

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7850 HOUSE JUDICIARY

115

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		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

# 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

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**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.<sup>1</sup> 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

<sup>1</sup> 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 victims), & § 12.1-32-15 (child victims); 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   
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CHILDREN

2101 Wilson Boulevard • Suite 550 • Arlington, VA • 22201-3052  
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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:

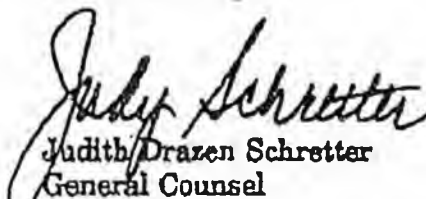
We recently obtained a copy of registration statute information compiled by the National Center for the Prosecution of Child Abuse which I have enclosed for your reference. They combined DNA testing statutes with sex offender registration statutes on their chart. We did identify from their material some 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-A19 (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.<sup>1</sup>

## 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.<sup>2</sup>*

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<sup>1</sup>Information 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.

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

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## 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.<sup>3</sup>

### **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.

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

## Periods

name, address, fingerprints, photo, date of birth, history information at the time of registration. In states where information is already on file with the administering agency, it is simply updated. Oklahoma collects more extensive information than any other state. The Oklahoma Department of Corrections was authorized to request any information from the DMV upon release. Thus, they can record the vehicle information (make, model, tag number), residence information, and particular residence. Two states collect DNA samples, and Illinois is beginning to collect

Time given to register, upon sentencing or release, ranges from a minimum of 30 days. Five states grant a full 30 days, and the other states require the offender to register within 14 days or less.

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

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

### **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.

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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.<sup>4</sup> 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).<sup>5</sup> 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

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<sup>4</sup>Revised Code of Washington, 42A.550(1).

<sup>5</sup>National 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.<sup>9</sup>

## **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.

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*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.<sup>7</sup> 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."<sup>8</sup> 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.<sup>9</sup> 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."<sup>10</sup>

### 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.<sup>11</sup> 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.

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

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

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

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

<sup>11</sup>Representative 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."<sup>12</sup> 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.<sup>13</sup> In 1991, the compliance rate for adult sex offenders in Washington State was calculated at 76 percent.<sup>14</sup> 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.

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

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

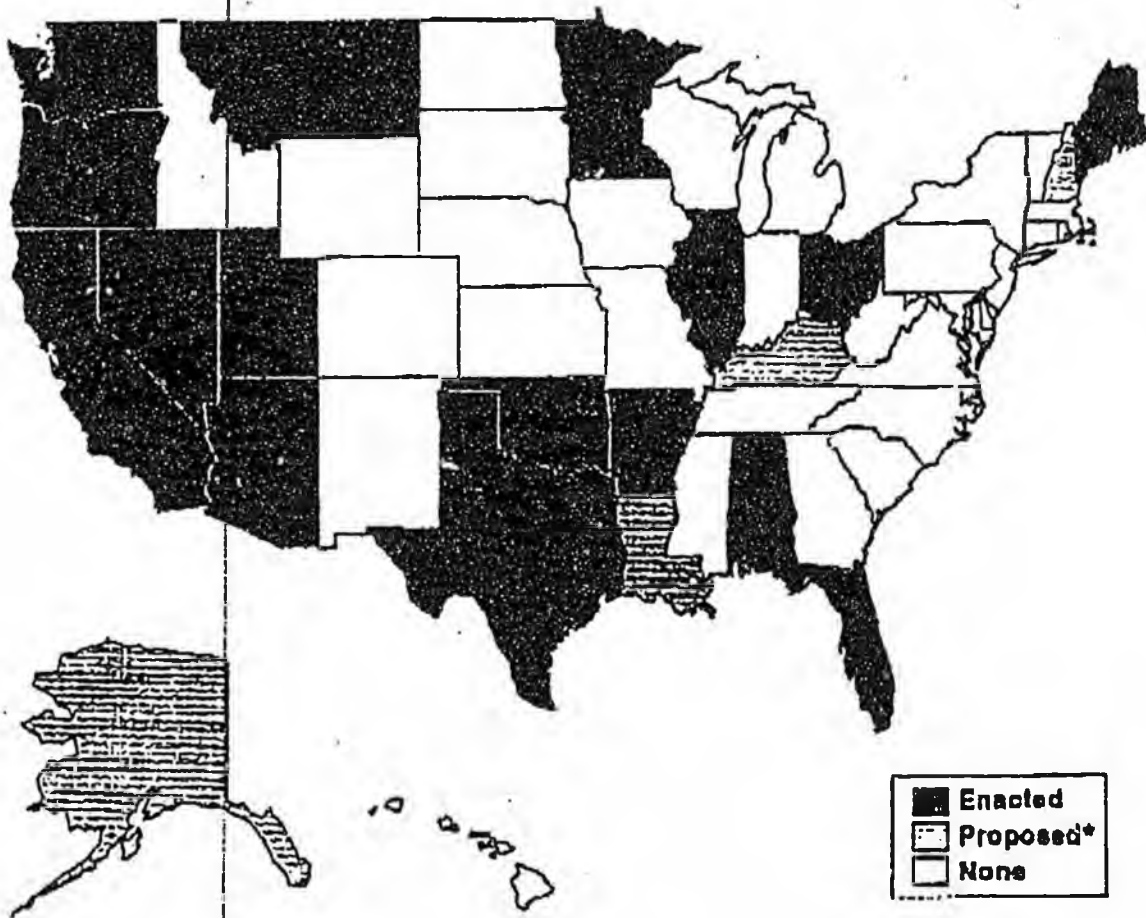
<sup>14</sup>Washington State Institute for Public Policy, "Sex Offender Registration in Washington State: Compliance, 1991," January 1992.

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



WASHINGTON STATE  
INSTITUTE FOR  
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Community Protection Research Project  
\*During 1992 state legislative sessions. April 1992

**TABLE 1**  
**States with Sex Offender Registration Laws\***

<b>STATE (Year Enacted)</b>	<b>TYPES OF OFFENDERS</b>	<b>INFORMATION COLLECTED</b>	<b>ADMINISTRATING AGENCY</b>
<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\***

<b>STATE</b>	<b>TIME FRAME FOR REGISTRATION</b>	<b>DURATION OF REQUIREMENT</b>	<b>PENALTIES FOR NON-COMPLIANCE</b>
<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\***

<b>STATE</b>	<b>ACCESS TO INFORMATION</b>	<b>NUMBER REGISTERED</b>	<b>PERCENT COMPLIANCE</b>
<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 1978 (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  
PROTECTION  
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  
IN WASHINGTON STATE:  
INITIAL COMPLIANCE, 1990*

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January 1991

**ADULT SEX OFFENDER REGISTRATION  
IN WASHINGTON STATE:  
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**SUMMARY**

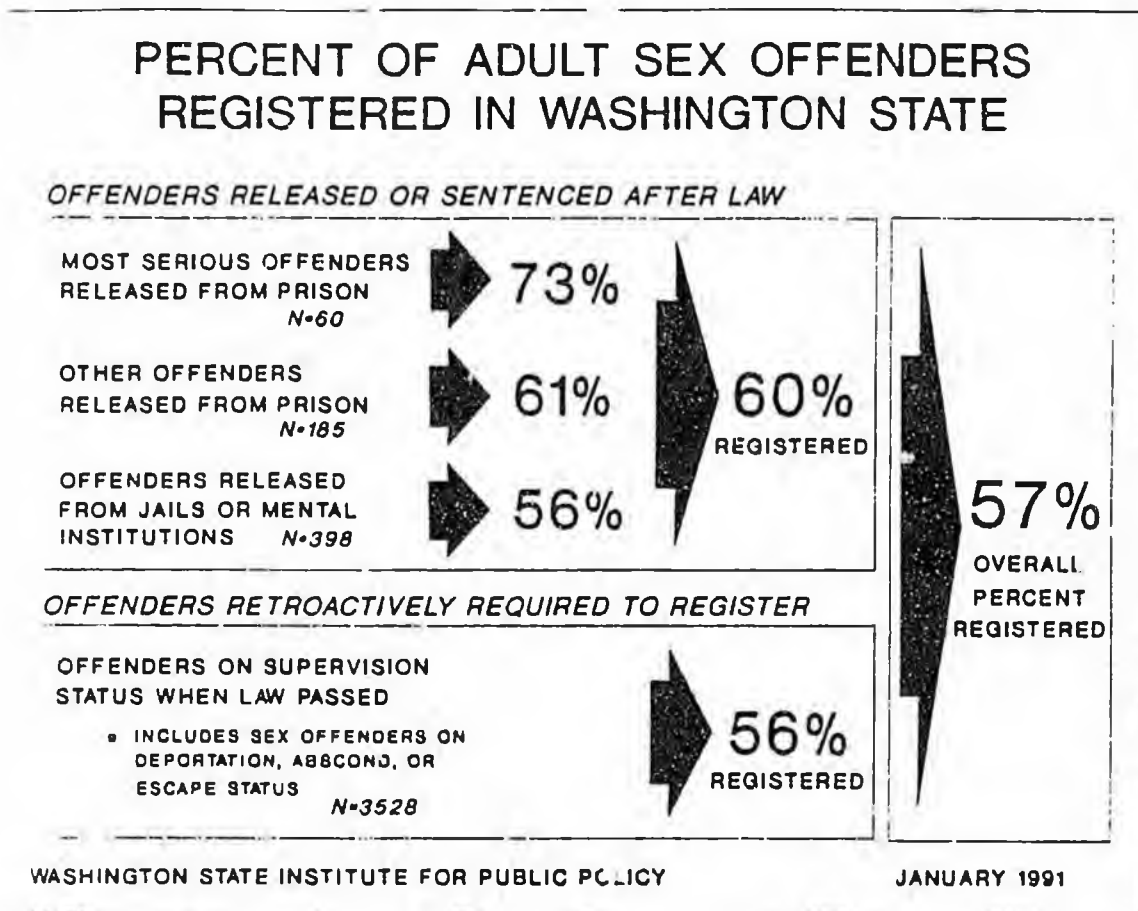
This report examines early compliance of adult sex offenders with a new registration requirement enacted as part of the Community Protection Act of 1990 (Chapter 3, Laws of 1990). The analysis compares Washington State Patrol records of registered adult sex offenders as of November 9, 1990, with records 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

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## MOST SERIOUS OFFENDERS RELEASED FROM PRISON: REGISTRATION UPDATE

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### 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

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*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.

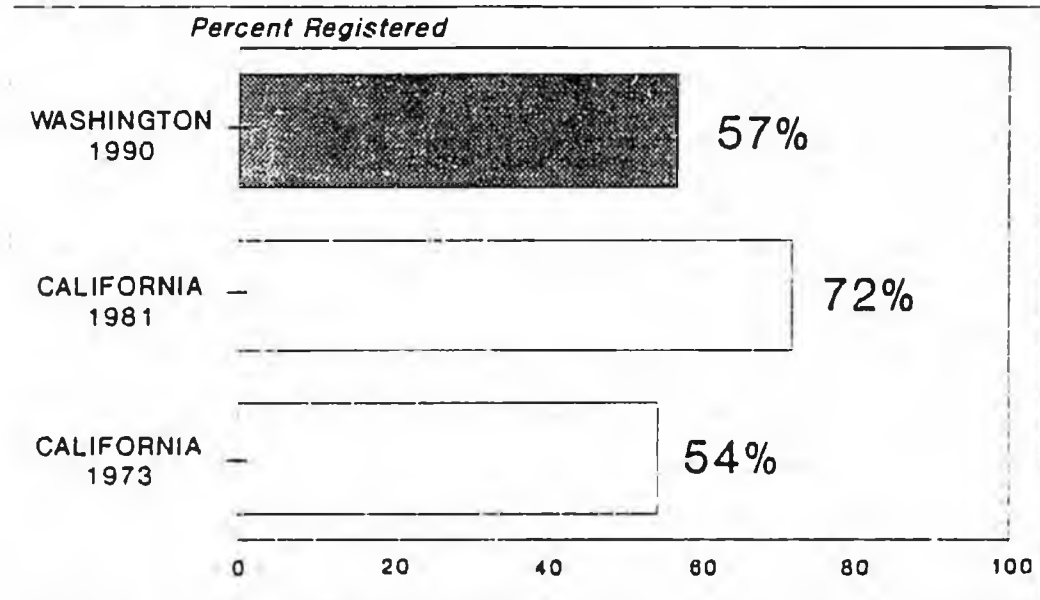
- **California.** Registration by adult sex offenders sentenced to prison in 1981 was 89 percent. Overall, the compliance rate for all sex offenders (both prison and non-prison releases) was 72 percent. (For 1973, prison rates were not calculated independently.)
- **Washington.** Like California, the 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.

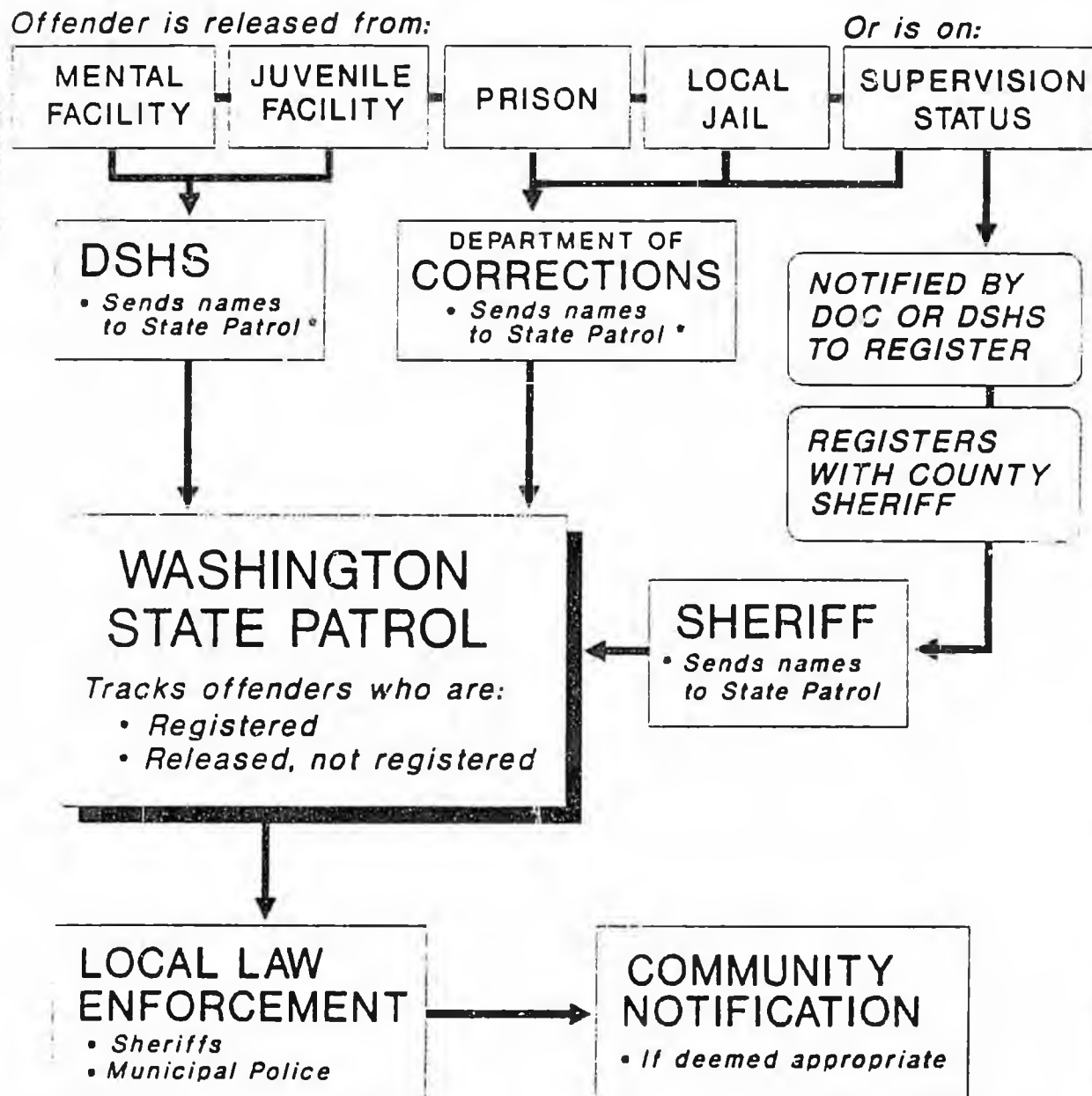
By law, sex offenders are granted 30 days to register with the sheriff in their county of residence. Offenders are consequently given this time period to comply before being considered non-registered. Therefore, 47 individuals whose release date was within 30 days of the State Patrol printout were dropped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

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*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 Dorman.

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

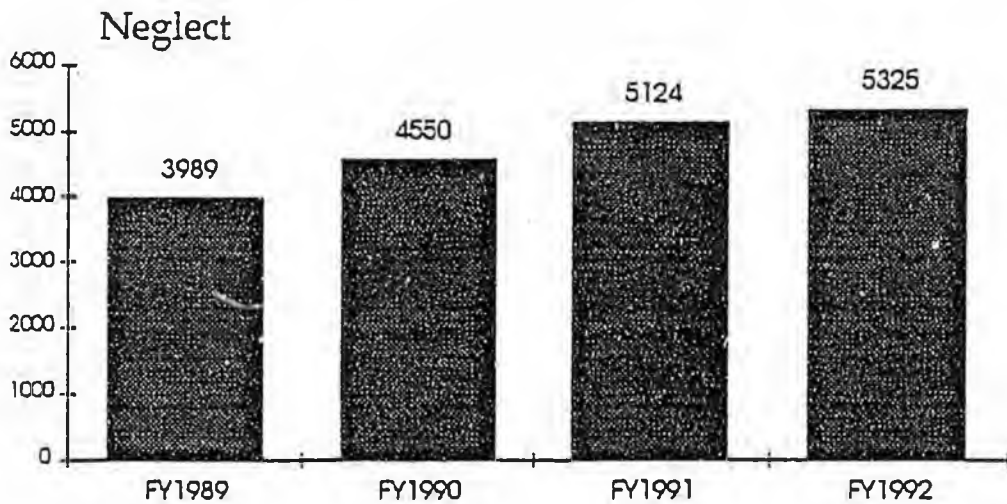
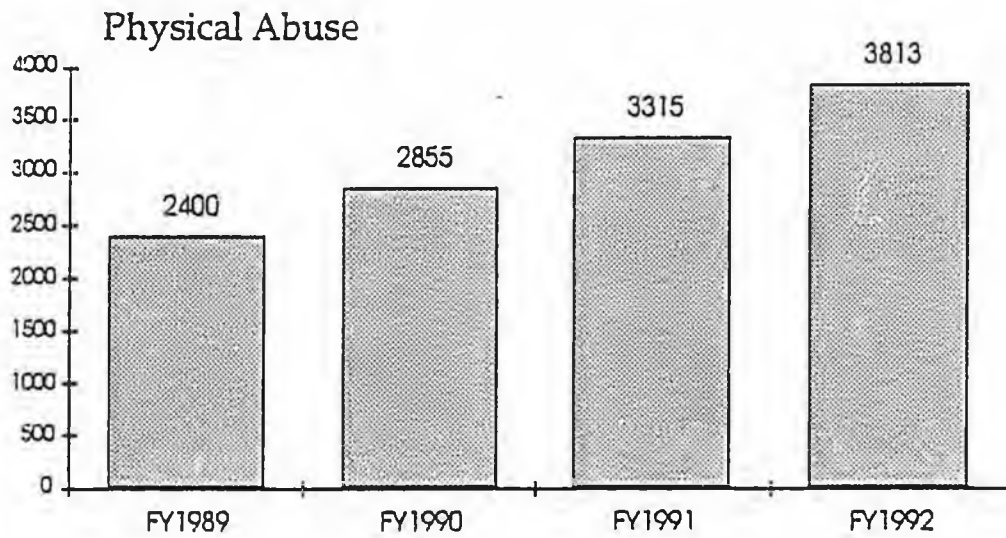
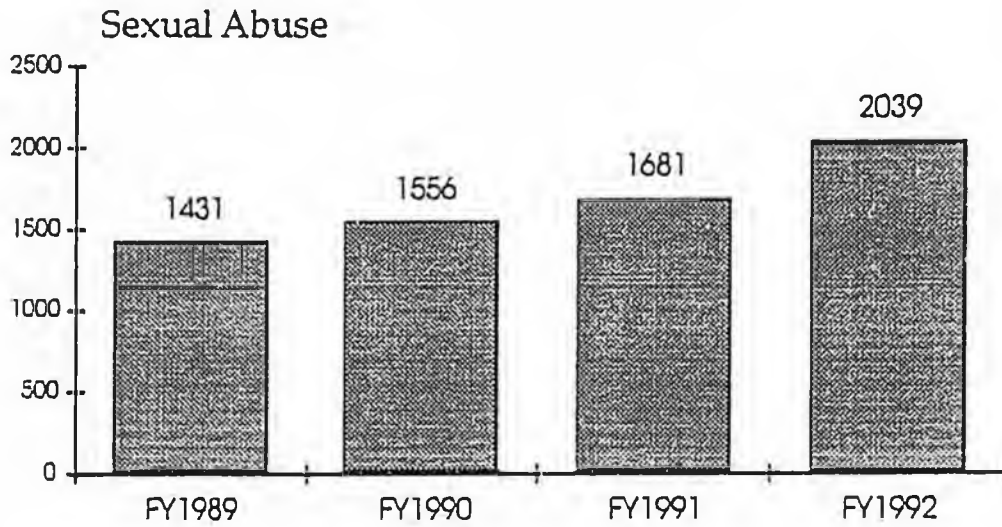
Last year, Rep. Fran Ulmer of Juneau introduced a bill requiring sex offenders to register with the nearest state trooper office once they get out of prison. The bill passed the House but never made it to the Senate floor, though it reportedly had strong support there.

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



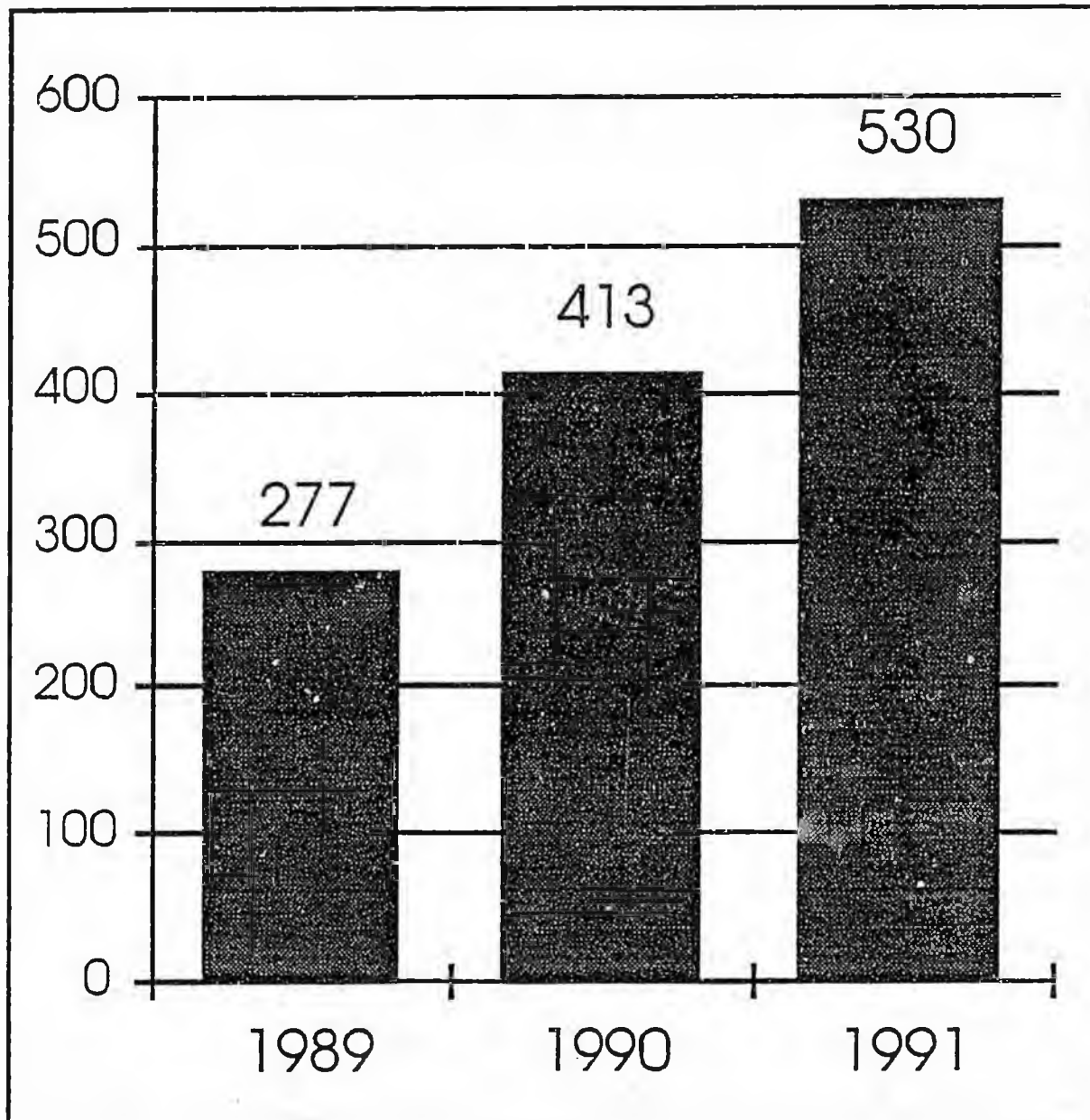
Provided by The Network on Domestic Violence and Sexual Assault

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.

**T**here 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 they 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

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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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## 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 2, 1985. Filed with Secretary of State October 2, 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

HB

71

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 26, 1993

FURTHER REFERRALS:

Date of Committee Action: 4-12-93

The JUDICIARY Committee considered:

HB 71

HOUSE BILL NO. 71

DISSOLUTION OF NATIVE CORPORATIONS

"An Act relating to the involuntary dissolution of Native corporations; and providing for an effective date."

RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  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) DCED 3/26/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Joseph P. Jones</i>	<input checked="" type="checkbox"/>	<i>Kate Fort</i>		<input checked="" type="checkbox"/>	
<i>Monnette Jones</i>	<input checked="" type="checkbox"/>	<i>Cliff Davidson</i>		<input checked="" type="checkbox"/>	
<i>Brian S. Porter</i>	<input checked="" type="checkbox"/>				
<i>Gail Phillips</i>	<input checked="" type="checkbox"/>				
<i>Tom Poulton</i>	<input checked="" type="checkbox"/>				

*Brian S. Porter*  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 71

Revision Date: \_\_\_\_\_  
Title: An Act relating to involuntary dissolution of  
Native Corporations  
Sponsor: Representative Foster  
Requestor: \_\_\_\_\_

Department Affected: Commerce and Economic Development  
BRU: Banking, Securities and Corporations  
Component: \_\_\_\_\_  
COMPONENT SERIAL NO. 1233

EXPENDITURES/REVENUES:

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

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
-------------------------	---	---	---	---	---	---

FUNDING:

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

POSITIONS:

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

Estimate of current year (FY 93) impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)  
\_\_\_\_\_

Prepared by: Willis F. Kirkpatrick, Director  
Division: Banking, Securities and Corporations

Phone: 465-2521  
Date: \_\_\_\_\_

Approved by Commissioner: Paul Fuhs  
Agency: Commerce and Economic Development

Date: \_\_\_\_\_

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# Alaska House of Representatives

Richard Foster  
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Juneau, Alaska 99801-1182  
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Chairperson  
Transportation Committee

Military and Veterans  
Affairs Committee

Member,  
Finance Committee  
Bush Caucus  
Majority Whip

## Eighteenth Legislature

### MEMORANDUM

DATE: March 29, 1993

TO: Representative Brian Porter, Chairman  
House Judiciary

FROM: Representative Richard Foster *RF*

Subject: ~~Scheduling of SB 71~~

I would appreciate your scheduling a committee hearing for HB 71, "An Act relating to the involuntary dissolution of Native Corporations; and providing for an effective date.", at your earliest convenience.

Please attach the enclosed supporting material with the bill file. If you have any questions, please feel free to contact me or Larry LaBolle of my staff at x4984. Thank you.

SPONSOR STATEMENT

HB 71

"An Act relating to the involuntary dissolution of Native corporations; and providing for an effective date."

Representative Foster

This bill would provide a period of time within which ANCSA corporations that have been involuntarily dissolved because of their failure to file a biennial report could be reinstated.

Corporations affected by this bill would be required to pay appropriate fees as they would normally had they not been delinquent, and, in addition, would also pay any penalties allowable under statute before reinstatement.

**HB 71: "An Act relating to the involuntary dissolution of Native corporations; and providing for an effective date."**

The Department of Commerce and Economic Development, Division of Banking, Securities and Corporations, has no objection to the proposed legislation.

The department supports this legislation in recognition that corporate status for Native villages and regions is specifically called for in the terms and conditions of the Alaska Native Claims Settlement Act. The department acknowledges the unique inalienability of the ownership of Native Alaskans as shareholders in Native corporations.

The department concurs that corporations affected by HB 71 should pay the appropriate fees that would have been effective had they not allowed themselves to become delinquent, plus any penalties allowable under AS 10.06.633(e).

The department encourages the involvement of the regional corporations and other Native associations, such as the Alaskan Federation of Natives, in assisting the smaller village corporations in meeting their filing requirements.

\_\_\_\_\_  
Paul Fuhs, Acting Commissioner

Date: \_\_\_\_\_

dg1009PP.BSC  
012593b



Law Offices Of  
Jerald M. Reichlin

Jerald M. Reichlin  
Kenneth G. Robertson

Attorneys At Law  
880 "N" Street, Suite 203  
Anchorage, Alaska 99501

Telephone (907)277-5955  
Telecopier (907)276-7321

December 30, 1992

Rep. Richard Foster  
State Capitol  
Room 611  
Juneau, Alaska 99801-1182

*File w/bill*

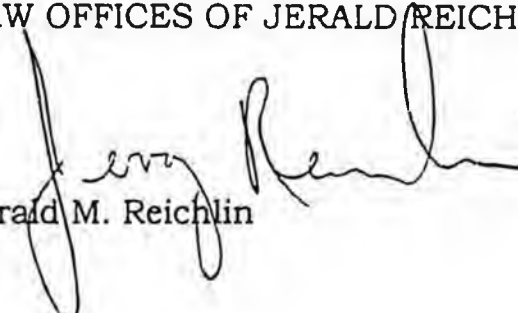
Re: Nunapiglluraq, Inc. / Reinstatement of Dissolved ANCSA  
Corporations

Dear Rep. Foster:

I am writing on behalf of Nunapiglluraq Corporation of Hamilton regarding the reintroduction of legislation that would provide a "window" for the reinstatement of ANCSA corporations that have been involuntarily dissolved on account of their failure to file a biennial report. You introduced similar legislation in the form of HB435 last year but it failed to gain passage during the press of the legislature's closing hours of business. Nunapiglluraq is requesting that you propose similar legislation in the House this term. Thank you once again for your past and future efforts on behalf of Nunapiglluraq.

Very truly yours,

LAW OFFICES OF JERALD REICHLIN

  
Jerald M. Reichlin

JMR/kcm

cc: Anna Kamkoff, President  
Nunapiglluraq Corp.

HPB

73

(7)

Date Referred: January 29, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-8-93

The JUDICIARY Committee considered:

HB 73

HOUSE BILL NO. 73

ANCSA STATE TAX EXEMPTIONS

"An Act relating to state and local taxation and other state regulation as affected by the Alaska Native Claims Settlement Act, as amended, and related federal statutes; and providing for an effective date."

RECOMMENDATIONS:  the same title  
be replaced with \_\_\_\_\_  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) Revenue 1/29/93

SIGNING <u>DO PASS</u>	DP	<u>OTHER RECOMMENDATIONS</u>	DNP	NR	AM
<i>Brian D. Horter</i>	✓				
<i>Gail Phillips</i>	✓				
<i>Tom Paulson</i>	✓				
<i>Janette James</i>	✓				
<i>Ken Ketch</i>	✓				
<i>Joseph H. ...</i>	✓				

*Brian D. Horter*  
CHAIRMAN'S SIGNATURE

# ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean  
Co-Chair House Finance Committee  
P.O. Box 830  
Barrow, Alaska 99723  
(907) 852-7111



WHILE IN JUNEAU  
State Capitol, Room 507  
Juneau, Alaska 99801-1182  
465-4833  
465-4525  
463-3241 FAX

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Selawik  
Shungnak

Seward Peninsula

Brevig Mission  
Diomedea  
Shishmaref  
Teller  
Wales

### MEMORANDUM

TO: Representative Brian Porter, Chairman  
House Judiciary Committee

FROM: Representative Eileen P. MacLean *Eileen P. MacLean*

DATE: January 29, 1993

SUBJ: Scheduling HB 73

This is to request a hearing in the House Judiciary Committee for HB 73, relating to state and local taxation and other state regulation under the Alaska Native Claims Settlement Act, as amended, and related federal statutes.

HB 73 will bring state law into compliance with federal amendments made to the Alaska Native Claims Settlement Act (ANCSA) in 1991. Several references are made throughout the bill to sections of 43 U.S.C. 1601-1642, the ANCSA law.

HB 73 was primarily intended to bring state law into compliance with federal law regarding the exemption of ANCSA property from taxation. The 1991 amendments to ANCSA included a provision to continue the exemption of taxation of ANCSA property until development occurs. Although this change has been made at the federal level, state law has not been brought into compliance with the federal act.

In the bill drafting process, the drafter noted other sections of the ANCSA law which needed to be updated and referenced several other sections of state law to the amendments made in 1991.

Representative Brian Porter  
page 2

This same bill almost passed the House last year. HB 451 was left in in the Senate Rules Committee at the time of adjournment. To my knowledge, there are no problems or concerns with this legislation. It is primarily housekeeping in nature and again, only brings state statutes into compliance with federal law.

If you have any questions, please contact Rena Bukovich of my staff at 465-4525.

## SPONSOR STATEMENT

HB 73

Representative Eileen P. MacLean

---

HB 73 was introduced primarily to bring state law into compliance with federal law. In 1987, federal law was changed to continue the property tax exemption from federal, state or local taxation on ANCSA land indefinitely, or until development occurs. The bill reflects those changes in state law to avoid confusion in the application of the state's tax laws.

In the drafting process, the attorney noted other sections of state law which need to be updated and has included those changes in HB 73. For the most part, they represent technical or stylistic wording changes to update state law to federal law.

This bill does not expand or reduce any benefits already mandated by federal law. It merely cleans up state law, and ensures that obsolete state statutes do not lead to misinterpretation by state assessors and others who work with Alaska's tax law.

HB 73 has a zero fiscal note from the Department of Revenue.

**State and Local Taxation,  
& Regulation of ANCSA Holdings**

HOUSE BILL NO. 73, by Rep. MACLEAN. Amends state law by changing reference in certain state statutes to the original Alaska Native Claims Settlement Act (P.L. 92-203) by replacing it with reference to the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 - 1641). The following sections of law are changed:

— AS 29.45.030(a), [Municipal Government. Municipal Taxation. Municipal Property Tax. Required Exemptions] to exempt from general municipal taxation real property or an interest in

real property that is exempt from taxation under certain amendments to the Alaska Native Claims Settlement Act (43 U.S.C. 1636(d), as amended).

Amends AS 29.45.030(m) by changing the definition of "developed" to mean "...that a purposeful modification of land, or an interest in land. [the property] from its original state that effectuates a condition of gainful and productive present use without further substantial modification has been made;..." (underlined language added, bracketed language deleted from current law by this bill).

—Amends AS 43.80.015 [Revenue and Taxation. Miscellaneous Provisions. Taxation Under P.L. 92-203] by changing the title of the section to "Taxation Under Alaska Native Claims Settlement Act, As Amended." Changes reference throughout the section from "P.L. 92-203" to "43 U.S.C. 1601 - 1641, as amended." The new language also cleans up other references to provisions that have been addressed in the amendments to ANCSA.

Adds a new subsection to AS 43.80.015 that says "...reference to 43 U.S.C. 1601 - 1641, as amended, or to any of those sections includes the amendments and additions to any of those sections that are made by (1) P.L. 96-487 (Alaska National Interest Lands Conservation Act); (2) P.L. 100-241 (Alaska Native Claims Settlement Act Amendments of 1987); (3) amendments to 43 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement Act, as amended) after December 17, 1991."

—The amendments made by this Act will be retroactive to December 18, 1991.

If enacted, the bill becomes law the day after it is signed by the Governor.

Introduced January 18, 1993 and referred to the House Community and Regional Affairs Committee, the House Judiciary Committee, and the House Finance Committee.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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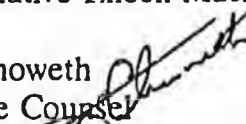
130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

January 20, 1993

**SUBJECT:** House Bill 73, relating to state and local taxation and other state regulation under the Alaska Native Claims Settlement Act, as amended; and providing for an effective date — sectional analysis (Work Order No. 8-LS0402A)

**TO:** Representative Fileen MacLean

**FROM:** Jack Chenoweth  
Legislative Counsel 

This measure, a reintroduction of last session's CSHB 451 (Res), amends various provisions of state law that exempt from certain forms of state and local taxation the property that is exempted from taxation by the Alaska Native Claims Settlement Act. The amendments set out in this bill generally reflect the inclusion of changes made by federal law since passage of the original Alaska Native Claims Settlement Act in December, 1971, and the adoption of the first state law exemptions shortly thereafter.

A principal change in the federal Act was the addition of 43 U.S.C. 1636(d) by the Alaska National Interest Lands Conservation Act of 1980. Sec. 1636(d) broadened the various protections for lands conveyed under the 1971 Act, but did not necessarily replace the federal tax exemption provided in the original Act. Since 43 U.S.C. 1636(d) did not supersede the exemptions and protections provided by the earlier-enacted 43 U.S.C. 1620, I have recommended that, where reference appears in state law only to sec. 1620 that it be followed by a second reference to sec. 1636(d) as well.

Throughout the measure, the words "as amended" are added. The intent is to conform the state tax exemptions to any further changes to the federal Act in the event the federal Act undergoes further revision in this subject matter area.

Bill section 1, an amendment to AS 29.45.030(a), a provision setting out mandatory municipal property tax exemptions, incorporates a reference to 43 U.S.C. 1636(d), as amended, following the existing reference 43 U.S.C. 1620(d) for the reasons noted two paragraphs above.

Representative Eileen MacLean

January 20, 1993

Page 2

Bill section 2, also an amendment to the law applicable to municipalities, makes technical corrections. In context, the terms that are being defined appear in 43 U.S.C. 1636(d), not in 43 U.S.C. 1620. The terms defined in the current statute are revised to reflect the language actually used in the federal provision expressed in a manner that is consistent with Alaska's legislative drafting style.

Bill section 3 revises AS 43.80.015, the principal provision of state law extending an exemption from state taxes to certain property. Specifically:

- the caption change at page 3, lines 19 and 20, substitutes the full proper name of the federal Act for the Public Law reference;

- deletion of reference to "the original issue" of shares in lines 20 and 21 is a substantive change; all share transactions--not just the original issues--are made non-taxable events;

- in lines 21 and 22, "state" substitutes for "Alaska" and the exact cite for the federal Act is inserted for the older reference; these are technical changes to conform to the state's drafting style;

- the changes made at lines 22 - 24 and 28 - 31 of page 3 replace existing references with the exact federal Act cites;

- the change made by substitution of the phrase on page 4, lines 2 - 4 of the bill conforms state law to the requirement of the federal Act as to how the basis of land received for purposes of equalization (in the event of land trades) is to be computed; it will be computed as the federal Act directs;

- the changes made on page 4, lines 5 - 10 are in the nature of substitutions of accurate cites and references;

- the long addition on lines 12 and 13 and the deletion of the December, 1991, date reflect substantive changes made by 43 U.S.C. 1636(d), a provision that expands and extends the protection from taxation given Native land under the amended federal Act; and

- the changes made to the balance of bill section 3 on page 4 of the bill either substitute accurate federal law cites or make minor stylistic changes.

Bill section 4, adding a new subsection (e) to AS 43.80.015, enumerates the specific federal legislation that have modified the original Alaska Native Claims Settlement Act, and further allows for changes affecting the tax treatment of property that may be made future federal amendments.