoming. Only Minnesota rejects the right of privacy, either in its statutes or case law.

STATUTES AND LEGISLATION REGARDING MANDATORY SUBMISSION TO BLOOD TESTING/DATABANKING

1. ARIZONA - ARIZ. REV. STAT. ANN. 31-281 (1990);
2. CALIFORNIA - CAL. PENAL CODE 290.2 (1990);
3. COLORADO - COLO. REV. STAT. 17-2-201 (1990);
4. FLORIDA - FLA. STAT. ANN. 943.325 (1990);
5. GEORGIA - CODE of GEORGIA 24-4-60 (1992);
6. HAWAII - HAWAII REV. STAT. ANN. 706-603 (1992);
7. ILLINOIS - ILL. REV. STAT. Ch. 38-5-4-3 (1990);
8. INDIANA - IND. CODE 20-12-34.5 et. seq. (1990);
9. IOWA - IOWA CODE ANN. 13.10 (1990);
10. KANSAS - 1991 KANSAS LAWS Ch. 92 (S.B. No. 329);
11. KENTUCKY - 1992 KENTUCKY LAWS Ch. 175 (HB 631);
12. LOUISIANA - LOUISIANA REV. STAT. 15:535 (1991);
13. MICHIGAN - MICH. COMP. LAWS. ANN. 750.520m (1990) (effective 10/1/91);
14. MINNESOTA - Minn. STAT. ANN. 609.3461 (1990);
15. MINNESOTA - MINN. STAT. ANN. 299C.155 (1990);
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17. NEVADA - NEV. REV. STAT. 176.111 (1990);
18. OREGON - OREGON REV. STAT. 181.085 (1991);
19. SOUTH DAKOTA - S.D. CODIFIED LAWS. ANN. 23-5-14 et. seq. (1990);
20. TENNESSEE - TENN. CODE ANN. 38-6-113 (1991);
21. VIRGINIA - VA. CODE 19.2-310.2 (Code of 1950 as amended, 1990); and
22. WASHINGTON - Wash. Rev. Code 43.43.752 et. seq. (1990),

OFFENSES WHICH REQUIRE MANDATORY SUBMISSION OF BLOOD SAMPLES

ARIZONA - Any person convicted of a specified sexual offense (e.g., sexual abuse [felony]; sexual conduct with a minor [felony]; sexual assault [felony]; molestation of a child [felony]; crime against nature [misdemeanor]; lewd and lascivious acts [misdemeanor]; incest [felony]).

CALIFORNIA - Prior to discharge, parole, probation or release:

1. Any person who is required to register under Section 290 as a result of committing or attempting to commit a felony offense as specified in Section 290 (e.g., rape; rape or penetration with a foreign object; incest; sodomy; lewd or lascivious acts with a child under 14 years of age; oral copulation).

2. Any person who is convicted of felony murder.

3. Any person is convicted of specified felony assault and battery offense (e.g., assault on public figures; sexual battery; battery; battery against transportation personnel or passenger; battery against jurors; assault with caustic chemicals; assault with deadly weapon or force likely to produce great bodily injury).

4. Any person who was committed as a mentally disordered sex offender.

COLORADO - As a condition of parole, any offender convicted of an offense for which the factual basis involved a specific criminal sexual assault as a condition of parole (e.g., patterns of sexual abuse; sexual contact; sexual intrusion; sexual penetration).

FLORIDA - Any person convicted in this state on or after January 1, 1990, of any offense or attempted offense defined in chapter 794, relating to sexual batter, or of any offense or attempted offense under chapter 800, relating to lewd and lascivious conduct.

GEORGIA - Any person convicted of a criminal offense defined in specified sections (e.g., rape; sodomy; statutory rape; enticing a child for indecent purposes, incest; bestiality; necrophilia; sexual assault against persons in custody, detained in a hospital or other institutions) shall have a sample of his or her blood taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person.

HAWAII - After entry of a plea of guilty or no contest or return of a verdict of guilty, the court shall order a defendant who has been convicted of an offense, including attempts, under specified sections (e.g., first and second degree murder; promoting child abuse in the first degree; incest; sexual assault), to provide a sample of saliva and two samples of blood for the purpose of secretor status, blood type, and DNA analysis.

ILLINOIS - 1. Any person who is convicted of, or received a court supervision for, a specified sexual offense on or after the date of the act (July 1, 1990) (e.g., sexual relations within families; sexual abuse; criminal sexual assault; aggravated sexual abuse).

2. Any person who is ordered institutionalized as a sexually dangerous person.

3. Any person who was convicted of a sexual offense before the effective date of this act and is presently incarcerated in any State correctional facility, county jail, or is presently on probation or conditional discharge for a specified sexual offense (as noted above).

4. is presently institutionalized as a sexually dangerous person or is presently institutionalized as a person found guilty of committing or attempting to commit a sexual offense but was determined to be mentally ill.

IOWA - The Attorney General to adopt rules in consultation with the Division of Criminal Investigation, Department of Public Safety, for the purpose of classifying felonies and indictable misdemeanors which shall require offenders to submit a physical sample for the purpose of DNA profiling.

KANSAS - 1. Any felon convicted of a specified unlawful sexual act or an attempt of such an unlawful sexual act on or after the effective date of this act (April 23, 1991) (e.g., sexual intercourse; sodomy; unlawful sexual act).

2. Any felon convicted of a specified violation on or after the effective date of this act (April 23, 1991) (e.g., 1st degree murder; voluntary manslaughter; child abuse).

3. Any person ordered institutionalized as a result of being convicted of a specified unlawful sexual act or violation (as noted above) on or after the effective date of this act (April 23, 1991).

4. Any felon convicted of a specified violation before the effective date of this act (April 23, 1991) and is presently incarcerated in any state correctional facility or county jail, or is presently serving an authorized disposition.

KENTUCKY - 1. Any person who is convicted of a specified felony sexual offense on or after the date of this act (April 1, 1992) (e.g., rape; sodomy; sexual abuse; incest; indecent exposure).

2. Any person who is in the custody of the Corrections Cabinet as a result of the commission of a specified felony sexual offense (as noted above) on or after the date of this act (April 1, 1992).

LOUISIANA - Any person who is a sexual offender.

MICHIGAN - Any person convicted of a specified violation or an attempted specified violation (e.g., first degree criminal sexual conduct; second degree criminal sexual conduct; second or subsequent offenses of criminal sexual conduct; assault with a threat to commit criminal sexual conduct) unless the investigating law enforcement agency or the state police already possess a sample submitted by that person.

MINNESOTA - 1. Any person upon sentencing, who is convicted of violating or attempt to violate criminal sexual conduct in the first, second, third, or fourth degree.

2. Any person who the court sentences as a patterned sex offender which is defined as one whose criminal sexual behavior is so ingrained that the risk of reoffending is great without psychotherapeutic intervention or other long-term controls.

3. Any person who the juvenile court adjudicates for violating or attempting to violate criminal sexual conduct in the first, second, third, or fourth degree.

4. Any person who is convicted of violating or attempt to violate criminal sexual conduct in the first, second, third, or fourth degree or who the court sentences as a patterned sex offender and has not previously provided a sample must do so before release from the custody of the commissioner of corrections.

MISSOURI - 1. Any person convicted of a felony violent offense before release from, or transfer to, a state correctional facility (e.g., murder; voluntary manslaughter; involuntary manslaughter).

2. Any person convicted of a felony sex offense before release from, or transfer to, a state correctional facility (e.g., rape; sexual abuse; sodomy).

NEVADA - Any person convicted of a sexual offense (e.g., sexual assault defined as sexual penetration against a person's will or when a victim is incapable of resisting; statutory sexual assault; promotion of a sexual performance with a minor; incest; lewdness with a child).

OREGON - 1. Any person convicted of a specified sexual offense (e.g., rape; sodomy; unlawful sexual penetration; sexual abuse; public indecency; incest; using a child in a display of sexually explicit conduct).

2. Any person convicted of burglary, as defined, with intent to commit a sexual offense (as noted above).

3. Any person who is convicted of promoting or compelling prostitution, as defined.

4. Any person convicted of conspiracy or attempt to commit a felony offense as noted in 1-3 above.

SOUTH DAKOTA - 1. Any person convicted under specified provisions (e.g., rape; sexual contact with a child; incest; sexual exploitation of children; possession of child pornography) prior to July 1, 1990, and confined as a result of such a conviction on July 1, 1990, in a facility as outlined by statute, released on parole from confinement or subject to probation for such conviction.

TENNESSEE - Any person in cases of alleged or suspected violation of specific offenses (e.g., incest; rape; sexual penetration; aggravated sexual battery).

VIRGINIA - 1. Any person who is convicted of a felony on or after July 1, 1990.

2. Any person who is convicted of a specific felony offense (e.g., rape; criminal sexual assault; attempt to commit rape) and who was incarcerated on July 1, 1989.

WASHINGTON - After July 1, 1990, any person who is convicted of a felony defined as a sex offense (e.g., rape; rape of a child; child molestation; indecent liberties; sexual misconduct with a minor) or a violent offense (e.g., first and second degree manslaughter; second degree kidnapping; indecent liberties if committed by forcible compulsion; second degree arson; second degree assault; second degree robbery; vehicular manslaughter while under the influence of drugs or alcohol) as specified by statute, or any criminal attempt, solicitation, or conspiracy to commit such offenses.

8-LS0395K
Luckhaupt
2/10/93

CS FOR HOUSE BILL NO. 69()

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

**Sponsor(s): REPRESENTATIVES BARNES, Ulmer, Phillips, Nordlund, Porter, Olberg, James,
B.Davis, Green, Sanders, Toohey**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to registration of and information about sex offenders and
2 amending Alaska Rules of Criminal Procedure 11(c) and 32(b)."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

- 5 (1) sex offenders pose a high risk of reoffending after release from custody;
- 6 (2) protecting the public from sex offenders is a primary governmental interest;
- 7 (3) the privacy interests of persons convicted of sex offenses are less important
- 8 than the government's interest in public safety; and
- 9 (4) release of certain information about sex offenders to public agencies and
- 10 the general public will assist in protecting the public safety.

11 * Sec. 2. AS 11.56 is amended by adding a new section to article 5 to read:

12 Sec. 11.56.840. FAILURE TO REGISTER AS A SEX OFFENDER. (a) A
13 person who knowingly fails to register as required in AS 12.63.010 is guilty of a

- 14 (1) class A misdemeanor if the duty to register is a result of a

1 offender's fingerprints; and

2 (3) allow the Alaska state troopers to take the sex offender's
3 photograph.

4 (c) If a sex offender who is required to register under (a) of this section is
5 unable to register at an Alaska state trooper post, the sex offender may register in
6 person with the municipal police department nearest to where the sex offender resides
7 at the time of registration. The sex offender shall fulfill the requirements of (b) of this
8 section as if the sex offender were registering with an Alaska state trooper post. The
9 department shall provide forms and directions to municipal police departments to fulfill
10 this requirement.

11 (d) If a sex offender changes residence within the state after having registered
12 under (a) of this section, the sex offender shall provide written notice of the change
13 to the Alaska state trooper post located nearest to the new residence within 10 days of
14 the change.

15 (e) A sex offender required to register under (a) of this section shall annually,
16 during the term of a duty to register under AS 12.63.020, on a date set by the
17 department at the time of the sex offender's initial registration, provide written notice
18 to the department of any changes to the information initially provided under (b)(i) of
19 this section, or if there are no changes, a statement to that effect.

20 Sec. 12.63.020. TERMINATION OF SEX OFFENDER DUTY TO
21 REGISTER. (a) The duty of a sex offender to register under AS 12.63.010 ends

22 (1) 10 years following the sex offender's unconditional discharge from
23 a conviction for an unclassified, class A, or class B felony sex offense;

24 (2) five years following the sex offender's unconditional discharge from
25 a conviction for a class C felony, a class A misdemeanor, or a class B misdemeanor
26 sex offense.

27 (b) The termination date of the duty to register, as provided in (a) of this
28 section, is based on the most serious class of sex offense for which the sex offender
29 was convicted.

30 Sec. 12.63.100. DEFINITIONS. In this chapter,

31 (1) "department" means the Department of Public Safety;

1 (2) "sex offender" means a person convicted of a sex offense in this
2 state or another jurisdiction regardless of whether the conviction occurred before, after,
3 or on the effective date of this section;

4 (3) "sex offense" means a crime, or an attempt to commit a crime,
5 under AS 11.41.410 - 11.41.455 or a similar law in another jurisdiction;

6 (4) "unconditional discharge" has the meaning given in AS 12.55.185.

7 * Sec. 5. AS 18.65 is amended by adding a new section to read:

8 Sec. 18.65.087. CENTRAL REGISTRY OF SEX OFFENDERS. (a) The
9 Department of Public Safety shall maintain a central registry of sex offenders required
10 to register under AS 12.63.010 and shall adopt regulations necessary to carry out the
11 purposes of this section and AS 12.63. A post of the Alaska state troopers or a
12 municipal police department that receives information and fingerprints under
13 AS 12.63.010 shall forward the information and fingerprints within five working days
14 of receipt to the central registry of sex offenders.

15 (b) Information about a sex offender that is contained in the central registry,
16 including sets of fingerprints, is confidential and not subject to public disclosure except
17 as to the sex offender's name, address, place of employment, date of birth, crime for
18 which convicted, date of conviction, place and court of conviction, and length of
19 sentence.

20 (c) The Department of Public Safety

21 (1) shall adopt regulations to allow a sex offender to review sex
22 offender registration information that refers to that sex offender, and if the sex offender
23 believes the information is inaccurate or incomplete, to request the department to
24 correct the information, except that if a sex offender challenges information related to
25 a conviction or records of convictions the sex offender shall seek correction of the
26 information under AS 12.62.030;

27 (2) may adopt regulations to establish fees to be charged for registration
28 under AS 12.63.010 and for information requests.

29 * Sec. 6. AS 28.05 is amended by adding a new section to read:

30 Sec. 28.05.048. SEX OFFENDER REGISTRATION. The department shall
31 display notice of the registration requirements of AS 12.63.010 at a place where the

1 public may apply for a driver's license, identification card, or vehicle registration.

2 * Sec. 7. AS 33.30 is amended by adding a new section to read:

3 Sec. 33.30.012. NOTICE OF RELEASE, PAROLE, COMMUNITY
4 PLACEMENT, WORK RELEASE PLACEMENT, FURLOUGH, OR ESCAPE OF
5 SEX OFFENDER. (a) At the earliest possible date, and in no event later than 10
6 days before release, the commissioner shall send written notice of release, parole,
7 community placement, work release placement, or furlough of a specific inmate
8 convicted of a sex offense to:

9 (1) the chief of police of the community, if any, in which the inmate
10 will reside; and

11 (2) the Alaska state trooper post located nearest to where the inmate
12 will reside.

13 (b) If an inmate convicted of a sex offense escapes from a correctional facility,
14 the commissioner shall immediately notify the chief of police of the community and
15 Alaska state trooper post located closest to where the inmate resided immediately
16 before the inmate's arrest and conviction.

17 * Sec. 8. AS 33.30 is amended by adding a new section to read:

18 Sec. 33.30.035. NOTICE TO SEX OFFENDERS OF REGISTRATION
19 REQUIREMENT. The department shall provide written notice to a sex offender of
20 the registration requirements of AS 12.63.010, and shall obtain a signed
21 acknowledgement of receipt of notice from the sex offender

22 (1) at the time of the sex offender's release from a state correctional
23 facility;

24 (2) immediately after taking supervision of a sex offender under the
25 Interstate Corrections Compact or AS 33.36.110.

26 * Sec. 9. AS 33.30.901 is amended by adding a new paragraph to read:

27 (14) "sex offender" has the meaning given in AS 12.63.100.

28 * Sec. 10. Alaska Rule of Criminal Procedure 11(c) is amended to read:

29 (c) PLEAS OF GUILTY OR NOLO CONTENDERE. The court shall not
30 accept a plea of guilty or nolo contendere from a defendant without first addressing
31 the defendant personally and

1 (1) determining that the defendant [HE] understands the nature of the
2 charge; and

3 (2) informing the defendant [HIM] that by the [HIS] plea of guilty or
4 nolo contendere the defendant [HE] waives the [HIS] right to trial by jury or trial by
5 a judge and the right to be confronted with the witnesses against the defendant
6 [HIM]; [AND]

7 (3) informing the defendant [HIM]:

8 (i) of the mandatory minimum punishment, if any, and
9 the maximum possible punishment provided by the statute defining the
10 offense to which the plea is offered, and

11 (ii) that the defendant has the right to plead not guilty
12 or to persist in that plea if it has already been made, or to plead guilty;
13 and

14 (4) if the defendant is charged with a sex offense as defined in
15 AS 12.63.100, informing the defendant in writing of the registration requirement
16 under AS 12.63.010.

17 * Sec. 11. The provisions of AS 12.55.148, added by sec. 3 of this Act, have the effect of
18 changing Alaska Rule of Criminal Procedure 32(b) by adding a requirement that a judgment
19 containing notification of the duty to register under AS 12.63.010 be provided to a defendant
20 convicted of a sex offense.

21 * Sec. 12. APPLICABILITY. A sex offender whose most recent conviction for a sex
22 offense occurred before the effective date of this Act and whose duty to register has not
23 terminated under AS 12.63.020, added by sec. 4 of this Act, before January 1, 1994, shall
24 register under AS 12.63.010, added by sec. 4 of this Act, before January 1, 1994. In this
25 section, "sex offender" and "sex offense" have the meanings given by AS 12.63.100, added
26 by sec. 4 of this Act.

27 * Sec. 13. AS 12.55.148, added by sec. 3 of this Act, takes effect only if sec. 11 of this
28 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
29 Constitution of the State of Alaska.

2/9/93

Suggested amendment for CSHB 69(STA):

page 2, line 26 amended to read:

(c) If a sex offender that is required to register under (a) of this section (resides more than 50 miles from) is unable to register at an Alaska state trooper post, the sex offender may register in person with (a) the municipal police department located nearest to where the sex offender resides at the time of registration.

page 3, line 30 is amended to read:

Sec. 18.65.087. CENTRAL REGISTRY OF SEX OFFENDERS. (a) The (Alaska state troopers) Department of Public Safety shall maintain a central registry of sex offenders required to register under AS 12.63.010 and shall adopt regulations necessary to carry out the..."

Bill No. HB 69

Date: February 9, 1993

Contact: Joanne F. Lopez
Executive Dir.
465-4356

Title: "An act relating to registration of and information about sex offenders and amending Alaska Rules of Criminal Procedure 11 (c) and 32 (b)."

The Council on Domestic Violence and Sexual Assault supports HB 69 and believes that the registration of sex offenders is a measure that will deter, if not prevent, future abuses of women and children. HB 69 would provide the victims of sex crimes a greater degree of information as to the status and whereabouts of offenders, thereby giving a greater measure of protection.

Many sex offenders are released from prison without completing sex offender treatment, and the likelihood of recidivism is high. When a discharged sex offender repeats the crime, the cost to society to investigate, prosecute, and incarcerate the offender, as well as to assess and treat the victim is high. Even a minimal reduction in the number of assaults against women and children will save both human suffering and costs to society.

Willie Kinnebrew by JTA
Willie Kinnebrew, Acting Chair
Council on Domestic Violence and
Sexual Assault

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HB 69

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act relating to registration of sex offenders." BRU: Alaska State Troopers
 Sponsor: Representative Barnes Component: Criminal Investigation Bureau
 Requestor: Representative Barnes COMPONENT SERIAL NO. 830

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	38.5	38.5	38.5	38.5	38.5	38.5
TRAVEL						
CONTRACTUAL	36.1	2.1	2.1	2.1	2.1	2.1
SUPPLIES	2.6	2.6	2.6	2.6	2.6	2.6
EQUIPMENT	11.8					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	89.0	43.2	43.2	43.2	43.2	43.2

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
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FINDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	58.0	32.2	32.2	32.2	32.2	32.2
1005 GF/Program Receipts	31.0	11.0	11.0	11.0	11.0	11.0
1006 GF/MHTIA						
Other						
TOTAL	89.0	43.2	43.2	43.2	43.2	43.2

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)
See attached analysis.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 1/28/93
 Approved by Commissioner: *Richard L. Burton* Date: 2/1/93
 Agency: Richard L. Burton, Dept. of Public Safety

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HB 69 establishes a sex offender registry within the Department of Public Safety. The bill requires State Troopers to take the photographs and fingerprints of sexual offenders and to maintain a central repository of sex offender information.

The Criminal Investigation Bureau (CIB), Sex Crimes Unit, estimates that there are approximately 300 persons convicted of sex crimes annually. This is supported by data provided by the Department of Corrections, indicating that over the past eight years the average of new inmates sentenced for sex crimes is 231 per year. The majority of these offenders are sentenced to serve at least some time in prison, and would be subject to registration upon release from a correctional facility. The Department of Corrections estimates that approximately 50 sex offenders per year are released from custody, with another approximately 30 sex offenders a year transferring to Alaska under the Interstate Compact. Adding to those convicted offenders who are not incarcerated, the Department estimates that between 150 - 200 offenders a year will have to register.

Although the bill does not specifically state, the Department is assuming that the bill will be applied retroactively to all convicted sex offenders who meet the terms of the bill and who are present in Alaska at the time the bill becomes law. It is difficult to estimate the number of such offenders, but estimates from the Department of Corrections and the Department of Law indicate that around 1,000 offenders would have to register immediately after the bill becomes law.

Because failure to register is a crime, it is essential that there be some notice to the public of the registration requirements if this bill is adopted. First year costs include \$10,000 in contractual costs to pay for posters required under Section 6 of the bill and for a handful of notices to be placed in newspapers around the state.

With some programming additions and data storage expansion, the DPS Information Systems section anticipates that the Alaska Public Safety Information Network (APSIN) can be adapted to meet the "Central Repository" requirements of this legislation. This will involve creating a new subsystem in APSIN which can take advantage of information already available on convicted offenders. The collection of fingerprints will become part of the Alaska Automated Fingerprint Identification System (AAFIS) and APSIN. Information on these sex offenders will then be available to Criminal Justice Terminals throughout the state who are authorized to receive such information. Special applications will be developed to supply the public information authorized, yet retain confidential data. The cost of designing, coding, testing, installing, and documenting this application will cost \$4,000. Permanent disk usage will cost \$1,000 for the first year and every year thereafter. This will handle an initial database of approximately 1000 offenders, and is capable of expanding yearly by an additional 300 offenders.

To deal with the additional tasks necessary to implement this legislation, including data entry for new felons added to the system (which will involve updating APSIN with release, probation and escape information), entry and dissemination of information, and the processing of the fingerprint cards generated through the registration requirement, a Clerk IV position is needed in the Sex Crimes Unit of the Criminal Investigation Bureau.

This position will provide a point of contact for all information regarding the registration of convicted sex offenders for all state and local law enforcement agencies. This will involve interaction with the Department of Corrections, Alaska Court System, and local law enforcement agencies. This position will also respond to all requests for information from the public.

HB 69 calls for all AST posts to be available to take sex offenders' fingerprints and photographs. Since not all AST posts are currently equipped with adequate cameras, this requirement will necessitate some purchases of new cameras (\$2,500) to assure sufficient photograph quality. Ongoing costs for fingerprint cards are included with the supplies requirements for the Clerk IV.

A significant number of offenders live in bush areas. It is highly unlikely that they would voluntarily travel to locations outside their villages to register. This fiscal note does anticipate actively pursuing registration of these individuals due to the high cost.

The following is a summary of the costs that are anticipated to be incurred during the first year of operations under this legislation:

	Equipment & Public Notice	Computer Programming	Clerk IV	TOTAL
Personal Services	\$ 0.0	\$ 0.0	\$ 38.5	\$ 38.5
Contractual	10.0	24.0	2.1	36.1
Supplies	0.0	0.0	2.6	2.6
Equipment	<u>11.8</u>	<u>0.0</u>	<u>0.0</u>	<u>11.8</u>
TOTAL	\$ 21.8	\$24.0	\$ 43.2	\$ 89.0

Costs not included after the first year in operation are the equipment costs (\$11.8), costs of public notice (\$10.0), and the initial programming effort and storage space expansion (\$24.0).

PERSONAL SERVICES:

Salary - Clerk IV - Range 9, Step A, including 120 hours of overtime	25,810	
Benefits	<u>12,666</u>	
Total Personal Services		38,476

CONTRACTUAL:

Printing of posters and public notices	10,000	
Telephone and postage: \$50 per month	600	
Repair and maintenance on microcomputer	500	
Contracted programming and data storage space	<u>25,000</u>	
Total Contractual		36,100

SUPPLIES & MATERIALS:

Film	500	
Registration forms	1,000	
Stationery, copy machine paper, etc.	<u>1,100</u>	
Total Supplies & Materials		2,600

EQUIPMENT:

Desk	500	
Chair	225	
Computer table	600	
Cameras 35 mm (x 10)	2,500	
Microcomputer with printer	<u>8,000</u>	
Total Equipment		<u>11,825</u>
TOTAL COST		89,001

This bill authorizes the Department of Public Safety to adopt fees to implement this program. It is very difficult to estimate the revenue that would be generated by these fees. If offenders were to be charged \$20.00 each for initial registration, and persons seeking information from the central registry are charged a fee of \$5.00, the revenue that would be raised is estimated as follows:

FY93	1,250	offenders		1,200	inquiries
	X <u>20</u>	fee	X	<u>5</u>	
	25,000			6,000	
FY94	250	offenders		1,200	inquiries
	X <u>20</u>	fee	X	<u>5</u>	
	5,000			6,000	

Position Title Clerk IV		Number of Positions 1	Range/Step 9/A	Bargaining Unit ASEA
Time Status PFT	Staff Months 12	Location Anchorage (statewide)	Election District 99	
Type of Expenditure		Justification		
Amount		This position will be responsible for updating APSIN (Alaska Public Safety Information Network) with release, probation, and escape information; entry and dissemination of the information and the processing of the fingerprint cards generated through the registration requirement. Tasks associated with the fingerprint card processing are monitoring receipt of the anticipated cards, reviewing the cards for accuracy and completeness, preparing the cards for AAFIS (Alaska Automated Fingerprint Identification System) processing and maintaining the fingerprint file.		
1	2	3		
Salary*	25.8			
Benefits*	12.7			
Premium Pay (Included in Above)				
Other				
Total Personal Services		38.5		
Travel				
Contractual		2.1		
Commodities		2.6		
Equipment				
Other				
Total Cost		43.2	The position will act as the point of contact for all information regarding the registration of convicted sex offenders for all the state and local law enforcement agencies. This individual will file all information and photographs after receiving them from the trooper posts. Additionally, this will involve interaction with the Department of Corrections, the Department of Health and Social Services, and the Alaska Court System.	
Funding Source For Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	43.2		
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1001			
Other				
* Personal Services Salary and Benefits Costs are from PACS calculations.				

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety

BRU Alaska State Troopers

COMPONENT Criminal Investigation Bureau

FY 94

Page 5 of 5

Revised Date

(1792) POSITION.NEW

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: CSHB 69(STA)

Revision Date: 2/10/93 Dept. Affected: Public Safety
 Title: "An Act relating to registration of sex offenders." BRU: Alaska State Troopers
 Sponsor: Representative Parnes Component: Criminal Investigation Bureau
 Requestor: Representative Parnes COMPONENT SERIAL NO. 830

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	38.5	38.5	38.5	38.5	38.5	38.5
TRAVEL						
CONTRACTUAL	36.1	2.1	2.1	2.1	2.1	2.1
SUPPLIES	2.6	2.6	2.6	2.6	2.6	2.6
EQUIPMENT	9.3					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	86.5	43.2	43.2	43.2	43.2	43.2
CAPITAL						

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	55.5	32.2	32.2	32.2	32.2	32.2
1005 GF/Program Receipts	31.0	11.0	11.0	11.0	11.0	11.0
1006 GF/MHTIA						
Other						
TOTAL	86.5	43.2	43.2	43.2	43.2	43.2

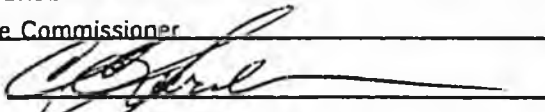
POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: C.E. Swackhammer Phone: 465-4322
 Division: Office of the Commissioner Date: 2/10/93
 Approved by Commissioner:  Date: 2/10/93
 Agency: Richard L. Burton, Dept. of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor' Legislative Office

CSHB 69(STA) establishes a sex offender registry within the Department of Public Safety. The bill requires State Troopers to take the photographs and fingerprints of sexual offenders and to maintain a central repository of sex offender information.

The Criminal Investigation Bureau (CIB), Sex Crimes Unit, estimates that there are approximately 300 persons convicted of sex crimes annually. This is supported by data provided by the Department of Corrections, indicating that over the past eight years the average of new inmates sentenced for sex crimes is 231 per year. The majority of these offenders are sentenced to serve at least some time in prison, and would be subject to registration upon release from a correctional facility. The Department of Corrections estimates that approximately 50 sex offenders per year are released from custody, with another approximately 30 sex offenders a year transferring to Alaska under the Interstate Compact. Adding to those convicted offenders who are not incarcerated, the Department estimates that between 150 - 200 offenders a year will have to register.

Although the bill does not specifically state, the Department is assuming that the bill will be applied retroactively to all convicted sex offenders who meet the terms of the bill and who are present in Alaska at the time the bill becomes law. It is difficult to estimate the number of such offenders, but estimates from the Department of Corrections and the Department of Law indicate that around 1,000 offenders would have to register immediately after the bill becomes law.

Because failure to register is a crime, it is essential that there be some notice to the public of the registration requirements if this bill is adopted. First year costs include \$10,000 in contractual costs to pay for posters required under Section 6 of the bill and for a handful of notices to be placed in newspapers around the state.

With some programming additions and data storage expansion, the DPS Information Systems section anticipates that the Alaska Public Safety Information Network (APSIN) can be adapted to meet the "Central Repository" requirements of this legislation. This will involve creating a new subsystem in APSIN which can take advantage of information already available on convicted offenders. The collection of fingerprints will become part of the Alaska Automated Fingerprint Identification System (AAFIS) and APSIN. Information on these sex offenders will then be available to Criminal Justice Terminals throughout the state who are authorized to receive such information. Special applications will be developed to supply the public information authorized, yet retain confidential data. The cost of designing, coding, testing, installing, and documenting this application will cost \$4,000. Permanent disk usage will cost \$1,000 for the first year and every year thereafter. This will handle an initial database of approximately 1000 offenders, and is capable of expanding yearly by an additional 300 offenders.

To deal with the additional tasks necessary to implement this legislation, including data entry for new felons added to the system (which will involve updating APSIN with release, probation and escape information), entry and dissemination of information, and the processing of the fingerprint cards generated through the registration requirement, a Clerk IV position is needed in the Sex Crimes Unit of the Criminal Investigation Bureau.

This position will provide a point of contact for all information regarding the registration of convicted sex offenders for all state and local law enforcement agencies. This will involve interaction with the Department of Corrections, Alaska Court System, and local law enforcement agencies. This position will also respond to all requests for information from the public.

CSHB 69(STA) calls for all AST posts to be available to take sex offenders' fingerprints and photographs. Ongoing costs for fingerprint cards are included with the supplies requirements for the Clerk IV.

A significant number of offenders live in bush areas. It is highly unlikely that they would voluntarily travel to locations outside their villages to register. This fiscal note does anticipate actively pursuing registration of these individuals due to the high cost.

The following is a summary of the costs that are anticipated to be incurred during the first year of operations under this legislation:

	Equipment & Public Notice	Computer Programming	Clerk IV	TOTAL
Personal Services	\$ 0.0	\$ 0.0	\$ 38.5	\$ 38.5
Contractual	10.0	24.0	2.1	36.1
Supplies	0.0	0.0	2.6	2.6
Equipment	<u>9.3</u>	<u>0.0</u>	<u>0.0</u>	<u>9.3</u>
TOTAL	\$ 19.3	\$24.0	\$ 43.2	\$ 86.5

Costs not included after the first year in operation are the equipment costs (\$9.3), costs of public notice (\$10.0), and the initial programming effort and storage space expansion (\$24.0).

PERSONAL SERVICES:

Salary - Clerk IV - Range 9, Step A, including 120 hours of overtime	25,810	
Benefits	<u>12,666</u>	
Total Personal Services		38,476

CONTRACTUAL:

Printing of posters and public notices	10,000	
Telephone and postage: \$50 per month	600	
Repair and maintenance on microcomputer	500	
Contracted programming and data storage space	<u>25,000</u>	
Total Contractual		36,100

SUPPLIES & MATERIALS:

Film	500	
Registration forms	1,000	
Stationery, copy machine paper, etc.	<u>1,100</u>	
Total Supplies & Materials		2,600

EQUIPMENT:

Desk	500	
Chair	225	
Computer table	600	
Microcomputer with printer	<u>8,000</u>	
Total Equipment		<u>9,325</u>
TOTAL COST		86,501

This bill authorizes the Department of Public Safety to adopt fees to implement this program. It is very difficult to estimate the revenue that would be generated by these fees. If offenders were to be charged \$20.00 each for initial registration, and persons seeking information from the central registry are charged a fee of \$5.00, the revenue that would be raised is estimated as follows:

FY93	1,250	offenders		1,200	inquiries
	X <u>20</u>	fee	X	<u>5</u>	
	25,000			6,000	
FY94	250	offenders		1,200	inquiries
	X <u>20</u>	fee	X	<u>5</u>	
	5,000			6,000	

Position Title Clark IV		Number of Positions 1	Range/Step 9/A	Bargaining Unit ASEA
Time Status PFT	Staff Months 12	Location Anchorage (statewide)	Election District 99	
Type of Expenditure		Amount		
1	2	3		
Salary*	25.8			
Benefits*	12.7			
Premium Pay (Included in Above)				
Other				
Total Personal Services		38.5		
Travel				
Contractual		2.1		
Commodities		2.6		
Equipment				
Other				
Total Cost		43.2		
Funding Source For Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	43.2		
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS calculations.				

Justification
This position will be responsible for updating APSIN (Alaska Public Safety Information Network) with release, probation, and escape information; entry and dissemination of the information and the processing of the fingerprint cards generated through the registration requirement. Tasks associated with the fingerprint card processing are monitoring receipt of the anticipated cards, reviewing the cards for accuracy and completeness, preparing the cards for AAFIS (Alaska Automated Fingerprint Identification System) processing and maintaining the fingerprint file.

The position will act as the point of contact for all information regarding the registration of convicted sex offenders for all the state and local law enforcement agencies. This individual will file all information and photographs after receiving them from the trooper posts. Additionally, this will involve interaction with the Department of Corrections, the Department of Health and Social Services, and the Alaska Court System.

**REQUEST FOR
NEW POSITION**

AGENCY Department of Public Safety
BRU Alaska State Troopers
COMPONENT Criminal Investigation Bureau

FY 94

Page **5** of **5**
Revised Date _____

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HB 69

Revision Date: 2/8/93 Dept. Affected: Public Safety
 Title: "An Act relating to registration of sex offenders..." BRU: Alaska State Troopers
 Component: Criminal Investigation Bureau
 Sponsor: Representative Barnes
 Requestor: Representative Barnes COMPONENT SERIAL NO. 830

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	38.5	38.5	38.5	38.5	38.5	38.5
TRAVEL						
CONTRACTUAL	36.1	2.1	2.1	2.1	2.1	2.1
SUPPLIES	2.6	2.6	2.6	2.6	2.6	2.6
EQUIPMENT	9.3					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	86.5	43.2	43.2	43.2	43.2	43.2

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	55.5	32.2	32.2	32.2	32.2	32.2
1005 GF/Program Receipts	31.0	11.0	11.0	11.0	11.0	11.0
1006 GF/MHTIA						
Other						
TOTAL	86.5	43.2	43.2	43.2	43.2	43.2

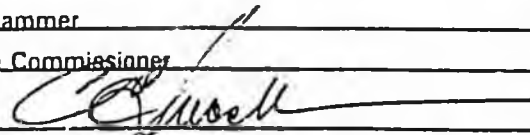
POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: C.E. Swackhammer Phone: 465-4322
 Division: Office of the Commissioner Date: 2/8/93
 Approved by Commissioner:  Date: 2/8/93
 Agency: Richard J. Burton, Dept. of Public Safety

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1	2	3		
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Commodities		2.6		
Equipment				
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Funding Source For Total Cost				
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REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
BRU Alaska State Troopers
COMPONENT Criminal Investigation Bureau

FY 94

Page 5 of 5
Revised Date

Alaska State Legislature



Official Business

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720

MEMORANDUM

TO: Representative Brian Porter, Chair
House judiciary Committee

FROM: Representative Ramona L. Barnes *Ramona L. Barnes*
Speaker of the House

SUBJECT: Scheduling of HB 69, "An Act relating to registration of and information about sex offenders and amending Alaska Rules of Criminal Procedure 11(c) and 32(b)."

DATE: February 2, 1993

This memo is a request to schedule HB 69 for hearing before the House Judiciary Committee on Wednesday February 10, 1993 pending notification of passage out of the House State Affairs Committee.

HB 69 requires all persons who are present in Alaska and have been convicted of sex crimes in Alaska or any other state to register with the Alaska State Troopers and, for a period of years, to provide the Troopers with updated information including their places of residence and employment.

Of the information provided, the name, address, place of employment, date of birth, crime for which convicted and date of conviction would be subject to public disclosure. While technically much of this information is already available, as a practical matter it is extremely difficult to obtain. This is particularly disturbing in light of the fact that a recent report from STAR in Anchorage indicates that Alaska has the highest incidence of child abuse in the nation as well as the second highest incidence of sexual assault.


By improving the access to information regarding sex offenders that reside in Alaska, HB 69 will better enable employers, volunteer coordinators and others to effectively screen those who may work around children or in any other position where people may be vulnerable.

By requiring sex offenders to keep the State Troopers informed as to their whereabouts, HB 69 will enable law enforcement personnel to keep better track of them. This is important because not only do sex offenders tend to have multiple victims, but they also frequently repeat their crimes even after serving time in prison. By being required to register, sex offenders may not only be less likely to commit such crimes again but, if they do, law enforcement personnel will have a better chance of identifying them as well as a better idea of where to find them.

Thank you for the prompt scheduling of HB 69.

MEMORANDUM

TO: Representative Ramona Barnes

FROM: Douglas A. Wooliver 
Staff Attorney

SUBJECT: Sectional Analysis of HB 69 (Sex Offender
Registration)

DATE: January 18, 1993

This is the sectional analysis of HB 69 that you requested.

Sec. 1 lists the legislative findings.

Sec. 2 amends AS 11.41 (relating to criminal law) by adding a new section making it a class B misdemeanor for a covered person to knowingly fail to register as a sex offender.

Sec. 3 adds a new section directing the Alaska courts to include in the written judgement of a convicted sex offender the registration requirements.

Sec. 4 amends AS 12 (relating to criminal procedure) to add a new chapter (63) which will read; REGISTRATION OF SEX OFFENDERS.

Section 12.63.010 (a) lists the time requirements for registration; basically 30 days for a person convicted in Alaska and 45 days for a person coming in from outside.

Subsection (b) lists the information to be included in the registration, including name, address, place of employment, date of birth, crime for which convicted, date, place and court of conviction, all aliases used and Alaska driver's license number. This section also requires in-person registration at the nearest Alaska State Trooper post.

Subsection (c) requires the registrant to notify the Alaska State Troopers of any address change.

Section 12.63.020 (a) and (b) provide for the termination of the duty to register; 10 years following an unclassified, class A or B felony and 5 years following a class C felony or a class A or B misdemeanor sex offense.

Section 12.63.100 defines the terms.

Sec. 5 amends AS 18.65 (relating to health and safety) by adding a new section (.087) which reads; CENTRAL REGISTRY OF SEX OFFENDERS.

Subsection (a) directs the Alaska State Troopers to maintain a central registry of sex offenders required to register.

Subsection (b) describes the information about the sex offender that can be released to the public. This information is limited to his/her name, address, place of employment, date of birth, crime for which convicted, date of conviction, place and court of conviction and length of sentence. All other information is confidential.

Subsection (c) authorizes the Department of Public Safety to adopt fees for the registration itself as well as the costs of any requests for information.

Sec. 6 directs the Department of Public Safety to display registration requirements at a place where the public may apply for a driver's license.

Sec. 7 amends AS 33.30 (relating to probation, prisons and prisoners) by adding section 33.30.012 which reads; NOTICE OF RELEASE, PAROLE, COMMUNITY PLACEMENT, WORK RELEASE PLACEMENT, FURLOUGH, OR ESCAPE OF SEX OFFENDER.

Subsection (a) lists the law enforcement personnel who are to be notified when a sex offender is out of custody for any reason. Notice is to be at least 10 days prior to release and in writing.

Subsection (b) lays out the notice requirements established to respond to escaped sex offenders.

Sec. 3 amends AS 33.30 by adding section 33.30.035 which reads; NOTICE TO SEX OFFENDERS OF REGISTRATION REQUIREMENT. This section establishes the notice that is required to be given to sex offenders upon their release from prison or upon their arrival in the state.

Sec. 9 amends the definition section found at 33.30.901 to include a definition of "sex offender".

Sec. 10 amends Alaska Rule of Civil Procedure 11(c) to prohibit the court from accepting a plea of nolo contendere without adequately assuring that the defendant knows the consequences. This section also requires that a defendant charged with a sex offense is informed in writing about the registration requirements.

Sec. 11 requires that a judgment containing notification of the registration requirements be provided to anyone convicted of a sex offense.

Sec. 12 makes this act retroactive to cover any sex offender whose duty to register has not terminated under AS 12.63.020, added by sec. 4.

Sec. 13 recognizes the Alaska Constitutional requirement of a 2/3 majority to enact sections 3 and 11 which change the Alaska Rules of Civil Procedure.

HOUSE COMMITTEE REPORT

(7)

Date Referred. January 15, 1993

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2-6-93

The STATE AFFAIRS Committee considered:

HB 69

HOUSE BILL NO. 69

SEX OFFENDER REGISTRATION

"An Act relating to registration of and information about sex offenders and amending Alaska Rules of Criminal Procedure 11(c) and 32(b)."

RECOMMENDATIONS:

be replaced with CS HB 69 the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>	X				
<i>[Signature]</i>	✓				

[Signature]
 CHAIRMAN'S SIGNATURE

Alaska Association Chiefs of Police



January 25, 1993

RECEIVED

JAN 29 1993

Representative Ramona Barnes
Speaker of the House
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Barnes:

I am writing to express the support of the Alaska Association of Chiefs of Police for House Bill 69. We support the concept of identifying and registering sex offenders for some period of time once they have been discharged from any conviction for a sex offense under AS11.41.410 - 11.41.455.

Probation, after discharge from a criminal conviction is normally an acceptable tool in monitoring a person's behavior. Sex offenders, however, pose a higher risk of re-offending and are a greater threat to public safety after release. Registering sex offenders and providing that information to public agencies in the offender's community will undoubtedly provide greater protection for the public.

If we can be of any assistance in the passage of your bill please let me know.

Very truly yours,

A handwritten signature in cursive script, which appears to read "Ronald L. Otte", is written over a horizontal line.

Ronald L. Otte
President

RLO/lp

**MISSIN
EXPLODR** 
**MISSING &
EXPLOITED**
CHILDREN

2101 Wilson Boulevard • Suite 580 • Arlington, VA • 22201-3062

Telephone: 703/235-3900

Facsimile: 703/235-4007

**THE CONSTITUTIONALITY OF STATUTES REQUIRING CONVICTED
SEX OFFENDERS TO REGISTER WITH LAW ENFORCEMENT**

As of December 1992, twenty-two states had passed legislation requiring persons convicted of certain crimes and/or certain enumerated sex offenses to register with the local and state police. The person required to register must usually provide his name and address within one week of arriving in the jurisdiction.¹ With the exception of three cases, one involving no children and a misdemeanor charge, another involving a prior statutory rape charge which invoked registration, and one involving a legislative oversight in drafting the statute, all challenges to these state laws have been upheld. For example:

Recently in Arizona v. Lammie, 793 P.2d 134 (Arizona 1990) the state Court of Appeals upheld the state statute requiring convicted sex offenders to register despite the fact that the defendant's conviction was for an attempted sexual assault, an offense not specifically mentioned in the registration statute. In Lammie the defendant confessed to sexually assaulting a mother and her 17 year old daughter after having gained access to their home at knife point. However, the defendant was convicted of the lesser included offense of attempted sexual assault due to a plea bargain. In upholding the statute the Court found that lifetime registration was not unduly harsh punishment and was not "cruel and unusual punishment" prohibited by the Eighth Amendment. "Registration for lifetime places a defendant on notice that when subsequent sexual crimes are committed in the area where he lives, he may well be subject to investigation. This may well have a prophylactic effect, deterring him from future sexual crimes. Furthermore it is a proper tool to be given to police officers for use in investigating criminal offenses." Id., at 139-140.

One year later the Arizona Court again addressed a constitutional challenge to registration. In State v. McClain, 808 P.2d 332 (Ariz.App.1991) the court upheld the statute even though it was applied retroactively to a defendant who plead guilty to two felony counts of engaging in sexual conduct with his minor daughter. He was sentenced to a term of imprisonment on one count and placed on probation for the second. A condition of the probation was that he register as a sex offender. The registration statute had been enacted after his illegal conduct. The court

¹ Ala. Code § 13A-11-200 to 13A-11-203; Ariz. Rev. Stat. Ann. § 13-3821 to 13-3824; Ark. Stat. Ann. § 12-12-901 to 12-12-909; Cal. Penal Code § 290 and 290.2; Col. Rev. Stat. § 18-3-412.5; Fla. Stat. Ann. § 775.13; La. Rev. Stat. Ann. Tit. 15 § 540; Ill. Rev. Stat. ch. 38, para. 221 to 230; Me. Rev. Stat. Ann. Title 34A § 11001; Minn. Stat. § 243.166; Mont. Code Ann. § 46-18-294 and § 46-23-501 to 507; Nev. Rev. Stat. § 207.151 to 207.157; N.H. Rev. Stat. Ann. § 213:1; N.D. Cent. Code § 12.1-20-18 et seq. (adult victim), & § 12.1-32-15 (child victim); Ohio Rev. Code Ann. § 2950.01 to 2950.08; Okla. Stat. ch. 8B § 581 to 587; Ore. Stat. § 181.518 to 181.519; R.I. Gen. Laws § 11-37-15; Tenn. Code Ann. § 38-6-110; Tex. Penal Code Ann. Title 110A Art. 6252-13c.1; Utah Code Ann. § 27-21.5; Wash. Rev. Code, §§ 9A.44.130 & 9A.44.140.



sexual conduct with his minor daughter. He was sentenced to a term of imprisonment on one count and placed on probation for the second. A condition of the probation was that he register as a sex offender. The registration statute had been enacted after his illegal conduct. The court ruled that the statute was regulatory in nature not penal and served a legitimate government purpose by providing assistance to law enforcement officials in investigating sexual offenses. In addition, the court concluded the statute did not affirmatively inhibit or restrain an offender's movement or activities and therefore was not punitive.

In Illinois v. Taylor, 561 NE 2d 393 (Ill. App.4 Dist. 1990) an Illinois Appellate Court upheld a lower court's certification of a defendant as a habitual child sex offender several months after sentencing. The defendant had challenged the law arguing that (1) the trial court lost jurisdiction 30 days after sentencing and (2) he was not advised of the certification provision prior to pleading guilty. In upholding this defendant's certification as a habitual child sex offender, the Appellate Court held that such certification was an administrative court function over which the court does not lose jurisdiction. The certification is not punishment and therefore is not part of the sentencing procedure. The Act requiring registration is for the protection of the general public from those prone to sex offenses against children. Id.

In another Illinois case, Illinois v. Adams, 555 NE 2d 761 (Ill. App.2 Dist. 1990) the defendant appealed the order of the Circuit Court finding him to be a habitual child sex offender and subject to the registration requirement. The Court held that (1) registration was not punishment for Eighth Amendment purposes, (2) that even if it were considered punishment, it was not "cruel and unusual" punishment and (3) the registration requirement for sex offenders under the act did not violate due process or equal protection. If the statute under consideration affects a fundamental right or discriminates against a suspect class, legislation will be subjected to a strict scrutiny analysis; however where neither is involved, the proper standard for judging the statute's validity is a rational basis test. Here the registration requirement did not affect any fundamental right, nor did it implicate any right of privacy since it mandated confidentiality. The Court also stated it failed to see how the registration requirement affected the defendant's right to travel or any other fundamental right. Id., at 768.

The Court also found no equal protection problems. The legislative purpose of enacting this Act in Illinois was to protect children from sex offenders and aid law enforcement. The registration of habitual child sex offenders is rationally related to the legitimate purpose of protecting children and in so doing keep local police authorities abreast of potential threats to children of a particular community which might be posed by the presence of a child sex offender.

These two cases are distinguishable from Illinois v. Rogers, 555 NE 2d 53 (Ill. App.2 Dist. 1990) where the Circuit Court, after certifying the defendant as a habitual child sex offender, was overruled by the Appellate Court which held that defendant did not fall within the registration act. The defendant's prior act which would have brought him under the statute was a charge of contributing to the delinquency of a child which was based on an allegation that he had sexual intercourse with a 15-year old girl when he was 17 years old. The Appellate Court held that the earlier conviction under the 1984 statute which was no longer the law and which

NCMBC January, 1993

was a misdemeanor did not qualify defendant to be included as a Habitual Child Sex Offender.

Several decisions have been rendered in California which have also upheld the validity of its sex offender registration statute. In People v. Mills, 146 Cal.Rptr. 411 (1978) the Court upheld the statute requiring registration of enumerated sex offenders. The Court found that the statute was not unconstitutional as cruel and unusual punishment, that it did not violate the equal protection clause and that neither the defendant's right to privacy nor his right to travel were impeded. Mills held that the requirement to register was not disproportionate to the offense committed. "Registration - viewed apart from the crime committed by Mills - is not by any stretch of reason or common experience to be placed in a category of severity with the imposition of the death penalty, or a prison term for petty theft or for acts subsequently declared noncriminal by the Legislature." Mills, at 415. Contrary to other cases that have found no interference with the defendant's right to travel or his right to privacy upon registration, the Mills Court did find a deprivation of these rights. However the Court found the deprivations reasonable and the defendant's arguments without merit. "Any person ... who physically molests, in a sexual sense, a seven year old child, has waived any privacy right and may absolutely forfeit for a considerable time ... his right to travel." Mills, at 417. The Court here also found a rational basis for the collection of sex offender registration information. The retention of such information and its public availability to some extent may invade a defendant's right to privacy, yet was held to be a proper exercise of the state's fundamental right to enact laws which promote public health, welfare and safety.

The California Supreme Court held in In re Reed, 663 P.2d 216 (Cal.1983) that the mandatory registration of sex offenders convicted of misdemeanor disorderly conduct violates the cruel and unusual provision of the state constitution. The defendant was convicted of a misdemeanor for soliciting "lewd and obscene conduct" from an undercover vice officer in a public restroom. The rationale of the Court for not applying the registration requirement was that the Court did not feel that this defendant posed a serious danger to society for which registration was a proper sanction. The consensual nature of the behavior without any coercion or violence and the fact that no children were involved seemed to play an important role in the Court's decision.

More recently however, a California Court of Appeals held that a defendant who was convicted of masturbating in front of two young boys had to register even though the conviction was a misdemeanor. In In re DeBeque, 260 Cal.Rptr. 441 (Cal.App.4 Dist. 1989) the court recognized that the object of the misdemeanor registry statute "is to protect children from sex offenders and to permit apprehension and segregation of such offenders." The legislation as applied to this misdemeanant was proper because children are a class of victims who require paramount protection and the purpose of the law is to make certain that persons convicted of such a crime as molestation of children shall be readily available for police surveillance.

Four years before DeBeque, a California Appellate Court in People v. Tate, 210 Cal.Rptr.117 (Cal.App.5 Dist. 1985) disagreed with a trial court order that the defendant did not have to register. The defendant there had been charged with lewd and lascivious acts upon a child

under the age of 14 years, enhanced by the fact that the child was under the age of 11 years and that the defendant occupied a position of special trust. Defendant was convicted of annoying or molesting a child under the age of 18 years in a *nolo contendere* plea. The appellate court held that the registration requirement for annoying or molesting a child under age 18 years is valid and the trial court erred in ordering that the defendant not register.

Also in People v. Monroe, 215 Cal.Rptr. 51 (Cal.App.5 Dist. 1985) the Court noted that great deference is paid to legislation designed to protect children who all too frequently are helpless victims of sexual offenses. Here the defendant who had been convicted of child annoyance and molestation filed a petition seeking to strike the requirement that he register as a sex offender. The registration requirement was upheld. However, in People v. Saunders, 284 Cal. Rptr. 212 (Cal.App.5 Dist. 1991) the court overturned the registration requirement because of what appeared to be a legislative oversight. The statute listed some of the specific offenses which triggered the registration requirement, but omitted the particular offense to which the defendant had pled guilty. Although the court pointed out several inconsistencies in the offenses requiring registration that indicated the omission of the defendant's offense was an oversight, they stated the language of the statute was unambiguous and struck down the registration requirement for Saunders. The California Legislature amended the language immediately after the court's decision to correct the problem.

Conclusion

The consensus of the cases examined above upholding mandatory registration of sex offenders is that registration is not a form of punishment and therefore is not subject to the Eighth Amendment prohibition against cruel and unusual punishment. Where courts have examined registration as a form of punishment and subject to the Eighth Amendment, it has not been found to be cruel and unusual punishment. Due process and equal protection challenges have also failed with findings that neither a defendant's right to privacy nor his right to travel have been unreasonably infringed by the requirement to register.

The cases point out, though, a need to include attempted sexual assaults and convictions for crimes such as criminal child enticement. In some cases the courts have had to look at the legislative intent of the registration statutes to determine whether a particular defendant had to register even though the actual crime he was convicted of was not enumerated in the registry statute. Consideration should probably be given to whether attempts and enticement ought to be included within the purview of a registration statute.

NATIONAL
CENTER FOR 
**MISSING &
EXPLOITED**
CHILDREN

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January 4, 1993

Ms. Barbara Felver
Washington State Institute for Public Policy
The Evergreen State College
9162 Sominar Bldg, MS: TA-00
Olympia, WA 98506

Dear Barbara:

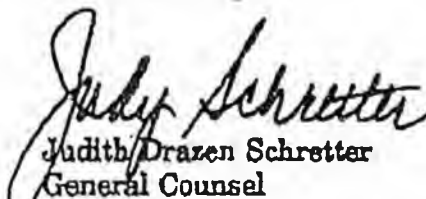
We recently obtained a copy of registration statute information compiled by the National Center for the Prosecution of Child Abuse which I have enclosed for your reference. They combined DNA testing statutes with sex offender registration statutes on their chart. We did identify from their material some states who had offender registration that were not on our chart.

I have already faxed the Colorado information to you. Tennessee has a statute (copy enclosed), but have not funded the program as yet. North Dakota also has two statutes depending on whether the victim is an adult or a child (copies enclosed). I spoke with the person in the Attorney General's office who handles the information if a child is the victim. She indicated they were going to seek modification of the legislation this year to correct problems they have encountered.

Virginia plans on drafting legislation this year to be introduced in 1994. This action comes out of recommendations made by task force headed by the Lt. Governor that recommended several changes with regard to sexual crimes against children.

Please let me know if you have heard whether Alaska will be reintroducing their legislation this year. Also, please provide me with the name of the gentleman from Michigan who contacted you for information.

Happy New Year,


Judith Drazen Schretter
General Counsel

Enclosures



SUMMARY OF SEX OFFENDER REGISTRY STATUTES BY STATE

Alabama

- Required to register within 30 days of release.
- Roster maintained by Sheriff and State Dept. of Public Safety.
- Registry information accessible to law enforcement only.
- Penalty for failure to register is imprisonment of not less than one year or more than five years and in addition may be fined.

Ala. Code § 13A-11-200 to 13A-11-203

Arizona

- Required to register within 30 days of coming to county of residence.
- Required to notify regarding change of address.
- Registry information accessible to law enforcement only.
- Failure to comply is class 6 felony.

Ariz. Rev. Stat. Ann. § 13-3821 to 13-3824

Arkansas

- "Habitual Child Sex Offender Registration Act".
- Required to register with Chief of Police within 30 days of coming to county of residence.
- Notified regarding duty to register at time of discharge or parole.
- Local law enforcement relays information to State Police and pertinent local law enforcement of change of address.
- Written notification of change of address within 10 days.
- Required registration period of 10 years.
- Can apply to Circuit Court for relief of duty to register.
- Registry information accessible to law enforcement only.
- Failure to comply is class A misdemeanor.

Ark. Stat. Ann § 12-12-901 to 12-12-909

California

- Required to register with Chief of Police or Sheriff within 14 days of coming to county of residence.
- Must also register with Campus Police of University of California or California State University if living on campus of its facilities.
- Registration Information of Juveniles must be destroyed when person reaches age 25 or has records sealed.
- Notified regarding duty to register at time of discharge or parole.
- Written notification of change of address within 10 days.
- Local law enforcement of last registry relays information to State Department of Justice, which in turn notifies local law enforcement of new place of residence.
- Registry Information accessible to law enforcement only.
- Failure to comply is a misdemeanor with a Minimum Mandatory sentence of 90 days and one year probation.
- Duty to register coupled with mandate to provide blood and saliva sample of DNA typing.
Cal. Penal Code § 290 and 290.2

Colorado

- Required to register with Chief of Police or Sheriff within 7 days of coming to city or county of residence.
- Required to notify of change of address.
- Failure to comply is a misdemeanor and a second or subsequent conviction for failure to comply with registration requirement is a felony.
- State central registry to be established. No central data collection point at this time.
- Registry Information accessible to law enforcement only.
- Expiration of requirement to register varies depending on crime for which offender convicted.
Colo. Rev. Stat. § 18-3-412.5

Florida

- Applies to any felony conviction.
- Required to register with Sheriff within 48 hrs. of entering county of residence.
- Failure to comply is second degree misdemeanor.
Fla. Stat. Ann. § 775.13

Illinois

- "Habitual Child Sex Offender Registration Act".
- Required to register with Chief of Police within 30 days of coming to county of residence
- Informed of duty at time of release, discharge or parole.
- Written notification of change of address within 10 days.
- Required registration period of 10 years.
- Failure to comply is Class A Misdemeanor.

Ill. Rev. Stat. ch. 38, para. 221 to 230

Louisiana

- Required to register within 30 days of conviction or release, or 45 days of establishing residence.
- Written notification of change of address required within 10 days.
- Penalty for failure to register is a fine, one year imprisonment or both for first time offenders.
- Required registration period is 10 years.
- Registry information available to the public only when necessary for public protection.

La. Rev. Stat. § 15:540-549, and § 15:578(A)(7)

Maine

- Required to register within 15 days of probation or discharge.
- Required registration period is 15 years from sentencing or discharge.
- Required notification of change of address within 5 days of moving.
- Penalty for failure to register is a Class E crime.

Maine Rev. Stat. 34-A c. 11 § 11001 to 11004

Minnesota

- Informed of duty at time of release, discharge or parole.
- Registered by Commissioner of Corrections upon release, who relays information within 3 days to State Police
- Required to register with Probation Officer within 14 days of supervised release from prison.
- Written notification of change of address within 10 days.
- Failure to register change of address may require registration for five additional years.
- Required registration period of 10 years.

Minn. Stat. § 243.166

Montana

- Required to register with law enforcement within 14 days of coming to county of residence.
- Informed at time of sentencing, release, of duty to register.
- Written notification of change of address within 10 days.
- Required registration period of 10 years.
- Failure to comply results in incarceration of not less than 90 days, and a fine or both.

Mont. Code Ann. § 46-18-234 and § 46-23-501 to 507

Nevada

- Required to register within 48 hrs. of coming to county of residence.
- Written notification of change of address within 10 days.
- Informed at time of release, probation, parole or discharge of duty to register.
- Can apply to District Court for relief of duty.
- Failure to comply is misdemeanor.
- Registry information accessible to law enforcement only.

Nev. Rev. Stat. § 207.151 to 207.157

New Hampshire

- Required to register annually within 30 day of the anniversary of release.
- Written notification required within 10 days of changing residence.
- Roster maintained by Sheriff and the Municipal Police.
- Required registration period in for life.
- Registry information available to law enforcement only.
- Penalty for noncompliance is a misdemeanor.

New Hamp. Rev. Stat. § 632-A:11 to § 632-A:19 (effective January 1, 1993)

North Dakota

- Two statutes, one concerning child victims, and one concerning only adult victims.
- Child Victims:
 - Required to register with Sheriff within 30 days of entering county of residence.
 - Written notification required within 10 days of changing residence.
 - Registration requirement must be stated in court records at time of sentencing.
 - Registration period is for 5 or 10 years depending on offense.
 - Failure to comply is a misdemeanor.

N.D. Cent. Code §12.1-32-15

Ohio

- "Habitual Sex Offender Registration".
- Required to register with Chief of Police within 30 days of coming to county of residence.
- Informed prior to discharge, release, parole or probation of duty to register.
- Written notification of change of address within 10 days.
- Required period of registration is 10 years.
- Registry information accessible to law enforcement only.

Ohio Rev. Code Ann. § 2950.01 to 2950.08

Oklahoma

- Required to register with Dept. of Corrections, within 10 business days of conviction/suspended sentence.
- Register with Sheriff, District Attorney upon release.
- Required period of registration is 10 years (reduced to two if successfully complete treatment program).
- Written notification of change of address within 10 days.
- Registry information accessible to law enforcement only. Some law enforcement records specified as open to the public.
- Failure to comply is misdemeanor.

Okla. Stat. Ch. 8B § 581 to 587

Oregon

- Registration upon release.
- Notification of change of address within 30 days, or once a year if no change has taken place.
- May apply to Circuit Court for relief of duty to register after 10 years.

Oregon Stat. § 181.518 to 519

Rhode Island

- Required to register with chief of police within 30 days of coming to city/town of residence.
- Notification of duty to register prior to time of discharge/parole.
- Juvenile offenders duty to register expires at age 25 at which time records shall be destroyed.
- Written notification of change of address within 10 days.
- Registry information accessible by law enforcement only.
- Failure to comply is a misdemeanor.
- Relief from duty to register upon granting of petition for expungement of records.

R.I. Gen. Laws § 11-37-10

SEX OFFENDER REGISTRATION: A REVIEW OF STATE LAWS

INTRODUCTION

In recent years, state legislatures across the country have examined their sexual assault laws to find ways to increase community protection. Many have attempted to strengthen existing laws by requiring released sex offenders to register with law enforcement or state agencies. Currently, one-third of the states have such a requirement, and a law is now before Congress to establish a national index of registered sex offenders.

Do registration laws actually increase community protection? This paper describes the policy debates surrounding registration laws, summarizes the features of legislation in sixteen states, discusses the origins of four states' laws, and reviews efforts to evaluate registration laws.¹

LEGISLATIVE INTENT

Supporters of sex offender registration argue that it contributes to public safety by: 1) creating a registry to assist law enforcement in investigation, 2) establishing legal grounds to hold offenders found in suspicious circumstances, 3) deterring sex offenders from committing new offenses, and 4) offering citizens information so they can protect themselves.

The typical legislative goals are summarized well in Alaska's proposed law:

The legislature finds that: (1) sex offenders pose a high risk of reoffending after release from custody, (2) protecting the public from sex offenders is a primary governmental interest, (3) the privacy interests of persons convicted of sex offenses are less important than the government's interest in public safety, and (4) release of information about sex offenders to public agencies and the general public will assist in protecting the public safety.²

¹Information was collected between March 3 and April 14 by telephone to 16 states known to have sex offender registration laws, and to four states with laws proposed during their 1982 legislative sessions: Alaska, Kentucky, Louisiana, and New Hampshire. Persons supplying information were administrators, legislative research staff, legal counsel, or law enforcement officials, as appropriate. In all, 29 people supplied information. Accompanying tables give the information in detail.

²Alaska State House of Representatives, Seventeenth Legislature (1982), Second Session, House Bill Number 440, Section 1.

**SEX OFFENDER REGISTRATION:
A REVIEW OF STATE LAWS**

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May 1992

Law Enforcement Investigation

A sex offender registration law requires offenders to supply their address to state or local law enforcement. Typically the offender must register following release from confinement and/or during supervision in the community. Laws in most states apply to *convicted* sex offenders; some state's laws also apply to individuals found by a judge to have *committed* the offense (for instance, under a finding of not guilty by reason of insanity).

Information maintained on the registry varies by state, but at a minimum includes the name, address, and a law enforcement identification number. A few states collect very detailed information which may include blood samples, employment information, residence history, and vehicle registration numbers. In all cases, the offender is responsible for supplying accurate information, and is penalized for noncompliance.

Once created, the registry becomes a tool that law enforcement uses to solve—or, ideally, prevent—crimes. If a sex offense is committed and no suspect is located, the registry can be used to identify potential suspects who live in the area, or who have a pattern of similar crimes. States vary in their decision on which offenders to include in the registry: some register child molesters only (Arkansas and Illinois); some register only the most serious categories of sex offenders (Florida and Illinois); and some register all sex offenders, regardless of the type of crime. California and Montana register arsonists in addition to sex offenders; California also registers narcotics offenders.

Legal Grounds to Intervene

Registration laws also create legal grounds to hold sex offenders who do not comply with registration and are later found in suspicious circumstances. For example, if a convicted sex offender is observed lurking around a playground, and when stopped by the police is found not to have registered, that person can be charged and prosecuted for failure to register. Law enforcement representatives often argue that registration laws thus prevent crimes because the police can intervene before a potential victim is harmed. Thus, some states pass registration laws without expecting high rates of voluntary compliance but while still anticipating a law enforcement benefit.

Deterrence

Registration also is intended to psychologically affect the offender. Once registered, offenders know they are being monitored. Many lawmakers hope that this knowledge will discourage sex offenders from committing further crimes. Also, some lawmakers hope to deter potential sex offenders: a long-term registration requirement in addition to other penalties may discourage individuals from committing sexual assault.

Citizen Self-Protection

In many states, access to registries is restricted to law enforcement, but in some states citizens can obtain the list of registered offenders in their community. These states

justify citizen access to the registry as a means for citizens to protect the public, particularly young children, from sex offenders. If a parent knows that someone in the neighborhood is a convicted sex offender, chances are higher that the children will be warned to avoid contact with that person and therefore will be less vulnerable.

CONTROVERSIES

Several arguments against sex offender registration often surface during legislative deliberations. These arguments can be summarized as follows:

Civil Liberties

Registration programs are inconsistent with a society committed to protecting individual liberties. Sex offenders who leave prison have paid their debt to society and should not receive additional punishment. Registration is viewed as another step toward a "Big Brother" society.

Offender Motivation

By forcing sex offenders to register, society sends a message to these individuals that they are not to be trusted, that they are bad and dangerous people. Opponents believe these messages work against offender rehabilitation efforts and inadvertently encourage anti-social behaviors. The offender can use the law to rationalize further crimes, for example: "If society thinks I'm a permanent threat, I guess I am and there's nothing I can do to stop myself."

Registration laws encourage sex offenders to try to evade the attention of law enforcement. Some sex offenders will choose not to comply with the law and will attempt to conceal their whereabouts. Law enforcement will therefore have a more difficult time investigating sexual assault crimes.

Public Safety

Registration creates a false sense of security. Citizens who learn that someone is a registered sex offender will likely stay away from that person. However, the majority of sex offenders never appear on registration lists. The reasons are many: only a small proportion of sex crimes are reported, and an even smaller number result in convictions; many offenders plea-bargain down to non-sexual offenses; sex offender registration laws can apply to limited categories of offenders; and many offenders were convicted prior to passage of the law. In addition, not all offenders register. For all these reasons, only a small percentage of sex offenders actually appear on any list. Thus, for a citizen to limit contact with registered offenders may slightly reduce the risk of a sex offense, but it does not guarantee safety.

Registration of sex offenders implies that these offenders are the most dangerous, whereas other types of offenders present similar or greater risks. How helpful is it for someone to know that a convicted sex offender lives next door, as compared to knowing that a neighbor is a convicted murderer, drug dealer, or armed robber?

Registration will encourage citizen vigilantism. For states where the registration list is public information, citizens may threaten and take action against offenders. The harassment also may be extended to family members of offenders.

Victim Consequences

If made public, a list of registered sex offenders could invade the privacy of victims. In cases of intra-familial sex offenses, a list of offenders also identifies likely victims. Thus, victim trauma may be increased.

Efficiency

Rather than expending public funds on registration, resources should instead be directed toward other criminal justice activities. A list of names and addresses of all convicted sex offenders is expensive to create and maintain. Funds could be more effectively used in areas such as treatment of incarcerated sex offenders, or intensive supervision of a small group of sex offenders.

OVERVIEW OF REGISTRATION LAWS

Sixteen states now have sex offender registration laws: Alabama, Arizona, Arkansas, California, Florida, Illinois, Maine, Minnesota, Montana, Nevada, Ohio, Oklahoma, Oregon, Texas, Utah, and Washington. Of these states, 11 have laws that were passed after 1985. States with the oldest laws are California, 1944, and Florida, 1957. Four additional states proposed sex offender registration laws in their 1992 legislative sessions: Alaska, Kentucky, Louisiana, and New Hampshire. A proposal now before Congress would establish a national index containing identifying information on persons convicted of child abuse crimes, including sexual abuse crimes.³

Administration

Administration of the registry is generally overseen by a state agency such as the Department of Corrections, Institutions, or Probation and Parole. Local law enforcement often has a central role in collecting information and forwarding it to the administering state agency. Exceptions are Ohio, where all information is maintained at the local level, and Utah and Oregon, where the state is responsible for both the collection and administration of information.

³U.S. House of Representatives, Conference Report 102-405, "Violent Crime Control and Law Enforcement Act of 1991," 102d Congress, 1st Session, November 27, 1991.

Information Collected and Time Periods

Generally, states obtain an offender's name, address, fingerprints, photo, date of birth, identification numbers, and criminal history information at the time of registration. In some states, fingerprints and photographs are already on file with the administering department, so other information is simply updated. Oklahoma collects more extensive information because their Department of Corrections was authorized to request any information necessary to track an offender upon release. Thus, they can record the offender's employment history, vehicle information (make, model, tag number), residence history, and intended length of stay at a particular residence. Two states collect DNA information; California collects blood and saliva samples, and Illinois is beginning to collect blood samples upon registration.

The amount of time an offender is given to register, upon sentencing or release, ranges from "immediately" to a maximum of 30 days. Five states grant a full 30 days, and the remainder require the offender to register within 14 days or less.

The duration of registration requirements varies from 10 years to life. In Texas, the requirement ends when released from parole. In Utah, the requirement extends five years beyond parole or discharge from supervision. In Minnesota, the requirement begins 14 days after release from supervision, then extends 10 years beyond the effective date. Eight states have a lifetime provision. In some states, the requirement varies depending on the severity of the crime.

Access to Registries

Most states make lists of registered offenders available only to local law enforcement, investigating agencies, and other specific agencies or school districts. In Washington State, law enforcement is given authority to release "relevant information" about sex offenders, and the list of registered offenders is considered public information; some newspapers print the names of offenders registered in their counties. In Ohio, the information is also public; however, the records are kept at the local level by county officials. Oregon allows limited release of information to victims who certify their status with the state, and information is released only about their specific assailant. In Montana, where the law does not specifically prohibit the release of information, the public has not-to-date-requested access to the registry from state or county officials.

Notification Programs and Criminal Background Checks

Concurrent with registration laws, legislators have passed other measures designed to protect communities from convicted offenders. These include notification programs and criminal history background checks. Notification programs can be directed at three different audiences: 1) victims and witnesses connected to specific offenders, 2) law enforcement, and 3) citizens in a particular neighborhood or community. Some states allow victims and witnesses to enroll in a program which lets the individual know where the offender is located during confinement, and where and when the release occurs. Other states instruct the department of prisons or parole to inform local law enforcement

when an offender believed to be dangerous is released from prison and intends to reside in a specific community.

In Washington State, notification programs are expanded beyond these groups. Washington's law, known as "community notification," authorizes law enforcement to release "relevant" information about convicted sex offenders to the public.⁴ The notification activities have included front-page news articles, flyers and posters, and canvassing of neighborhoods.

In many states, criminal history background checks are required when individuals apply for jobs or volunteer positions that involve interaction with children. In some states, these background checks are linked with sex offender registries (California and Washington). Other states do not have this capacity either because the systems are administered independently, or because state confidentiality laws prohibit dissemination of registration information.

Juvenile Registration

Most states with registration laws require registration of juveniles only if they are convicted under adult statutes. States that routinely seal or destroy juvenile records are generally unable to impose a registration requirement upon juveniles because of confidentiality laws. In Ohio, for example, registration of juveniles is not considered viable for this reason. Even the fingerprinting of juveniles is prohibited unless a judge's signature appears on the back of the fingerprint card. Thus, the administrative complexities of collecting identification information are considered prohibitive.

Only three states, California, Montana, and Washington, have imposed a registration requirement on juvenile sex offenders. Washington registers juveniles and keeps records indefinitely, requiring both adult and juvenile Class A felony sex offenders to register for life, Class B sex felons for 15 years following release, and Class C sex felons for 10 years. California registers serious juvenile sex offenders, but drops the requirement when the offender reaches 25 years of age. Montana required juvenile sex offenders to register with the passage of 1989 legislation, but because juvenile records are confidential in Montana, application of the law to juveniles has not been enforced.

Legal Challenges

Sex offender registration laws have been subject to legal challenges in at least four states (Arizona, California, Illinois, and Washington).⁵ In the majority of cases, the courts have found that registration is not a form of punishment and, therefore, is not subject to the Eighth Amendment prohibition against cruel and unusual punishment. Where registration has been examined as a form of punishment, the courts have found it not to be cruel

⁴Revised Code of Washington, 42A.550(1).

⁵National Center for Missing & Exploited Children, "The Constitutionality of Statutes Requiring Convicted Sex Offenders to Register with Law Enforcement," January 1992.

and unusual. Challenges on the basis of due process and equal protection also have failed. Registration has not been found to unreasonably infringe on the defendant's rights to travel or privacy.

Costs

Some states were at an advantage when implementing their laws because existing electronic systems were easily adapted to accommodate registration information. Other states created entirely new information systems. The costs of implementation in states with existing systems was nominal (Oklahoma and Oregon). In Washington State, where a new system was created in 1990, the state initially paid \$39,000 for special equipment. Annual costs in Washington now approach \$100,000 per year for registration, most of which is paid to local sheriff's departments to offset administrative costs.

Noncompliance: Penalties Vary

Penalties for noncompliance range from misdemeanors to lesser felonies. Utah imposes a mandatory confinement of 90 days and one-year probation for noncompliance. Other states impose confinement of one to five years, or a fine of up to \$1,000. California increases the severity of the penalty each time the person fails to register--the first failure is a misdemeanor and the third a felony.

Updating Addresses

Addresses must be updated in order for the registry to maintain its usefulness to law enforcement and the public. Most states rely upon offenders to notify authorities of all new addresses; the offender generally has 10 days to notify of any change in address. Oregon adds a requirement that offenders affirmatively update their addresses once a year. The Federal Violent Crime Control and Law Enforcement Act of 1991, now before Congress, also carries a provision for annual verification.⁹

ORIGINS OF FOUR STATES' LAWS

Sex offender registration laws are frequently passed in states after a particularly brutal sex offense occurs. Examples in four states follow.

U.S. House of Representatives, Conference Report 102-405, "Violent Crime Control and Law Enforcement Act of 1991," Subtitle C--"The Jacob Wetterling Crimes Against Children Registration Act." On each anniversary of a person's initial registration date, the offender is mailed a non-forwardable verification form to the last address on file. The offender is required to sign and return the form within 10 days of receipt verifying they still reside at that address. If the person fails to return the form, they are in violation of the law unless they can prove they still reside at the same address.

Washington:

In June 1989, a seven-year-old Tacoma boy was brutally assaulted, stabbed, and had his penis severed by a man with a long record of violent assaults on children. In the previous year, a woman was brutally raped and murdered in downtown Seattle by a twice-convicted sex offender on work release from prison. Both incidents sparked widespread outrage that the criminal justice and mental health systems did not adequately protect citizens from sex offenders.⁷ The governor responded by appointing a Task Force on Community Protection which recommended a comprehensive law passed by the Washington State Legislature in 1990. The law carried many new provisions, one of which was sex offender registration.

Montana:

In 1988, a sex offender was released from a Montana state prison where he served approximately three and one-half years of a five-year sentence for molesting a 13-year-old boy in the town of Libby. During his incarceration, the offender reported fantasies of raping a small, blond-headed boy when released, saying he wanted to "get even with the town of Libby."⁸ Less than 10 weeks after his release, the offender left the body of a small, eight-year-old blond boy, sexually molested, beaten, and choked in the underbrush near the Libby cemetery.⁹ Spurred by the brutal murder, the Montana legislature passed a sex offender registration law in 1989. In a letter to Senator Eleanor Vaughn dated January 15, 1989, supporters of the bill stated, "We feel that if the provisions in this bill had been law, perhaps this terrible tragedy would have been avoided."¹⁰

New Hampshire:

In 1991, a 75-year-old New Hampshire widow was raped twice and bound up naked with a telephone cord by a convicted sex offender. Upset that her perpetrator's crime was plea-bargained to a reduced charge, the woman went national with the story. She appeared on the Oprah Winfrey show, and caused sufficient concern that the governor appointed an ad-hoc committee to address the issue of sexual assault.¹¹ Three of the committee's recommendations are now before the New Hampshire Legislature. If passed, the laws will lengthen sentences of convicted sex offenders, integrate training into police and judicial system programs, and require sex offender registration.

⁷Jon R. Conte et al., "An Evaluation of State Services to Victims of Sexual Assault," Washington State Institute for Public Policy, June 1991.

⁸"Lawsuit: State Failed to Treat Sex Offender," *The Missoulian*, March 17, 1989.

⁹Moira Andrews, "Child Killer Gets 200 Years," *The Missoulian*, March 8, 1988, pp. 1-2.

¹⁰Jane L. Bain, Doris M. Davis, Velva Shaver, Earl F. Baine, Linda J. Meyer, Exhibit Number 3 to the Senate Judiciary Committee, January 30, 1989.

¹¹Representative Alice Ziegler, telephone conversation with Barbara Felver, March 18, 1992.

Maine:

The town of Gorham, Maine, enjoys one of the lowest per capita crime rates in Cumberland County, even though it lies within the largest metropolitan area of the state. But since 1989, the small town of 11,900 citizens has experienced six incidents involving convicted sexual offenders who sexually assaulted children. In a letter addressed to the House of Representatives in March 1992, Gorham Chief of Police Edward J. Tolan stated, "While the state of Maine does an excellent job in identifying persons convicted of Operating Under the Influence of Intoxicating Liquor, we have no law in place to track convicted sexual offenders."¹² The Maine Legislature passed a sex offender registration law in April 1992.

EVALUATING REGISTRATION LAWS

To date, evaluations of registration laws have been limited. Except for a few states (California, Florida, Nevada, and Ohio), most of the laws were recently enacted and have not been evaluated. Only California and Washington have produced written evaluations. A 1988 study by the California Department of Justice found that adult sex offenders released from prison in 1973 and 1981 had compliance rates of 54 and 72 percent, respectively.¹³ In 1991, the compliance rate for adult sex offenders in Washington State was calculated at 76 percent.¹⁴ In these two states, three out of every four sex offenders required to register actually did register. This compliance rate is much higher than is usually predicted by critics of registration laws.

Significantly, high rates of voluntary compliance are not essential for a registration law to have law enforcement benefits. If a complete list of released sex offenders who *should* have registered is routinely produced by the state prison system, then law enforcement can affirmatively pursue those not in compliance, or wait to pursue charges if individuals come to the attention of law enforcement. In several Washington State counties, local authorities are conducting thorough background checks on all released offenders and using the information—regardless of compliance—as an investigative tool.

In addition to measuring compliance, California has studied the recidivism rates of sex offenders, and has examined the extent to which registration actually assists in the investigation of sex crimes. A 15-year follow-up study was conducted of sex offenders first arrested in 1973. Nearly half (49 percent) of this group were rearrested for some type of offense between 1973 and 1988, and 20 percent were rearrested for a subsequent sex offense. Those whose first offense was rape by force or threat had the highest recidivism rate—64 percent for any offense and 25 percent for a subsequent sex offense.

¹²Edward J. Tolan, Chief of Police, Town of Gorham, letter to Representative Anne Larrivet, House of Representatives, March 4, 1992.

¹³California Department of Justice, "Effectiveness of Statutory Requirements for the Registration of Sex Offenders," 1988.

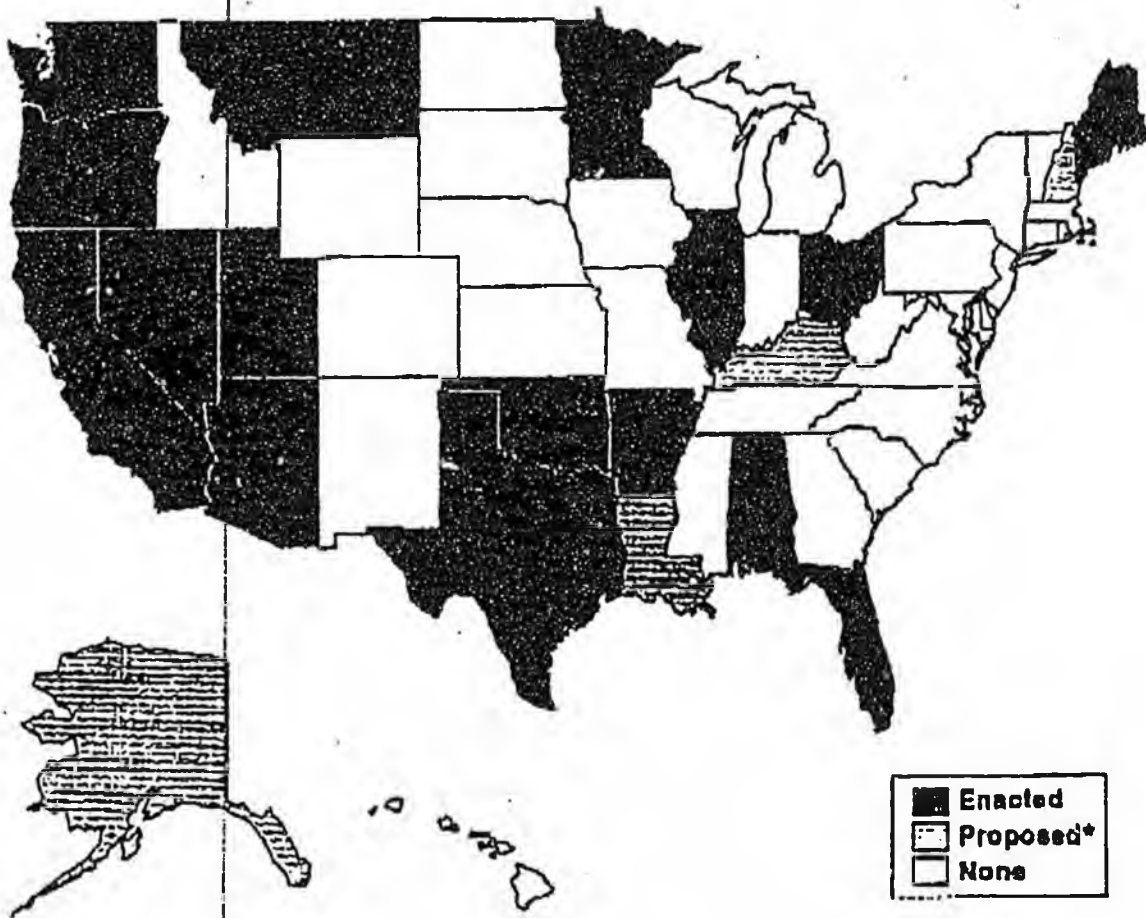
¹⁴Washington State Institute for Public Policy, "Sex Offender Registration in Washington State: Compliance, 1991," January 1992.

Based on the responses of 420 criminal justice agencies, the California study found that a large proportion of criminal justice investigators believe the current registration system is effective in locating sex offenders and apprehending suspected offenders. For this reason, the vast majority of those surveyed believed the registration requirement should be continued. About one-half of the respondents believed that registration deterred offenders from committing new sex crimes.

SUMMARY

Sex offender registration has been adopted by one-third of the states as a means of increasing community protection from sex offenders living in the community. These laws are justified on the grounds that they assist in law enforcement investigation, deter new crimes, and allow citizens to protect themselves from known offenders. Many people argue that registration is ineffective, a waste of resources, and inconsistent with a society dedicated to protecting individual liberties. Although no research has yet quantitatively measured the broad issue of effectiveness, relatively high rates of voluntary compliance have been found in California and Washington. Legal challenges to registration laws in four states have resulted in decisions that have up-held their constitutionality.

States With Sex Offender Registration Laws



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*During 1992 state legislative sessions. April 1992

TABLE 1
States with Sex Offender Registration Laws*

STATE (Year Enacted)	TYPES OF OFFENDERS	INFORMATION COLLECTED	ADMINISTRATING AGENCY
<i>Alabama</i> (1987)	Adult sex offenders	Name and address only	State Department of Public Safety; local law enforcement
<i>Arizona</i> (1986)	Adult sex offenders	Fingerprints, photo, address, and other necessary identifying info	State Department of Public Safety; local law enforcement
<i>Arkansas</i> (1987)	Adult sex offenders convicted a second or subsequent time after 1987, whose victim is under 18	Fingerprints, photo, address, and other necessary identifying info	State Police; local law enforcement
<i>California</i> (1984)	Adult and juvenile sex offenders (juvenile info destroyed at age 25)	Fingerprints, address, photo, criminal history info, other necessary identifying info including blood and saliva samples	State Department of Justice; local law enforcement
<i>Florida</i> (1987)	All adult felony convictions for sex and non-sex crimes	Fingerprints, photo, address, and other necessary identifying info	State Department of Law Enforcement
<i>Illinois</i> (1988)	Adult felony offenders convicted of a second sex offense, whose victim is under 18	Address (fingerprints and other info is on file); will be collecting DNA soon	State Department of Police; local law enforcement
<i>Maine</i> (1992)	Adults convicted of gross sexual assault (Class A, B, or C felony)	Will be adopted with administrative rules	State Department of Public Safety
<i>Minnesota</i> (1991)	Adult sex offenders released from prison after August 1991 who have completed supervision	Fingerprints, photo, address, and other necessary identifying info	State Department of Corrections
<i>Montana</i> (1989)	Adult sex offenders	Address, date of birth, and description of offenses (photo and fingerprints on file)	State Department of Institutions; local law enforcement
<i>Nevada</i> (1981)	Adult sex offenders	Fingerprints, photo, address, and other necessary identifying info	State Department of Probation and Parole; local law enforcement
<i>Ohio</i> (1983)	Adult sex offenders, after second conviction	Address, photo, and type of crime (fingerprints on file)	Local law enforcement only (state notifies)
<i>Oklahoma</i> (1989)	Adult sex offenders	Fingerprints, photo, physical description, date of birth, criminal history, employment, vehicle, length of residence and intended residence	State Department of Corrections; local law enforcement
<i>Oregon</i> (1989)	Adult sex offenders	Address, and description of offenses (other info on file)	State Police
<i>Texas</i> (1991)	Adult sex offenders (except incest exposure)	Address, name, type and date of conviction, vehicle license number, blood type	State Department of Public Safety; local law enforcement
<i>Utah</i> (1985)	Adult sex offenders	Address, name, vehicle, criminal history, date of birth, other necessary identifying info	State Department of Corrections
<i>Washington</i> (1990)	Adult and juvenile sex offenders	Fingerprints, photo, crime, date of conviction, social security number, date of birth, place of employment	State Patrol; local law enforcement

*Alaska, Kentucky, Louisiana, and New Hampshire legislatures proposed sex offender registration laws in their 1992 sessions.

TABLE 2
States with Sex Offender Registration Laws*

STATE	TIME FRAME FOR REGISTRATION	DURATION OF REQUIREMENT	PENALTIES FOR NON-COMPLIANCE
<i>Alabama</i>	Within 90 days of release; 90 days of changing address	Life	Felony; 1 to 5 years imprisonment and may be fined up to \$1,000
<i>Arizona</i>	Within 90 days of conviction or entering state; "promptly" upon changing address	Life	Class 6 felony (lowest level felony, can also be classified as a Class 1 misdemeanor)
<i>Arkansas</i>	Within 30 days of release; 10 days of changing address	10 years	Class A misdemeanor; up to 1 year in jail and may be fined up to \$1,000
<i>California</i>	Within 14 days of release; 10 days of changing address	Life (juvenile records destroyed when at age 25)	First and second failure a misdemeanor; third failure a felony—can be arraigned and must serve 90 days.
<i>Florida</i>	Within 48 hours; not required to notify of change of address	Life	Second degree misdemeanor
<i>Illinois</i>	Within 30 days of release; 10 days of changing address	10 years	Class A misdemeanor
<i>Maine</i>	Within 15 days of release; 5 days of changing address	15 years	Class E crime (misdemeanor)
<i>Minnesota</i>	Within 14 days after supervision ends	10 years	Misdemeanor, and adds 5 years to the registration requirement
<i>Montana</i>	Within 14 days of release; 10 days of changing address	10 years	Minimum 90 days incarceration, or up to \$250 fine, or both
<i>Nevada</i>	Within 48 hours of release; 10 days of changing address	Life	Gross misdemeanor; 1-year maximum in county jail
<i>Ohio</i>	Within 30 days of release; 10 days of changing address	10 years after release or discharge	First failure a first degree misdemeanor; second failure a fourth degree felony
<i>Oklahoma</i>	Registers within 10 days of conviction with the Department of Corrections, then immediately upon release with sheriff; 10 days of changing address	Life	Misdemeanor
<i>Oregon</i>	Registration is automatic upon release or discharge (supervising officer files papers); 30 days to notify of change of address. Information updated annually	Life; may petition for waiver after 10 years (law sunsets in 1987)	Class C felony if felony offense; otherwise a Class A misdemeanor
<i>Texas</i>	Within 7 days of receiving notification	Duration of parole; however, file maintained indefinitely	First failure a Class A misdemeanor; second failure a third degree felony
<i>Utah</i>	Immediately following conviction or entering prison, facility, or program; 10 days of changing address	8 years after parole or discharge	Mandatory 90 days confinement and 1 year probation
<i>Washington</i>	Within 24 hours of release; immediately if not confined; 30 days of becoming new state resident; 10 days of change of address	Life if Class A felony; 15 years if Class B felony; 10 years if Class C felony	Class C felony if Class A felony offense; otherwise gross misdemeanor

*Alaska, Kentucky, Louisiana, and New Hampshire legislatures proposed sex offender registration laws in their 1982 sessions.

TABLE 3
States with Sex Offender Registration Laws*

STATE	ACCESS TO INFORMATION	NUMBER REGISTERED	PERCENT COMPLIANCE
<i>Alabama</i>	Available to law enforcement and investigative authorities only	Not known	Not known
<i>Arizona</i>	Available to law enforcement and investigative authorities only	5,100	Not known
<i>Arkansas</i>	Available to law enforcement and investigative authorities only	Starting work on a central registry, may have numbers in 1993	
<i>California</i>	State information is confidential, but some local information can be released with discretion	57,000	73% for those released in 1981; 54% for those released in 1973 (1988 study)
<i>Florida</i>	Available to law enforcement, investigative authorities, and specified agencies	Not known	Not known
<i>Illinois</i>	Available to law enforcement and investigative authorities only	68	Not known, believed to be very low
<i>Maine</i>	Name, address, and conviction available to public	New law	New law
<i>Minnesota</i>	Available to law enforcement and investigative authorities only	5	Not known
<i>Montana</i>	Some information constitutionally protected; public could theoretically access the list (but has not attempted)	Not known	Not known, believed to be high
<i>Nevada</i>	Available to law enforcement and investigative authorities only	Starting work on a central registry, may have numbers in 1993-94	
<i>Ohio</i>	Criminal history information confidential, but public can read listing	Not known, all records kept at the county level	
<i>Oklahoma</i>	Available to law enforcement and investigative authorities only	200 to date, waiting for release of those convicted after November 1989	
<i>Oregon</i>	Limited information available to specific victims, remainder available to law enforcement and investigative authorities only	Data collection began October 1991; number and compliance will be available at the end of 1993	
<i>Texas</i>	Available to law enforcement and investigative authorities only	350	Not known, believed to be approximately 25%
<i>Utah</i>	Available to law enforcement, investigative authorities, and Department of Education	2,476	Not known
<i>Washington</i>	Available to the general public and press	Over 4,000	Adults 70%, Juveniles 67% (1991 data)

*Alaska, Kentucky, Louisiana, and New Hampshire legislatures proposed sex offender registration laws in their 1992 sessions.



*Washington State
Institute for Public Policy*



**COMMUNITY
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RESEARCH
PROJECT**

**ADULT SEX OFFENDER REGISTRATION
IN WASHINGTON STATE:
INITIAL COMPLIANCE, 1990**

**BARBARA E.M. FELVER
with
ROXANNE LIEB**

January 1991

*ADULT SEX OFFENDER REGISTRATION
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Community Protection Research Project
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January 1991

**ADULT SEX OFFENDER REGISTRATION
IN WASHINGTON STATE:
INITIAL COMPLIANCE, 1990**

SUMMARY

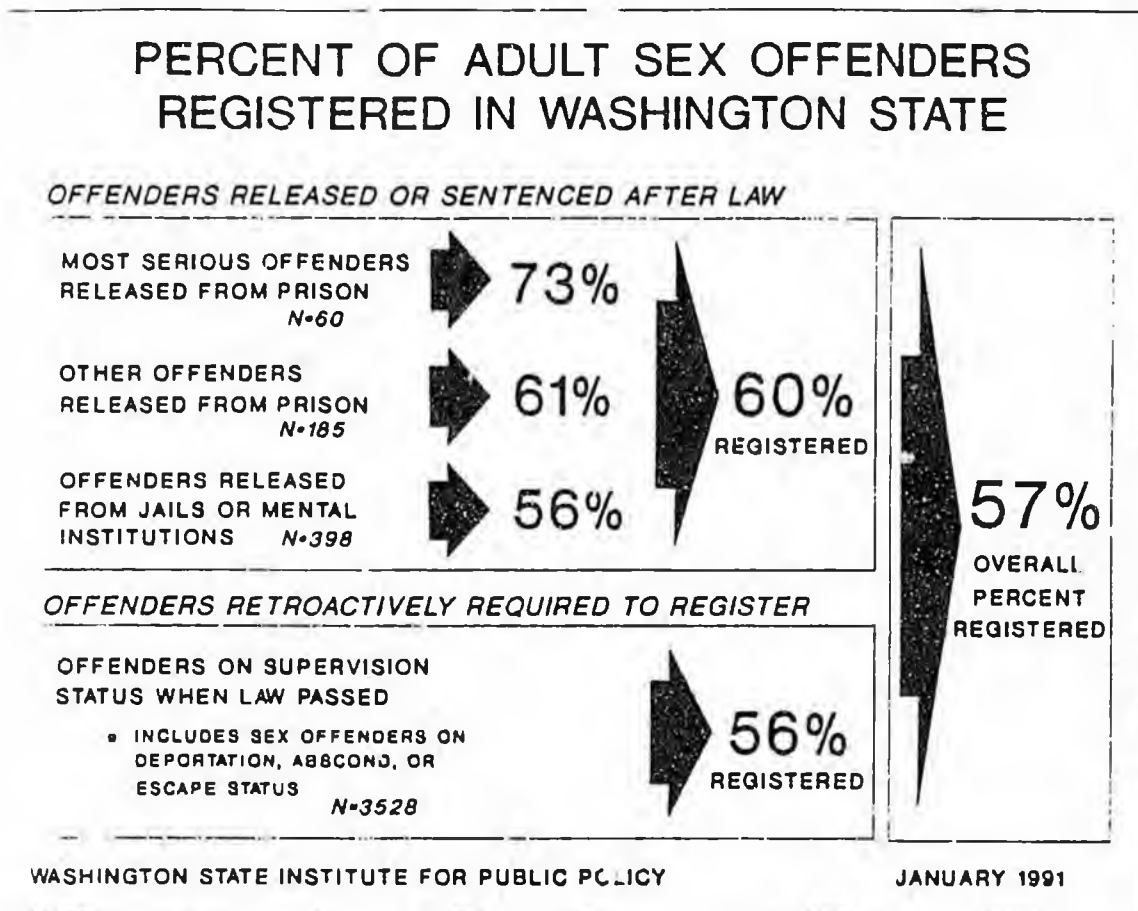
This report examines early compliance of adult sex offenders with a new registration requirement enacted as part of the Community Protection Act of 1990 (Chapter 3, Laws of 1990). The analysis compares Washington State Patrol records of registered adult sex offenders as of November 9, 1990, with records of sex offenders released from correctional or mental health institutions, or sentenced to supervision, on or after the effective date of the law. Juvenile offender registration is not included in this analysis.

Findings indicate that:

- In the first eight months of sex offender registration under the Community Protection Act, the most serious adult offenders released from prison registered at a higher percentage (73 percent) than adult sex offenders released from jail or mental institutions (56 percent). The overall rate of registration for all adult sex offenders was 57 percent; a total of 2,383 adult sex offenders were registered at the time of this study. Percentages are shown in Figure 1 (see page 2).
- Sex offenders notified both verbally and in writing had a higher rate of compliance. The manner in which sex offenders are notified of the requirement to register, whether in person or by mail, may explain the difference in registration rates.
- The effectiveness of the registration law has been enhanced by cooperation between the Washington State Patrol and the Department of Corrections. The names of sex offenders released by the Department of Corrections are supplied to the State Patrol and placed on the law enforcement computer database, thus allowing local law enforcement officers to identify both offenders who have and have not complied with the registration law. Local law enforcement can use this information when identifying potential suspects for a sex offense, as well to pursue actions against offenders not in compliance.
- The state of California has required sex offender registration since 1947. Compliance for Washington in 1990 was lower than California's compliance rate for 1981 convictions, but higher than California's rate for 1973 convictions.
- The constitutionality of sex offender registration is under review. Recent court cases regarding this topic are identified in this report.

Findings contained in this report should be considered preliminary. Publicity regarding penalties imposed on offenders who fail to register could change registration rates, as could reports of negative citizen reaction when identified sex offenders move into neighborhoods. Also, because of the relatively small size of groups available for analysis, especially the most serious offenders, the percentages reported are susceptible to change.

Figure 1



DEFINITION OF GROUPS

Registration percentages of four groups of adult sex offenders were analyzed. Definitions of these groups follow.

- **Most Serious Sex Offenders Released From Prison:** Adult sex offenders released from prison after the Community Protection Act was passed (February 28, 1990), whose criminal history or institutional behavior indicates they present a significant risk to the community. For these offenders, Notifications of Release ("special bulletins") were issued by the Department of Corrections, under the direction of the End of Sentence Review Committee. *Total Number=60, Registered=44*
- **Other Sex Offenders Released from Prison:** Adult sex offenders released from Department of Corrections facilities after February 28, 1990, without special bulletins. *Total Number=185, Registered=112*
- **Sex Offenders Released from Jail or Mental Institutions:** Adult sex offenders on community supervision status with the Department of Corrections following release from jail, or who received a court order for supervision, or were released from state mental institutions, on or after February 28, 1990. *Total Number=398, Registered=221*

- **Sex Offenders Retroactively Required to Register:** Adult sex offenders who, as of February 28, 1990, were on active supervision by the Department of Corrections, as well as those on deportation, abscond, or escape status from Washington State prisons or jails. [See discussion below for clarification of supervision definition.] *Total Number=3528, Registered=2006*

THE REQUIREMENT TO REGISTER

The Law: Applies to Convicted Sex Offenders Residing in Washington State

With passage of the Community Protection Act of 1990, sex offenders residing in Washington were required to register with the sheriff in their county of residence. The law applies to adults and juveniles who "have been found to have committed or have been convicted of any sex offense" (Chapter 3, Laws of 1990). Sex offenders have 30 days to register following their release from confinement, and 45 days to register after moving to Washington State. When relocating, offenders are required to update their registration within 10 days of a move.

The requirement to register was applied prospectively to all sex offenders released from custody or prison on or after the law was passed (February 28, 1990). In addition, it was applied retroactively to all persons who committed sex offenses prior to February 28 who were "under the custody or active supervision" of either the Department of Corrections or the Department of Social and Health Services on or after the law's effective date.

The term "active supervision" was not defined in the Community Protection act and has been subject to interpretation. Originally, the Department of Corrections interpreted the term to include offenders placed on Conditional Discharge From Supervision (CDFS), primarily offenders discharged from parole. The department has since redefined the term to exclude these offenders. The department also interpreted the term as including offenders on supervision strictly to monitor compliance with financial obligations. This interpretation has recently been found invalid by a Kitsap County court ruling. Because the legal definition of active supervision is not clear, this analysis did not distinguish among offenders based on their supervision status. Whether such distinctions would alter the findings is not clear.

Failure to register is, by law, a Class C felony for persons convicted of a Class A felony sex offense; otherwise, the failure is a gross misdemeanor. Registration is for life if convicted of a Class A felony sex offense, 15 years if convicted of a Class B felony sex offense, and 10 years if convicted of a Class C felony sex offense, unless a court waiver can be obtained by the offender.

THE MOST SERIOUS SEX OFFENDERS

Notification of Release: Applies to the Most Serious Sex Offenders

For those sex offenders believed to pose a significant threat to the community, the Department of Corrections issues a document entitled Notification of Release ("special bulletin") to inform authorities that potentially dangerous individuals may be moving to their communities. Adult sex offenders with special bulletins had the highest rate of registration of the groups in this analysis, with most of these offenders registering within 30 days of their release. [See Figure 2, page 4.] Since the number of offenders in this category is relatively small (60), these findings are considered subject to change.

Figure 2

MOST SERIOUS OFFENDERS RELEASED FROM PRISON: REGISTRATION UPDATE

73% HAVE REGISTERED

Of Those That Have Registered:

- 80% Registered In The County
They Said They Would Live
- 66% Registered Within 30 Days
After Their Release
- The Average Time It Took To
Register Was 36 Days

*Most serious offenders are those released from prison with
special notification of release to local law enforcement.*

N=60

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The decision to issue special bulletins is made by the End of Sentence Review Committee based upon offenders' criminal history, institutional behavior, and other relevant information. The committee consists of:

- One member appointed by the Director of the Division of Prisons, Department of Corrections.
- One member appointed by the Director of Community Corrections, Department of Corrections.
- One member appointed by the Indeterminate Sentence Review Board Chair.
- Three members appointed by the Assistant Secretary of the Department of Social and Health Services representing Mental Health, Developmental Disabilities, and Child Protective Services.

The Director of the Division of Offender Programs appoints the chairperson for the committee. The End of Sentence Review Committee chairperson is responsible for staffing the committee and initiating the committee recommendations, including issuing special bulletins to law enforcement and developing recommendations to the prosecutor in regard to the filing of civil commitment petitions (Policy 350.500, End of Sentence Reviews, Department of Corrections, May 15, 1990).

Special bulletins are forwarded to: 1) the chief of police and county sheriff in the jurisdiction that the sex offender intends to reside, 2) the prosecuting attorney of the county where the offender was convicted, 3) the Washington State Patrol, and 4) the Homicide Information Tracking System. The bulletins include a recent photograph and describe the offender's prison behavior and prior criminal conduct. Local chiefs of police and county sheriffs then have the discretion to circulate information about the offender to other agencies, groups, or persons in the community. The Washington Association of Police Chiefs and Sheriffs developed recommended policies for law enforcement agencies. Three levels of dissemination are recommended depending upon the offender's determined level of risk.

HOW OFFENDERS ARE NOTIFIED ABOUT THE REGISTRATION LAW

Notification of registration requirements varies depending on the offender's status. The manner in which an offender is informed may influence registration compliance: groups notified both verbally and in writing had the highest rate of compliance in this study.

Sex offenders released from prison, jail, or mental institutions are notified of registration requirements in person, both verbally and in writing, prior to their release. Offenders are served with a "Registration Notification" form and are informed by Community Corrections or mental health staff about requirements of the law.

Sex offenders under supervision in the community are notified both verbally and in writing when they report to their Community Corrections Officer, but only if they are required to report on a regularly scheduled basis. If they are not required to report on a regularly scheduled basis, sex offenders are mailed a certified letter (containing a return-addressed envelope) which contains information about registration requirements.

Sex offenders whose whereabouts may be unknown are also sent certified letters to their last known address. These are generally returned undeliverable. Offenders who cannot be located are considered "un-notified" and may not be aware of their requirement to register.

Sex offenders who move to Washington State are notified about the registration law only if they read signs posted at Department of Licensing driver's examination offices.

IDENTIFICATION OF SEX OFFENDERS NOT IN COMPLIANCE

Because of cooperative arrangements between the Washington State Patrol, Department of Corrections, and Department of Social and Health Services, local law enforcement can identify both sex offenders who have registered as well as those not in compliance.

Information on all sex offenders released from the Department of Corrections and the Department of Social and Health Services is included as part of ACCESS, the law enforcement information system. Through ACCESS, local police officers who want to check an individual's criminal history can obtain information from the offender locator file. All released sex offenders are flagged in the system; counties where offenders stated they would live upon their release are also indicated. Based upon this information, officers can pursue legal action in cooperation with the prosecutors' office if they identify a released sex offender who has not registered. The Appendix to this paper illustrates how information about sex offenders is transferred among state agencies.

LEGAL ISSUES

Both civil and criminal cases related to the registration law are in progress. In Kitsap County, a judge recently dismissed a case against a sex offender charged with failure to register because, in the court's view, the offender was not on "active supervision," and instead was being supervised only for financial obligations.

Three civil law suits have been filed related to registration. One in Kitsap county was recently dismissed by the plaintiffs. The two remaining cases were filed in King County and will probably receive hearings later this spring.

SEX OFFENDER REGISTRATION IN CALIFORNIA: A COMPARISON

The state of California has required sex offender registration since 1947 (the law was applied retroactively to persons convicted of registrable sex offenses since 1944; California Penal Code, Section 290). Registration is for life, unless the sex offender can obtain a Certificate of Rehabilitation and waiver from the requirement.

A report to the California State Legislature on sex offender registration ("Effectiveness of Statutory Requirements for the Registration of Sex Offenders," California Department of Justice, 1988) compared registration rates of adult sex offenders released from prison in 1973 and 1981 with the overall percentage of registration by all sex offenders convicted in those years.

FINDING 1. In California the highest rate of registration was among sex offenders released from prison. This finding is true for Washington as well.

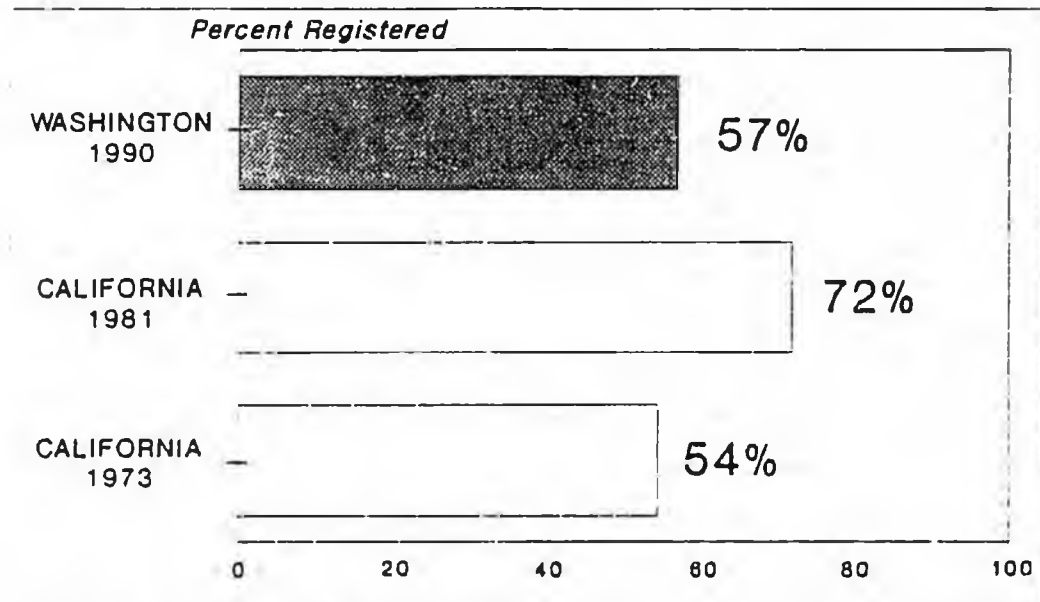
- **California.** Registration by adult sex offenders sentenced to prison in 1981 was 89 percent. Overall, the compliance rate for all sex offenders (both prison and non-prison releases) was 72 percent. (For 1973, prison rates were not calculated independently.)
- **Washington.** Like California, the highest registration rates were for adult sex offenders released from prison. In 1990, the most serious offenders in Washington registered at a rate of 73 percent. Other offenders released from prison registered at a rate of 61 percent. Offenders released from jails and mental institutions had the lowest compliance of 56 percent.

FINDING 2. Compliance for Washington in 1990 was lower than in California for 1981, but higher than California for 1973. These percentages are shown in Figure 3 (see page 7). Note that data for California are for individuals convicted of registrable sex offenses during 1973 and 1981. Only these two years were examined in the published report. Washington data represents offenders required to register in 1990 and convicted in previous years:

- **California.** 72 percent of adult sex offenders convicted in 1981 were registered at the time of the study. 54 percent of adult sex offenders released in 1973 were registered.
- **Washington.** Overall, 57 percent of all adult sex offenders required to registered had complied by November 1990.

Figure 3

SEX OFFENDER REGISTRATION: A WASHINGTON/CALIFORNIA COMPARISON



Washington data represent offenders required to register in 1990 and convicted in previous years. California data represent individuals convicted in either 1973 or 1981.

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FINDING 3. Based on a survey of 420 criminal justice agencies in California, the California study concluded:

- A large proportion of California criminal justice agencies surveyed believe that the current system is effective in locating sex offenders and apprehending suspected sex crime offenders.
- The vast majority of law enforcement agencies believe the registration requirement should be continued.
- But, about half of the agencies did not believe that the system was effective in deterring offenders from committing future sex offense crimes.

A survey of law enforcement agencies on this topic has not yet been done in Washington. After further experience with the registration law, a similar survey in this state may be beneficial.

RESEARCH METHODS

Data Sources

By law, the Washington State Patrol is required to maintain a central registry of all registered sex offenders. To identify sex offenders who have not complied with registration requirements, the State Patrol obtains names of all sex offenders released from the Department of Corrections.

Data for this analysis was obtained from the Washington State Patrol, Department of Corrections, and the Department of Social and Health Services. State Patrol data consisted of a printout dated November 9, 1990, which listed the names of juvenile and adult sex offenders who: a) had been released, but had not registered; and b) had registered. There were 4,309 names originally contained on this report which identified 1,899 individuals as not registered, and 2,481 as registered.

The Department of Corrections supplied listings of: a) the most serious offenders released from prison, b) other sex offenders released from prison, and c) sex offenders starting supervision. Statistics on 23 sex offenders released from mental institutions were provided by the Department of Social and Health Services. The registration status of each group was then verified by manually matching names against the State Patrol printout. Juveniles were dropped from this analysis (115 individuals) and will be the subject of a later report.

In the case of the most serious offenders, a more detailed analysis was performed by examining individual records on the Department of Corrections Offender Based Tracking System (OBTS) file to obtain the counties in which offenders said they intended to reside and dates of release. The information was compared with the county of registration found on the State Patrol central registry and the number of days it took offenders to register. Note that Notifications of Release are also issued by the Department of Corrections on persons deemed dangerous to the community, but who were not convicted of a sex offense. Because these persons are not required to register, they were not included in the group of most serious sex offenders.

Data Editing

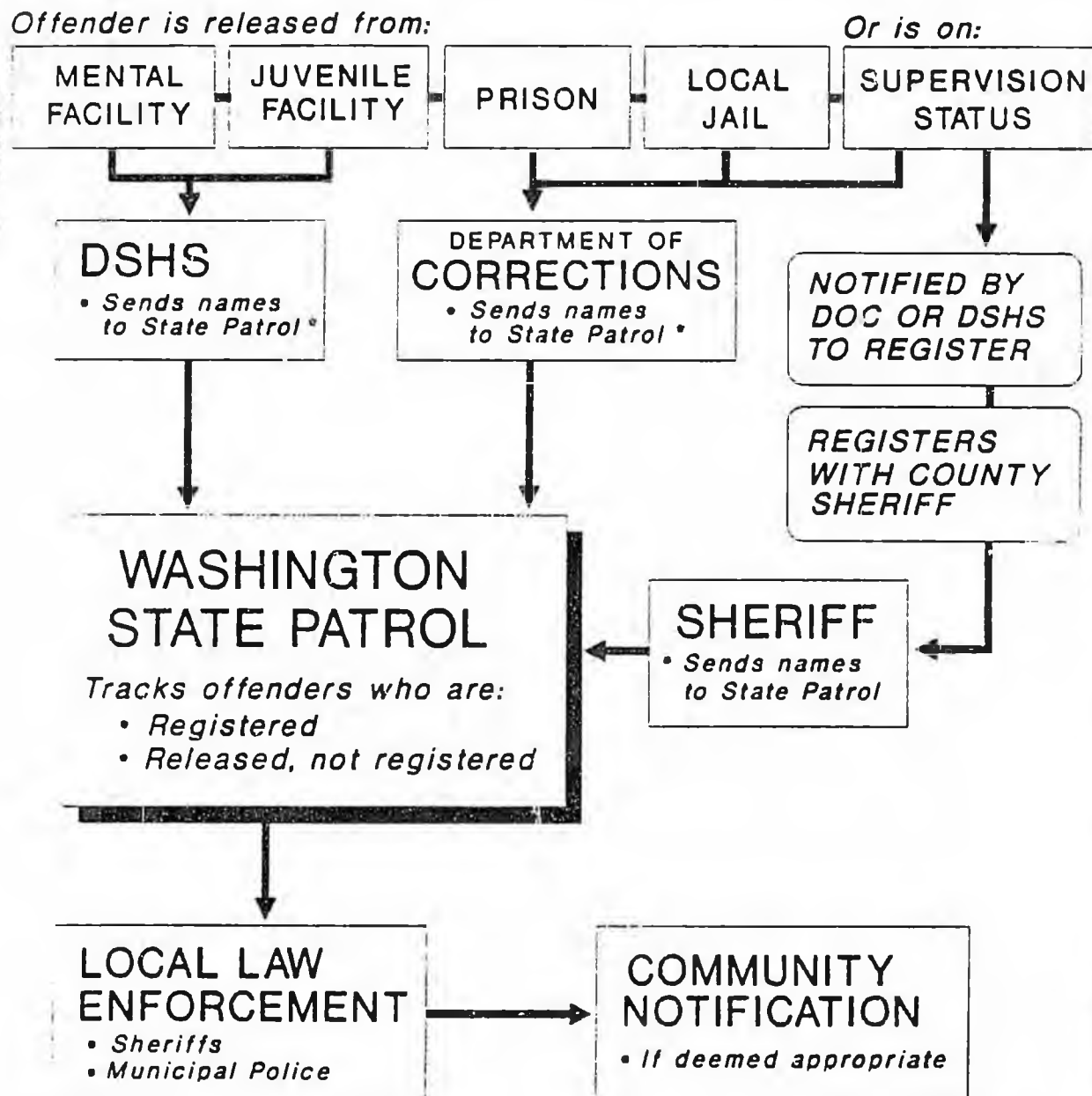
Before the data was reviewed, names on the State Patrol printout were verified for obvious duplications. Seventy-one duplications were found and removed from the list. Most resulted from discrepancies in name spellings, or because middle initials were included when released, then subsequently excluded upon registration, or visa versa. It is possible that more duplications exist than were found on the printout through manual screening. Duplications result in the over-reporting of the number of released sex offenders who did not register, because offenders show up in each group when they should be included only in the registered group.

By law, sex offenders are granted 30 days to register with the sheriff in their county of residence. Offenders are consequently given this time period to comply before being considered non-registered. Therefore, 47 individuals whose release date was within 30 days of the State Patrol printout were dropped from this analysis, regardless of whether they had registered.

Because of the manner in which registration information is maintained on the Washington State Patrol central registry, distinctions between sex offenders required to register retroactively, and those who have been released or sentenced since February 28, 1990, cannot be made. In addition, identifying individual groups of offenders is arduous and time consuming because of the manual examination required. The Washington State Patrol and Department of Corrections are improving their computer systems to facilitate future analysis of registration rates.

We extend acknowledgements to the Washington State Patrol, Department of Corrections, and the Department of Social and Health Services for their assistance in compiling data for this report.

APPENDIX
SEX OFFENDER REGISTRATION:
Tracking the Offender



**Except juveniles on detention and adult jail releases without DOC supervision.*

The Anchorage Times

Juneau's dirty laundry

NO NEED to wait for all the sordid details leading up to Sen. George Jacko's demonstration of poor judgment and outrageous behavior the other morning. The mess already is ugly and embarrassing.

A cynic might say it is only because the Democrat from Pedro Bay betrayed his party by joining Republicans to organize the Senate that he now finds himself being castigated in the press by colleagues like Senate Minority Leader Jim Doman.

Politics might also account for why the co-author of the new ethics law, Rep. David Finkelstein, proclaimed Sen. Jacko "guilty" — before any ethics committee inquiry and in contradiction of the new law.

Most Alaskans, however, will say the Jacko affair, ill-considered police call and all, is just one more piece of the Legislature's disgusting, dirty laundry that gets aired from time to time. The debauchery associated with a typical session in our state capital is legendary.

Usually, stories of extramarital affairs make it no further than the gossip column, reported as which staffer happens to be the "main squeeze" of which legislator, or who's a traveling companion (wink-wink) of whom, or a snide remark about which lawmaker is spending time on another's couch. Lobbyists and reporters make it into the rumor mill, too.

Add to this, the junkets, the fund-raisers and the wheeling-dealing between lawmakers and the fat cats who write the big checks — and you wind up with enough dirty laundry to sink a Laundromat.

It's laughed off. It shouldn't be.

Certainly, not all legislators or staff participate in the bacchanal circus, nor are the indiscretions limited to occupants of the state Capitol building.

But the attention now being given the Jacko incident provides an opportunity for legislators to take a good look at themselves, their image and their purpose — then to do something about it.

The new ethics law is where to start.

The Legislature should expedite confirmation of the members of the ethics panel and empower them to do their job.

Alaskans will be watching to see how the panel handles this mess as well as investigating allegations by a former girl friend against Sen. Dave Donley.

Rebuilding public trust in state government may well hinge on how well the new ethics committee does its job.

1.21.93

Registration time

A tool for controlling sex offenders

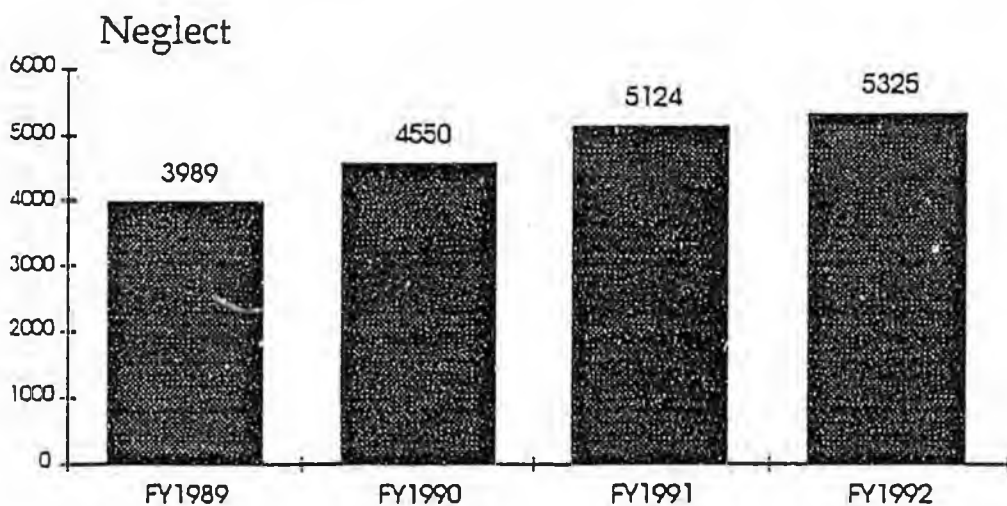
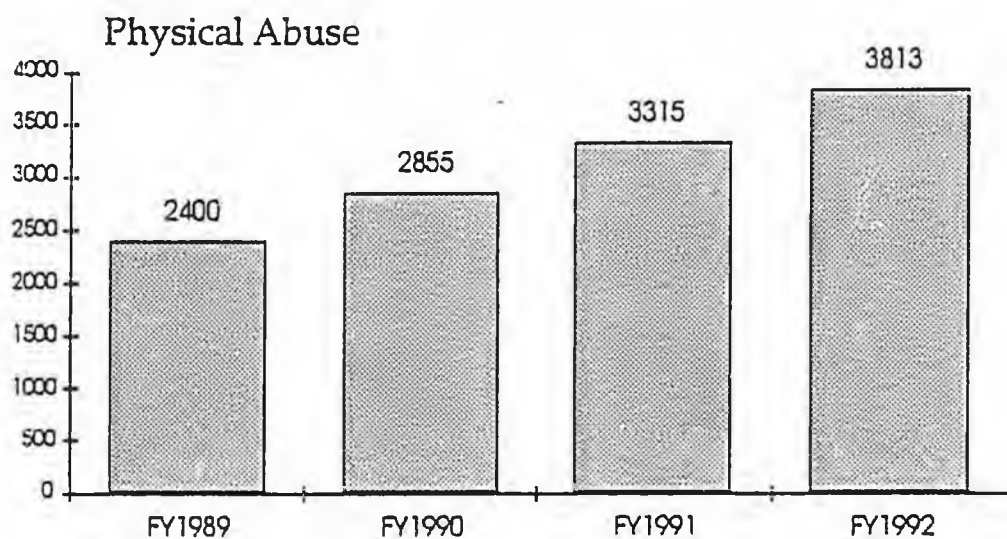
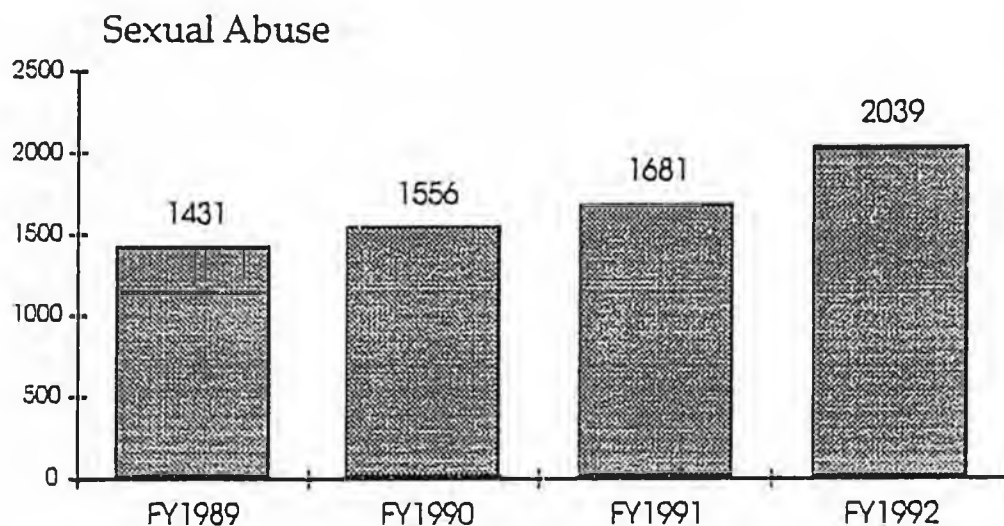
Last year, Rep. Fran Ulmer of Juneau introduced a bill requiring sex offenders to register with the nearest state trooper office once they get out of prison. The bill passed the House but never made it to the Senate floor, though it reportedly had strong support there.

About 500 of Alaska's 2,500 prison inmates are sex offenders, mostly child molesters and rapists. Some, but not all, go through treatment, but no one can say for certain that treatment "cures" these criminals of their deviant behavior. So how, when they're released — and they are, eventually, released — do we stop them from raping and molesting again?

Registration is not a cure, but it is a tool. Police in other states (about a third require registration) believe that registration can deter offenders from committing another crime, or allow law enforcement to intervene before a potential victim is harmed. Sex offenders who don't register and are found under suspicious circumstances can be prosecuted for failure to register. And, in a worse-case scenario, the information from registration can help troopers investigate crimes that have taken place.

Registration laws, for the most part, are new. We don't know how well they've worked to prevent or help solve sex crimes. We do know that they've withstood legal challenges and that compliance is surprisingly high. And we believe, given the seriousness and prevalence of sex crimes, they're worth trying.

Reports of Harm to Children Made to Child Protective Services from FY89 to FY92



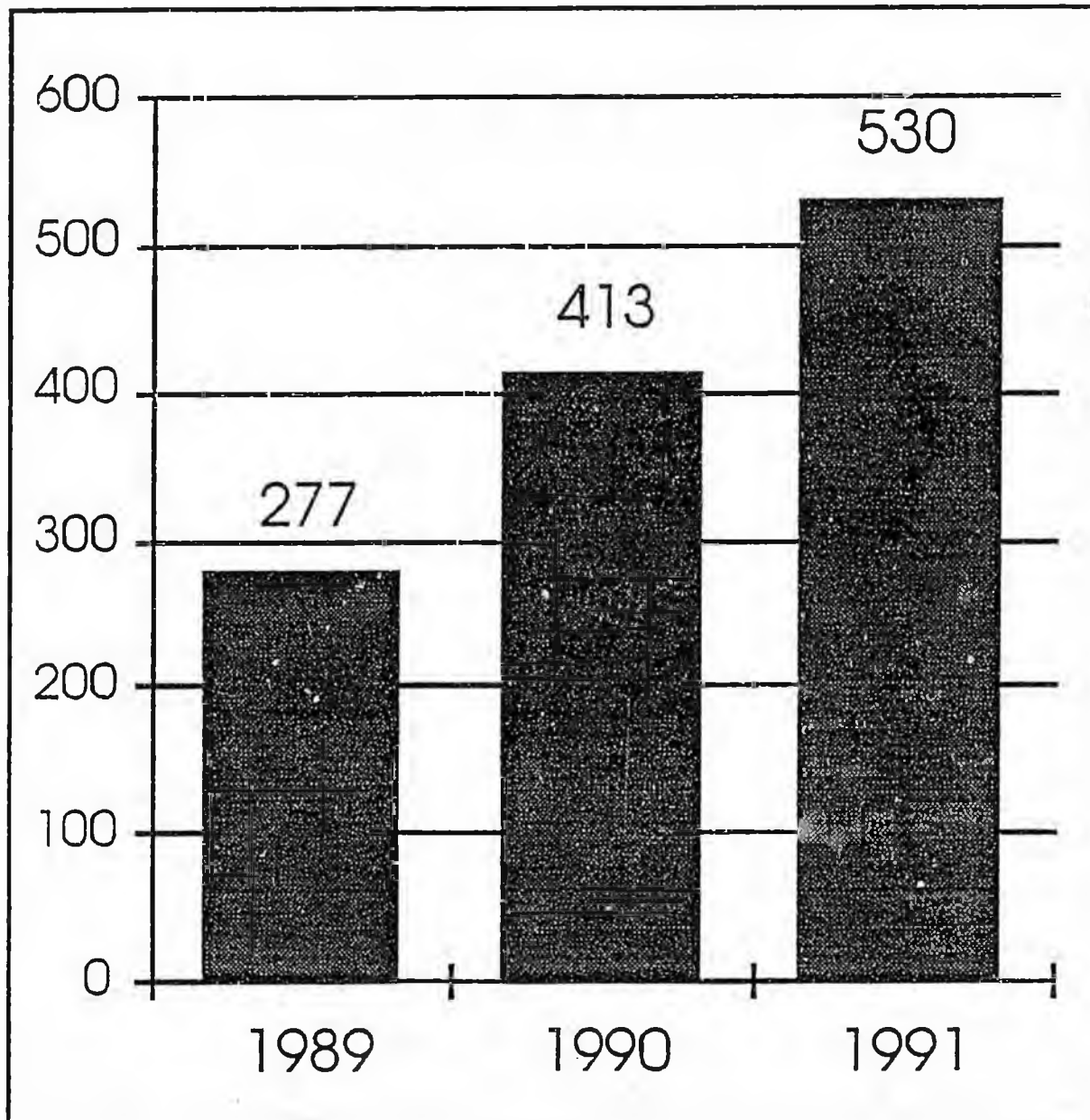
Provided by The Network on Domestic Violence and Sexual Assault

Source: Department of Health and Social Services

HB69
2/2/93

HB69

Reported Rapes in Alaska 1989 through 1991



Provided by The Network on Domestic Violence and Sexual Assault

Source: Department of Public Safety

HB69
2/2/93

Why I'm every mother's worst

April, Redbook

FEAR

For more than 40 years, I was a loving friend to hundreds of little boys. I took them fishing, helped them with homework, and listened to their problems. Their parents never suspected I was also having sex with them.

BY ROSS M. NELSON *with Ruth Miller Fitzgibbons*



You thought your son slept over at a friend's house that night? He did, but it wasn't the friend you thought. I know he told you he'd be at Billy's.

Your son was sleeping with me. I'm the man down the street who hired him to mow the grass, who helped him with his homework while you were at work, who went to school and scout functions when neither you nor his father had the time. I also taught him some things he didn't need to know—not yet, anyway.

You see, I am a child molester—a pedophile.

For more than 40 years, I had sex with boys. Most of them were between the ages of 12 and 15. Some I truly cared about; others were just passing sexual fancies. Many times I wanted to stop myself, to call and tell a boy's mother what I had done with her child. But I would convince myself that my time with the boy had a more positive influence than a negative one. And it was so easy to get away with it—until I finally got caught. I'm now 60 and in a Texas prison, where I'm serving a 70-year sentence.

Meeting boys was simpler than you might imagine. I never had to force or intimidate them, or offer them money or other bribes. Most of them came along with me willingly.

Take a typical Saturday afternoon. Mom is busy with the younger children, or maybe away at some social engagement. Dad is playing golf or working, or perhaps he doesn't even live with the family anymore. The boy feels lonely and unwanted at home. He comes to the mall to wander.

From where I'm sitting on a bench in the middle of

"MY EVERY MOVE was driven by a compulsive need to have sex with young boys. I was addicted."

the mall concourse, the boy can't help but see me when he leaves the video arcade. Earlier I was in there too, and we made eye contact, even spoke a few casual words. I chose him to talk to because he seemed quiet, and he was alone. Now he sees me again as he walks along looking in the store windows. Within ten or twenty paces, he glances back.

Now he's at the pet shop or perhaps the bookstore. I head over casually and make a friendly remark about the merchandise. He smiles shyly. He's always been taught not to talk to strangers. But I've smiled and chatted, and shown interest in him. I'm not really a stranger anymore.

I offer to buy him a hamburger or a slice of pizza. He may hesitate. But finally he smiles and agrees. From then on, he's mine.

There are far more child molesters who operate like me than there are those who forcefully kidnap children. What the abductors do makes the headlines. What I do is more common and less noticeable. Most child molesters are established in our communities, known to others as just another good neighbor. We may even be married with kids of our own.

My urge to have sex with boys was not the result of any emotional, physical, or sexual abuse, nor did it come upon me suddenly with adulthood. My first sexual encounter, though it was an innocent one, was in sixth grade. While a boy named Adam and I were putting on costumes for the school play, we engaged in a harmless game of "you show me yours and I'll show you mine." Later, when I was 12, my friend Danny wanted to play the game as well. Then it was Jerry, Danny's brother, then my younger cousin. I was always the instigator.

When I was 13, my mother, my brother, and I moved to a new town (my father had left home when I was a

year old). I was introverted, studious, hesitant to make new friends. No one in my family seemed to notice anything wrong. I had had a close relationship with my grandfather, but he died shortly before we moved. I didn't date much—hardly ever—since I was only interested in boys.

By gossiping with other boys, I learned who in town was homosexual—the manager of the pickle factory, the local tailor, even the vice principal of the high school. But the thought of having sex with any of these men turned me off. Some of the boys I knew did—and bragged about it. Perhaps it was then that I first realized that some boys would consent to sex with an adult in exchange for a favor or friendship.

I had been active in the military reserves in high school and at age 19 became a platoon sergeant in the infantry during the Korean War. There I learned to smoke, drink, and swear—all of which helped cover up my lack of self-confidence. My sexual curiosity was set aside except for cautious glances and a few minor episodes, and I left active duty as a master sergeant. Back home, I bought a house, and my mother moved in with me because my older brother had married while I was away.

This began a dark time in my life. There were periods when my every move was driven by a compulsive need to have sex with young boys. My mother continued to live with me on and off over the next 40 years, and I believe she was aware of my deviant sexual behavior, but we never spoke about it. Somehow I managed to get an education, learn a profession (I'm a horticulturist), and master the science of photofinishing. For years I worked nights in a large photofinishing lab, where I was surprised to discover the proliferation of pornography involving children. This helped convince me that my desires were not that abnormal.

Lust seemed to consume my free time. Looking back, I realize that I was searching for someone to love

who would love me back—unconditionally. For nearly a year, I had a relationship with a woman I had met through work, but it didn't last—I had an affair with a 14-year-old boy while we were seeing each other.

I went through dozens of these affairs. I especially liked blue-eyed blonds, preferably ones who were intelligent and polite, neat and nicely dressed. Many of these boys were members of large families—and they cut across all class levels. I've intimately known the sons of a senator, a general, a physician, an assistant city manager, and more. Boys who had an emotional—rather than economic—need for a friend like me were most easily controlled and more loyal. Some of my relationships lasted several years.

To keep a boy's friendship, I offered him very little beyond what he should have found at home: someone who'd listen and who'd cheer him on in school and sports. Occasionally, I took boys to the movies or on camping trips, or played cards with them for hours. I truly enjoyed spending time with them. And I knew what they offered me: the chance to feel whole, comfortable, needed.

I was careful about the boys I went after. I watched for two physical types: early maturers, who reach puberty at about 10 or 12 years old, and late bloomers, who don't hit puberty until 15 or so. Undergoing physical change, their peers have yet to begin, early maturers are often shunned by other boys their age. As a result, they're willing and eager to engage in activities with older boys or men whose physique more closely matches theirs, simply to discover what is happening to them. Sometimes they seek these relationships just to reassure themselves that they aren't freaks. Boys who are late bloomers may also feel left out, since girls their age tend to prefer their more masculine friends. These boys are easily seduced by older adults:

that way they can gain the sexual experience their peers brag about.

It's difficult to say whether the boys enjoyed the sex with me or just tolerated it in exchange for the attention they craved. The vast majority, I believe, were not gay—they simply accommodated my wishes in order to remain close to me. The boys were generally passive sexual partners at first, although most would eventually agree to give oral and anal sex. Usually I didn't mind being kissed on the lips, but some would refuse open-mouthed kisses.

About ten years ago, I realized that I had slipped into addictive behavior. I wasn't getting any sexual gratification from my affairs; each one was simply another conquest. One August, I took time to count up all the boys

I'd been with since the beginning of that year, most of whom I'd had sex with only once or twice. There were 29 in all! Most I picked up while riding my motorcycle, cruising city parks, or just parking at a convenience store and waiting. Adolescent boys can't seem to resist a motorcycle.

I met 13-year-old Jimmy that way. Going into a store to buy cigarettes, I saw him and his friend playing a video game. Jimmy was slender, with brown hair and blue-green eyes and just a few freckles over his nose. Judging from his manners and his clothes, I guessed he came from an upper-middle-class family. He asked about my motorcycle and wanted me to give him a ride. An hour later, he was at my house phoning his mother to say that he was at a friend's and asking if he could spend

the night. He stayed that night and the whole next day. He said he'd had sex only once before, with a girl his age. His parents were separated.

John was another boy typical of so many I was with. At 15, he was the eldest child in a big family and was expected to take care of himself.

But John wanted more. He needed someone to tell him he was doing well, pat him on the back, play a game of tennis or catch. He wanted to be able to tell somebody when he was feeling low and to be comforted instead of being told to "take it like a man."

I never really feared that a boy would turn me in to the police. With one of the boys I loved most, I got proof of this.

I met him fishing at a lake near my home. I was (continued on page 116)

Can Child Molesters Be Stopped?

One in three girls and one in seven boys will be sexually molested before the age of 18, according to the U.S. Department of Justice. The typical pedophile will sexually abuse 380 children in a lifetime. Most molesters are men, says Gerald Blanchard, M.A., a Wyoming therapist and author of *Sex Offender Treatment: A Psychoeducational Model*.

There are three types of child molesters.

Aggressive: The rarest. Violent and sadistic, sometimes mutilating victims after sex.

Regressed: The most common; often married and a parent. Sexual behavior is normal until extreme stress—such as loss of a job, a death, or divorce—triggers a few episodes of sex with a child.

Fixated: The classic type. Often a sex addict. May be ambivalent about his behavior; rationalizes that he's a loving friend to lonely, "neglected" children. Ross M. Nelson falls into this category.

Some pedophiles prefer sex with girls, others with boys. Many people assume that the latter are homosexual, creating the misconception that gay men are likely to prey on young boys. But, says Blanchard, "though some pedophiles are gay, many aren't. And it's not their homosexuality that causes them to molest kids—it's their overriding sexual preference for children."

Pedophiles are often genuinely empathetic with children—and thus able to easily manipulate them. "They know what kids like, how to connect with them. Kids find them endearing and entertaining," says Blanchard. In contrast, pedophiles tend to have difficulty relating to adults. Often their emotional development was somehow interrupted during childhood, frequently as a result of sexual abuse.

They tend to appear aloof and arrogant but inside are very insecure. "Pursuing and conquering a child as a sexual partner gives them a sense of power that is lacking in their lives," explains Blanchard.

Most pedophiles are consumers of vast amounts of child pornography, according to a report from the U.S. Congress Permanent Subcommittee on Investigations on Child Pornography and Pedophilia. They often show the materials to their victims in an attempt to convince them that such sex acts are normal.

Experts say pedophiles are among the most difficult sex offenders to treat. Short-term, intensive rehabilitation can stop them for a while, but the majority molest again after three or four years. Blanchard blames the low success rate on the fact that most therapists have only recently begun to treat pedophilia as an addiction as well as a criminal offense. "Controlling any addiction is a lifelong process. There's no such thing as a cure," he says. "With the right treatment, we have a better chance of managing the behavior over long periods of time." The most effective rehabilitation combines several methods, such as one-on-one counseling, drugs that inhibit sex drive, group therapy, and 12-step programs similar to those used to treat alcoholism and drug addiction.

Parents needn't become suspicious of every compassionate babysitter or attentive friend. Establishing open communication with your children about sexuality will help them confide in you if something confusing or scary happens to them. Finally, believe a child who reports a sexual overture or encounter, no matter how respectable or unlikely the accused person might seem. —E.A.F.

Sex offender registration law is upheld by court

By Hal Spencer
Associated Press writer

OLYMPIA — A state law requiring that sex offenders register with the authorities has survived an important legal challenge.

The state Court of Appeals on Monday rejected the argument that the 1990 law is unconstitutional because it applies to people who committed their crimes before the law took effect. The law requires that all convicted sex offenders register with the sheriff in their home county.

The purpose of the law is to help authorities keep track of former offenders on the argument that a large percentage of them are repeat offenders. Similar registration laws exist in many states, officials have said.

The appeals court, acting on an appeal by convicted sex offender Michael Taylor, 39, of Seattle, said the constitutional principle barring "ex post facto" application of laws does not apply because the law is "regulatory" rather than "punitive" in nature.

One of the three judges dissented, saying the effect of the law is certainly punitive because it makes life harder for the offender in several ways.

Taylor contended that the law requiring him to register with the sheriff in his home county of King was unconstitutional because he had committed the crime in 1989, a year before the law took effect.

Taylor was convicted and sentenced to 180 days and community service for "attempted indecent liberties." Dan Donohoe, a spokesman for King County Prosecutor Norm Makeng, said Taylor was visiting a friend in Renton and during the evening, stripped naked and attempted to initiate sex with the friend's female roommate who was asleep in her bedroom. Donohoe said the initial charge was attempted rape but was reduced to attempted indecent liberties.

The appeals court majority disagreed with Taylor's argument against the registration law.

"We conclude that while registration is disadvantageous to a

registrant, the disadvantages are relatively minor and are not sufficient as to make the registration statute punitive in overall effect. We conclude it is a regulatory statute, which does not violate the prohibition against ex post facto laws," said the opinion, written by Judge Jack Scholfield.

Taylor's attorney, Fred Diamondstone, said Monday that he hadn't had a chance to speak to his client and did not know if he would appeal to the state Supreme Court. But he noted that an identical case — State vs. Ward — was to be heard by the high court in the fall.

Diamondstone agreed with the dissent filed by the third judge in the case, Susan Agid.

Agid wrote that the law is primarily punitive because "It can have the effect of restricting change of residence, can diminish changes of employment, will make the registrant a suspect in every reported sexual offense and will have an overall stigmatic effect greater than would otherwise exist."

EFFECTIVENESS OF STATUTORY REQUIREMENTS FOR THE REGISTRATION OF SEX OFFENDERS

A Report to the
California State Legislature



A Study by
Roy Lewis, Research Program Specialist

CALIFORNIA DEPARTMENT OF JUSTICE
DIVISION OF LAW ENFORCEMENT
CRIMINAL IDENTIFICATION AND INFORMATION BRANCH
BUREAU OF CRIMINAL STATISTICS AND SPECIAL SERVICES

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APPENDIX A - COPY OF SENATE BILL 888	

Executive Summary

Senate Bill 888 (Seymour), which passed in 1985, mandates that the Department of Justice study the effectiveness of statutory requirements for the registration of sex offenders. In order to measure the effectiveness of sex registration in California, the Department designed a study to determine: (1) the level of compliance in California with sex registration requirements, (2) the recidivism patterns of sex offenders, and (3) the extent to which sex registration assists in the investigation of sex crime cases.

Compliance

Compliance among a group of convicted sex offenders in 1973 and another group of convicted sex offenders in 1981 was examined by using complementary data sources. Compliance was found to range from a low of 54 percent among the 1973 group to a high of 72 percent among the group from 1981. While the compliance rate has improved, it still falls short of acceptable levels.

Another level of analysis measured compliance of those released from prison in 1981. Among this group, compliance was higher at nearly 89 percent. Since the 1973 and 1981 groups included offenders receiving local dispositions (e.g., probation, jail, jail and probation, etc.), it is concluded that compliance of those released from jails is considerably lower.

Recidivism

To evaluate the recidivism patterns of sex offenders, the Department conducted a 15-year followup of sex offenders first arrested in 1973. An analysis of subsequent arrests over the 15-year period (1973-1988) found that nearly half (49.4 percent) were rearrested for some type of offense and almost twenty percent (19.7) for a subsequent sex offense. Sex offenders whose first arrest was for rape by force or threat had the highest recidivism rate, 63.8 percent for any offense and 25.2 percent for a subsequent sex offense.

Investigative Assistance

To measure the extent to which sex registration assists in the investigation of sex crime cases a survey of all law enforcement agencies and a sample of other criminal justice agencies was conducted. Six-hundred-and-eighty-two (682) questionnaires were sent to police and sheriff's departments, county probation departments, county district attorneys, and state parole offices. Four-hundred-and-twenty (420) questionnaires were returned to DOJ, thus giving a sample return of 61.6 percent. This is an excellent response rate and reflects confidence in the findings of this survey.

The two major findings of the survey were that nearly 97 percent of law enforcement respondents believe that sex offenders should be registered in California and 83 percent believe that the sex registration process aids in the apprehension of suspected sex crime-offenders. The responses given by other criminal justice agencies were quite similar.

Despite the strong support for registration and the value the registration process has to investigation the survey results indicated that a number of problems exist with the current system. Similar problems were identified across every type of criminal justice agency.

Seven major problems were identified, including (1) lack of time and manpower at the local agency level to devote to enforcement of sex registration requirements, (2) lack of a statewide automated sex registration system and up-to-date information, (3) lack of a statewide M.O. (modus operandi) information system on sex registrants, (4) lack of knowledge or cooperation on the part of the offender to register and/or provide law enforcement with address changes, (5) lack of training and familiarity with the sex registration system, (6) lack of punishment for sex registration violators, and (7) lack of information sharing among criminal justice agencies in general.

Conclusions

Based on the findings of this study, three major conclusions were reached:

1. Approximately three out of every four sex offenders in recent years required to register in fact became registered.
2. Sex offenders as a group are highly recidivistic, particularly among those who commit rape.
3. Although there is widespread support for registering sex offenders, there is a need for improving the system.

Problems/Recommendations

Based on the seven major problem areas identified in the survey, the following are recommendations for improving the sex registration system in California:

1. Lack of time and manpower at the local agency level to devote to enforcement of registration requirements.

The Department can assist local agencies with awareness programs on the sex registration process, and the services available through the Sex Registration Unit. The Department will continue to do this through information bulletins and training programs.

2. Lack of a statewide automated sex registration system and up-to-date information.

Efforts directed towards development of statewide automated capabilities are under way in two areas. If SB 2282 (Presley) passes, it will require the Attorney General to establish and maintain a Violent Crime Information Center to assist in the identification and apprehension of persons responsible for specific violent crimes. The Center includes an Investigative Support Unit and a statewide automated Violent Crime M.O. system to facilitate the identification and apprehension of persons responsible for violent felonies. Sex offenses are to be included in the system.

A second area is creation of the Serious Habitual Offender Project (SHOP). This project is proposed as legislation in SB 2334 (Lockyer). If approved, this bill will require the Department of Justice to conduct a five-year pilot project in ten bay area counties. It will create a file of serious habitual sex offenders and require the Department to distribute information in a timely fashion to law enforcement agencies, correctional institutions, probation/parole departments, prosecutors, and courts so they can aggressively and effectively identify, arrest, and convict sex crime offenders.

3. Lack of a statewide M.O. (Modus Operandi) information system on sex registrants.

SB 2282 (Presley) will require the Attorney General to establish and maintain a Violent Crime Information Center as reported in number 2 above. The Center will establish an Investigative Support Unit and an automated violent crime M.O. system.

4. Lack of knowledge or cooperation on the part of the offender to register and/or provide law enforcement with address changes.

The Department of Justice is committed to exploring other avenues for a more effective system to get sex offenders registered in California. Such an exploration will include studying the possibilities of accomplishing registration at other stages in the criminal justice process, such as by the courts upon sentencing of an offender or later by probation departments. If the current system of registration remains unchanged, the Department will explore ways to better communicate sex registration requirements, especially to local jails where the greatest problems of registration exist.

5. "Lack of Training" and familiarity with the sex registration process.

The Department will continue to emphasize the use of bulletins, and training programs. DCJ is presently preparing a detailed users guide which will prove very useful to local sex crime investigators.

6. Lack of appropriate punishment for sex registration violators.

During the last session of the Legislature, several bills were introduced to improve sex registration and/or assist in investigating sex crimes in California (i.e., SB 2282 - Presley, AB 1975 - Ferguson, AB 2037, La Follette, AB 2396, Stirling, SB 761, Deddeh, and SB 1283, Royce).

SB 2282 (Presley) as mentioned, requires the Attorney General to establish and maintain a Violent Crime Information Center. SB 761 (Deddeh) would reduce the period within which a person must register when entering a new jurisdiction. SB 1283 (Royce) would provide for enhanced fines for failure to register, would require probation and parole officers to ensure that their clients properly register and would provide for increased periods of probation and parole for specified sex offenses. AB 1875 (Ferguson) would require a study analyzing the use of computerized state income tax returns and drivers' license data as a means of verifying and updating the addresses of sex offenders. AB 2037 (La Follette) would raise the penalty for failure to register to provide for a potential felony punishment and would authorize the employment of private contractors to verify sex offender registration records. Finally, AB 2396 (Stirling) would make additional sex offenses registrable and would authorize limited registration for persons convicted of misdemeanor indecent exposure.

Only SB 2282 and AB 2037 are currently pending before the Legislature.

7. Lack of information sharing among criminal justice agencies in general.

It is recommended that local agencies on a county or regional basis develop a local task force on sex crimes to coordinate information sharing and investigative activities. Should the Serious Habitual Offender Program be implemented, it could serve as a model program. Through its outreach activities, the Department Sex Registration Unit will continue to encourage formation of these types of programs at the local level.

SECTION I: INTRODUCTION

A. Background

Since July 1, 1947, individuals convicted in California of a registrable sex offense have been required to register for life under Section 290 of the Penal Code. A person must register if, since July 1, 1944, that person has been convicted of sex registrable offenses such as rape, sodomy, molestation, incest, etc. A person determined to be a mentally disordered sex offender or convicted in any other state of offenses is also required to register. Registration with a local law enforcement agency must occur within 14 days after moving into any city and/or county in which the offender resides or is temporarily domiciled. If an individual subsequently changes his/her address, he/she is required under the law to keep the local law enforcement agency aware of the change of residence. In turn, the police department or sheriff's office which has jurisdiction over the subject's place of residence must submit all updated information to the Department of Justice (DOJ) Sex Registration Unit.

Upon receipt of completed registration forms, the DOJ Sex Registration Unit places the information (registrant's physical description, photograph, convicted offenses, etc.) into its off-line computer system. This system is utilized by the Registration Unit to provide listings of suspects to agencies and assist in the investigation and prosecution of sex offenders.

B. The Case for Sex Registration

Sex registration is a process that is controversial. Opponents consider the process an unwarranted violation of an individual's rights. Others argue that sex registration is necessary for protecting society. Aside from the controversy, sex registration has assisted in the investigation of thousands of cases. Two recent cases of great importance have included cracking two major Orange County murder cases. One included William Bonin, the "Freeway Killer," who was identified as a suspect because of his registered sex offender status. Bonin is currently on death row for the murders of 14 victims. Another Orange County case in which the sex registration process aided in the solution involved Robert Jackson Thompson, convicted of the 1981 murder of a 12-year old boy.

C. Study Objectives

Senate Bill 888 (Seymour) was passed by the Legislature on October 2, 1985 and became law January 1, 1986. The bill requires the DOJ to:

- Study the effectiveness of statutory requirements for the registration of sex offenders.
- Evaluate the registration of juveniles under 647a for the two years between 1-1-86 and 1-1-88.

A copy of the bill can be found in Appendix A.

D. Overview of Study Methodology

In order to evaluate the objectives listed above, the DOJ Bureau of Criminal Statistics and Special Services (BCS/SS) focused on three measures of effectiveness. These measures included: (1) compliance or the extent to which those required to register in fact do register as sex offenders, (2) recidivism in order to describe patterns of offending among sex offenders, and (3) information utilization by local law enforcement investigations.

The methods used to measure effectiveness included:

Compliance. Three different data files were used, including a file of offenders released from prison in 1981, and two DOJ OBTS files for the years 1973 and 1981. Each of these three files

was compared to the Department of Justice Sex Registration file to estimate the degree of compliance with sex registration.

Recidivism. A study was conducted of recidivism patterns of sex offenders over a 15-year period and compared to other types of offenders.

Information Utilization. A survey was conducted of criminal justice agencies in California to assess how information about sex offenders is used, the value of the sex registration process, problems with the system, and suggestions for improvement.

SECTION II: FINDINGS ON SEX REGISTRATION COMPLIANCE

A. Background

This section deals with compliance or the extent to which individuals required to register as sex offenders are entered on the California DOJ Sex Registration File and the degree to which address information is kept up-to-date.

Under the law, confining institutions (prisons, jails, mental institutions) are required to inform a sex offender of his responsibility to register. Upon release the sex offender is required to report within 14 days to the local law enforcement agency having jurisdiction over the offender's place of residence. Once the offender is registered, a copy of the registration, two photographs and two fingerprint cards are required to be forwarded to the DOJ. Once the documents are received, the Department of Justice Criminal History System and Sex Registration File are updated.

B. Findings

In order to estimate the degree of registration compliance, data on the Sex Registration File were compared with two years (1973, 1981) of the Offender-Based Transaction Statistics (OBTS) File on individuals who had been convicted of sex registrable offenses. Only 54.3 percent of those with the longest follow-up period (i.e., 1973 cohort) were found on the Department's Sex Registration File. However, among those convicted in 1981 the data showed compliance at 72.2 percent. Over this eight year period compliance increased nearly 20 percentage points. While 72 percent shows improvement, full compliance is not an unreasonable goal.

Using another source of data from the Department of Corrections, compliance among those released from prison in 1981 was examined. Data showed that those released from prison had the highest rate of compliance, i.e., 88.7 percent. These data suggest that jails have the greatest need and opportunity to improve in notifying sex offenders of their responsibility to register.

Another aspect of compliance is the degree to which address information on sex offenders is kept up-to-date. Based upon the criminal justice agency survey results, criminal justice agencies felt that the current system of sex registration in California is effective in following the whereabouts (residence address) of sex registrants. However, in the problem identification section of the survey, lack of up-to-date address information was considered a major problem of the system. Although findings are contradictory, the survey and other indicators suggest that address compliance is probably quite poor. Sex offenders, like other types of offenders are a mobile group and, given the inconsistent approach to offender registration, it is unlikely that offenders more likely to offend are those keeping their residence address information up-to-date with law enforcement.

SECTION III: RECIDIVISM OF SEX OFFENDERS

A. Background

One of the most critical questions surrounding sex registration is the recidivism of sex offenders. Presumably the more recidivistic a group the greater the need for monitoring their activities.

Recidivism thus addresses the issue of appropriateness for registration. Basically, this analysis focused on how specific types of sex offenders differ with respect to recidivism. Recidivism for purposes of this study refers to the number of subsequent arrests and charges that occurred in a group of individuals first arrested in 1973 for a sex registrable offense. To look at this pattern, offenders whose first arrest for a sex registrable offense occurred in 1973 were selected and their subsequent offense history was followed for 15 years (i.e., 1973-1988).

B. Findings

Sex Offender Recidivism Patterns

A total of 1,362 sex offenders whose first arrest occurred in 1973 were analyzed. The data in Table 1 shows that nearly half or 49.4 percent did recidivate over the 15-year followup period. The data also show that 19.7 percent of this group went on to recidivate with a subsequent sex registrable offense. Among those whose first arrest was for rape, 25.2 percent subsequently went on to commit a sex registrable offense.

TABLE 1
RECIDIVISM PATTERN BY TYPE OF SEX OFFENSE

Type of initial offense	Recidivism pattern		
	Did not recidivate	Any criminal offense	With subsequent sex offense
Total = 1,362	50.6	49.4	19.7
Rape (attempted) (N=129)	43.4	56.6	23.3
Rape (by force or threat) (N=318)	36.2	63.8	25.2
Incest, sodomy, oral copulation, lewd and lascivious behavior (N=462)	58.4	41.6	17.7
Indecent exposure, annoying or molesting, loitering in or about toilet, etc. (N=453)	54.7	45.3	16.8

Comparison with Other Offenders

In Table 2, patterns of recidivism are compared between sex offenders (described in Table 1 above) and other offenders whose first arrest was for some other type of offense (e.g., violent, property, drugs, other). The data show that the recidivism rate of sex offenders is quite similar to those whose first arrest was for property or drug offenses, all at the 49th percentile.

However, it can be observed in Table 2 below that approximately one out of every five sex offenders (19.7 percent) in the study recidivated with a subsequent sex offense. By comparison, for those offenders whose first arrest was for a drug offense, only 1.6 percent recidivated with a sex offense. Of those whose first arrest was for a property offense, approximately 2.7 percent recidivated with a sex offense. For violent offenders, approximately 3.7 percent recidivated with a sex offense and for all other offenders combined, approximately 3.0 percent recidivated with a sex offense.

Sex offenders who recidivated were approximately 5 to 12 times more likely to recidivate with a subsequent sex offense than were other types of offenders.

TABLE 2
RECIDIVISM PATTERNS BY OFFENSE GROUPINGS

Type of initial offense	Did recidivate		
	Did not recidivate	Any criminal offense	With subsequent sex offense
Total = 68,981			
Sex offenses (1,362)	50.6	49.4	19.7
Violent (9,394)	41.2	58.8	3.7
Property (22,417)	51.0	49.0	2.7
Drugs (11,324)	50.6	49.4	1.6
All other (24,484)	34.0	66.0	3.0

In conclusion, sex offenders do not differ significantly in terms of overall recidivism from most other types of offenders. However, among sex offenders in the study, there was a significant proclivity toward recommitting sex offenses. In fact, the analysis revealed a particular amount of specialization in the offender groupings.

SECTION IV: RESULTS OF CRIMINAL JUSTICE AGENCY SURVEY

A. Introduction

A survey of criminal justice agencies was used to measure perceptions of the effectiveness of the sex registration process. Six hundred eighty-two (682) questionnaires were sent to police and sheriff's departments, county probation departments, county district attorneys, and state parole offices. Four hundred and twenty questionnaires were returned to the DOJ thus giving us a sample return of 61.6 percent (420 out of 682 questionnaires). The obtained sample size of 61.6 percent is considered to be representative of criminal justice agencies in California.

The survey results were organized into two areas: Assessment Evaluation Information and Problem Identification.

Emphasis in the survey focused on questions of how effective the system is viewed by all criminal justice agencies and the problems which various criminal justice agencies found with the sex registration process. The findings are presented in the following two sections (B and C).

B. Assessment Evaluation Information

The following addresses four questions common to all agencies and their responses.

Do you believe that the current system of sex registration in California is effective in preventing sex offenders from committing sex or other crimes?

Agency Type	Yes	No	No Opinion/Don't Know
Law Enforcement	23.2	51.5	25.3
Probation	18.6	48.8	32.6
State Parole	27.3	52.3	20.4
County DA's	25.0	53.1	21.9

In general, criminal justice agencies do not view sex registration as effective in preventing sex or other type of crimes.

Do you believe that the current system of sex registration in California is effective in following the whereabouts (residence address) of sex registrants?

Agency Type	Yes	No	No Opinion/Don't Know
Law Enforcement	62.9	28.8	8.3
Probation	59.5	31.0	9.5
State Parole	75.5	15.6	8.9
County DA's	68.7	18.8	12.5

The majority of criminal justice agencies believe the current system is effective in following the whereabouts of sex registrants.

Do you believe that the current system of sex registration in California aids in the apprehension of suspected sex crime offenders?

Agency Type	Yes	No	No Opinion/Don't Know
Law Enforcement	82.7	6.7	10.6
Probation	76.2	7.1	16.7
State Parole	86.7	8.9	4.4
County DA's	71.9	9.3	18.8

A large majority of criminal justice agencies believe that the current registration system is effective in aiding the apprehension of suspected sex crime offenders.

Do you believe sex offenders should be registered in California?

Agency Type	Yes	No	No Opinion/Don't Know
Law Enforcement	96.7	1.0	2.3
Probation	100.0	-	-
State Parole	95.6	2.2	2.2
County DA's	83.9	12.9	3.2

The vast majority of respondents to the survey believe that sex offenders should be registered in California.

Conclusion

The data suggest very strongly that the majority of respondents in criminal justice agencies believe that we should have sex registration in California, a large proportion believe the current system aids in the apprehension of suspected sex crime offenders, and is effective in following the whereabouts of sex registrants. However, approximately half of the respondents do not believe that the sex registration system is effective in preventing sex offenders from committing sex offenses or other crimes.

C. Problem Identification

Open ended questions were used to identify problems various criminal justice agencies raised about the sex registration process.

Seven major problem areas were identified by respondents to the survey. These problem areas included:

- Lack of time and manpower at the local agency level to devote to enforcement of sex registration requirements.
- Lack of a statewide automated sex registration system and up-to-date information.
- Lack of a statewide M.O. (Modus Operandi) information on sex registrants.
- Lack of knowledge or cooperation on the part of the offender to register and/or provide law enforcement with address changes.
- Lack of local agency training and familiarity with the sex registration system.
- Lack of appropriate punishment for sex registration violators.
- Lack of information sharing among criminal justice agencies in general.

Collectively, these identified problems were reported time and time again by the vast majority of respondents to the survey. Recommendations for addressing these problems are reported in the Executive Summary.

SECTION V: REGISTRATION OF JUVENILES UNDER 647a

A. Background

SB 888 (Seymour, 1985) required the Department of Justice to conduct a study of sex registration law 647a as applied to juveniles committed to the California Youth Authority from the juvenile court. The registration law applied to those juveniles convicted of annoying or molesting a child under 18. The law stipulated that this registration requirement would sunset on January 1, 1988.

B. Findings

No assessment of the effectiveness of this registration law is warranted. Data from the California Youth Authority showed that only two juveniles were affected by the law, both of whom were still incarcerated in the CYA on January 1, 1988.

CHAPTER 1474

An act to amend Section 290.8 of, and to amend, repeal, and add Section 290 to, the Penal Code, and to amend Section 761 of the Welfare and Institutions Code, relating to crimes.

[Approved by Governor October 8, 1985. Filed with Secretary of State October 8, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

SB 888, Seymour. Crimes: registration of sex offenders.

Existing law requires sex offenders, including persons who have been convicted of committing certain acts of rape, and acts of solicitation to engage in or engaging in lewd or dissolute conduct in public places, within 14 days of coming into any county, city, or city and county in which the person resides or is temporarily domiciled for that length of time, to register with the chief of police of the city in which the person resides or the sheriff of the county if he or she resides in an unincorporated area. Failure to properly register is a misdemeanor. Any person convicted of specified crimes who violates the registration provisions is required to serve not less than 90 days in county jail.

This bill would delete the acts of lewd or dissolute conduct from the above, but it would include certain other acts of rape and certain other sexual acts, including rape, done in concert with another person by force or violence either personally or by aiding or abetting the other person, within the category of offenses which must be reported to local law officials and for which failure to properly register constitutes a misdemeanor. It also would include additional acts of rape within the specified crimes conviction of which, in connection with failure to register, requires a minimum 90-day jail sentence. It thus creates state-mandated local programs by increasing the level of service required of local government under an existing program and by changing the definition of existing crimes.

This bill would revise the duties of various officials, including local officials, concerning certain forms relating to the discharge, parole, or release of persons required to register as sex offenders, thus establishing a state-mandated local program.

The bill would provide that the registration requirement also is applicable to a person discharged or paroled from the Youth Authority on or after January 1, 1986, who was adjudged a ward of the juvenile court on the basis of commission of any of certain sexually related offenses, thus establishing a state-mandated local program by expanding the category of persons to which a criminal penalty is applicable. On January 1, 1988, the registration

requirement would be deleted as to one of those offenses. The bill would provide that the registration requirement would terminate upon the person's attainment of the age of 25 and would provide for the destruction of the registration information, as specified.

The bill also would require the Department of Justice to conduct a specified study on the registration of sex offenders, contingent upon the appropriation of funds therefor, as specified. It also would require the Department of Justice to conduct a study of the effectiveness of, and the justification for, the inclusion of a certain offense among the crimes for which a person committed to the Youth Authority by the juvenile court must register as a sex offender.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

This bill also would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 290 of the Penal Code is amended to read:

290 (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of the offense of assault with intent to commit rape or sodomy under Section 220, or of any offense defined in subdivisions (1), (2), (3), (4), and (6) of Section 261, or of any offense defined in Section 264.1, 266, 267, 283, 286, 288, 288a, 289, or 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above mentioned offenses, or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or any person who has been since that date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above mentioned offenses, shall, within 30 days