



National Legislative Briefing

Sex Offender Management Policy

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Zoned Out: *States Consider Residency Restrictions for Sex Offenders*

During the trial of John Evander Couey, details about 9-year-old Jessica Lunsford's death shocked the nation. Kidnapped from her own bed, held captive for several days, repeatedly raped and ultimately buried alive, the image of the sweet, smiling girl in a pink hat is in sharp contrast to her horrific murder.

At the time of Jessica's abduction, Couey was a registered repeat sex offender who had failed to change his registered address when he moved in with his half sister, who lived only 100 yards away from Jessica's home.

Unfortunately, Jessica's murder is only one of a number of high-profile cases that have shaken the confidence and feeling of safety and security citizens have grown to enjoy in their communities. Public fears around sex offenders in the community have increased, and state lawmakers have experienced added pressure to strengthen laws to manage these offenders.

Beginning in 1994, policymakers addressed the concerns surrounding sex offenders living in communities by enacting the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, which created the first stan-

dards for sex offender registries, now a public safety standard in every state. The Wetterling Act was amended in 1996.

Since then, the criminal justice community has witnessed a significant movement toward more effective management of sex offenders through legislative initiatives, and protecting the public against sex offenders has become a top priority among lawmakers.

Among the many trends in recent state laws to better manage sex offenders are measures restricting where convicted sex offenders are able to live and work. State legislatures across the country have passed restriction zones to keep known sex offenders away from places where children congregate. As more states enact residency restrictions for sex offenders, experts are learning more about the many impacts of these laws on communities, offenders and public safety.

Trends in State Sex Offender Residency Laws

The National Center for Missing and Exploited Children reports 644,865 offenders listed in sex offender registries nationwide as of July 2008. The U.S.



Department of Justice in a 1997 report, "Sex Offenses and Offenders—An Analysis of Data on Rape and Sexual Assault," estimated that 60 percent of sex offenders are under some form of correctional or community supervision.

The first statewide residency restrictions for sex offenders developed earlier this decade have become a widespread approach to managing sex offenders in the community. According to State-

line.org, in 2005 16 states and more than 400 cities nationwide had adopted restriction zones, with some ordinances barring high-risk sex offenders from living within their city limits. By March 2008, at least 29 states had implemented some form of residency restriction zones, according to analysis by The Council of State Governments.

The severity of the restriction zones varies from state to state. For instance, in Illinois, sex of-



A fundamental duty of government is to protect its people.”

—Gov. Brad Henry, Oklahoma



fenders are prohibited from living within 500 feet of a school. Meanwhile, provisions in such states as California and Oklahoma require sex offenders to live as far as 2,000 feet from schools and parks.

Moreover, the places prohibited for sex offenders to live vary across the country. While some states like Mississippi and Ohio designate prohib-

ited zones around schools and day care facilities, other states include parks, youth program centers and other places “where children congregate” in their provisions.

In Georgia, lawmakers went a step further, including bus stops, skating rinks, churches and swimming pools in that state’s sex offender residency restrictions—one of the most

restrictive in the country. A registered sex offender found to be living, employed or loitering within 100 feet of the restricted areas faces 10 to 30 years in prison. The law faced a class action lawsuit due in part to its broad scope. In May 2008, Georgia Gov. Sonny Perdue signed Senate Bill 1 into law, reinstating the residency restrictions. The law was immediately challenged and is currently pending review.

Some policymakers worry that inconsistencies among the various state statutes have caused sex offenders to move from state to state in search of laws that are more lenient. As a result, some states are enacting legislation to protect their communities in reaction to laws passed in other jurisdictions, leading to a domino effect in the passage of sex offender residency restrictions across the country.

South Carolina Rep. Joan Brady proposed a 1,000 feet residency restriction during the 2007/2008 legislative session after reading a newspaper article about a sex offender moving into South Carolina because he claimed its laws were less stringent.

“We don’t want South Carolina to be a welcome center for sex offenders,” said Brady. “I am proposing a restriction zone for sex offenders living within 1,000 feet from our schools, playgrounds and places where children gather. The zones will not only protect our children, but put less stress on sex offenders if they know where they can and cannot be. We have a responsibility to prevent offenders from preying on innocent children.”

House Bill 3094 prohibits sex offenders convicted of an offense against a minor from residing within 1,000 feet of a school, day care center, children’s recreational facility, park or playground. Brady’s bill also narrowed the scope of the restrictions to higher level or more

serious sex offenders whose crimes targeted minors. The bill was signed into law by the governor in June 2008.

In addition to state laws prohibiting sex offenders from living in close proximity to schools and other child-focused facilities, many residency restrictions across the country have passed at the municipal level. For instance, 96 local jurisdictions in Florida established additional restriction zones by local ordinance, ranging from 1,500 feet in Hypolux or Lake Worth to a maximum and more common distance of 2,500 feet. Many of the zones limit sex offenders from living near child-oriented facilities such as schools, parks, churches, playgrounds, bus stops, museums, day cares, libraries and other places children may congregate. Some argue that these restrictions essentially ban sex offenders from living within city limits.

Restriction Zones— One State’s Experience

In 2002, Iowa became one of the first states to enact sex offender residency restrictions requiring sex offenders who had victimized minors to “not reside within 2,000 feet of the real property comprising a public or nonpublic elementary school or secondary school or a child care facility.”

Black Hawk County Attorney Tom Ferguson of the Iowa County Attorneys Association said, “the origin of the bill came about as a result of a constituent contacting their legislator concerned about a sex offender living in their neighborhood.”

Shortly after the bill was enacted, three sex offenders who argued the restricted zones encompassed a majority of available housing challenged the legislation. The case was filed in U.S. District Court as a class action suit, and a temporary restraining order suspending the

restriction zones was issued. The 8th Circuit Court of Appeals in *Doe v. Miller* upheld the law, stating it was constitutional and that the state had a right to protect its residents. In addition, the court found that the U.S. Constitution does not include a “right to live where you choose.” Following the 2005 ruling, Iowa state officials began enforcing the statute.

However, after a year of experience with the law, policymakers began to identify problems in the language of the statute and questions surrounding the law’s implementation. The statute included every offender, not just those who had committed crimes against children. Further, questions surfaced about the law’s applicability to juvenile offenders once they reach the age of majority and how to address day care facilities that opened after the passage of the law.

A 1997 U.S. Department of Justice, Bureau of Justice Statistics report on Sex Offenses and Offenders, found: “Three out of four rape/sexual assault victimizations involved offenders (both single- and multiple-offender incidents) with whom the victim had a prior relationship as a family member, intimate or acquaintance. ... About 7 percent of all rape/sexual assault victimizations involved multiple offenders who were strangers to the victim.” The main legislative focus in passing residency restrictions has been to provide increased protection to the community from sexual offenses committed by unknown persons when in reality most sexual abuse is perpetrated by individuals known to the victim.

Moreover, Ferguson said, the new Iowa law resulted in a serious unintended consequence: It drove registered sex offenders underground.

“When the law was enacted, we couldn’t find 80–90 people,” said Ferguson. “Now, it is more like 300–400 sex offenders we cannot locate.” He

added that enforcing residency restrictions requires significant resources from criminal justice agencies. “Law enforcement and probation do not have the time or resources to track them (sex offenders) down (to verify their addresses) given all their other responsibilities. Instead, because of the restriction zones, they have become landlords trying to find housing for offenders.”

In a 2007 report in the *Criminal Justice Policy Review*, Jill Levenson of Lynn University and David D’Amora of the Center for the Treatment of Problem Sexual Behavior re-

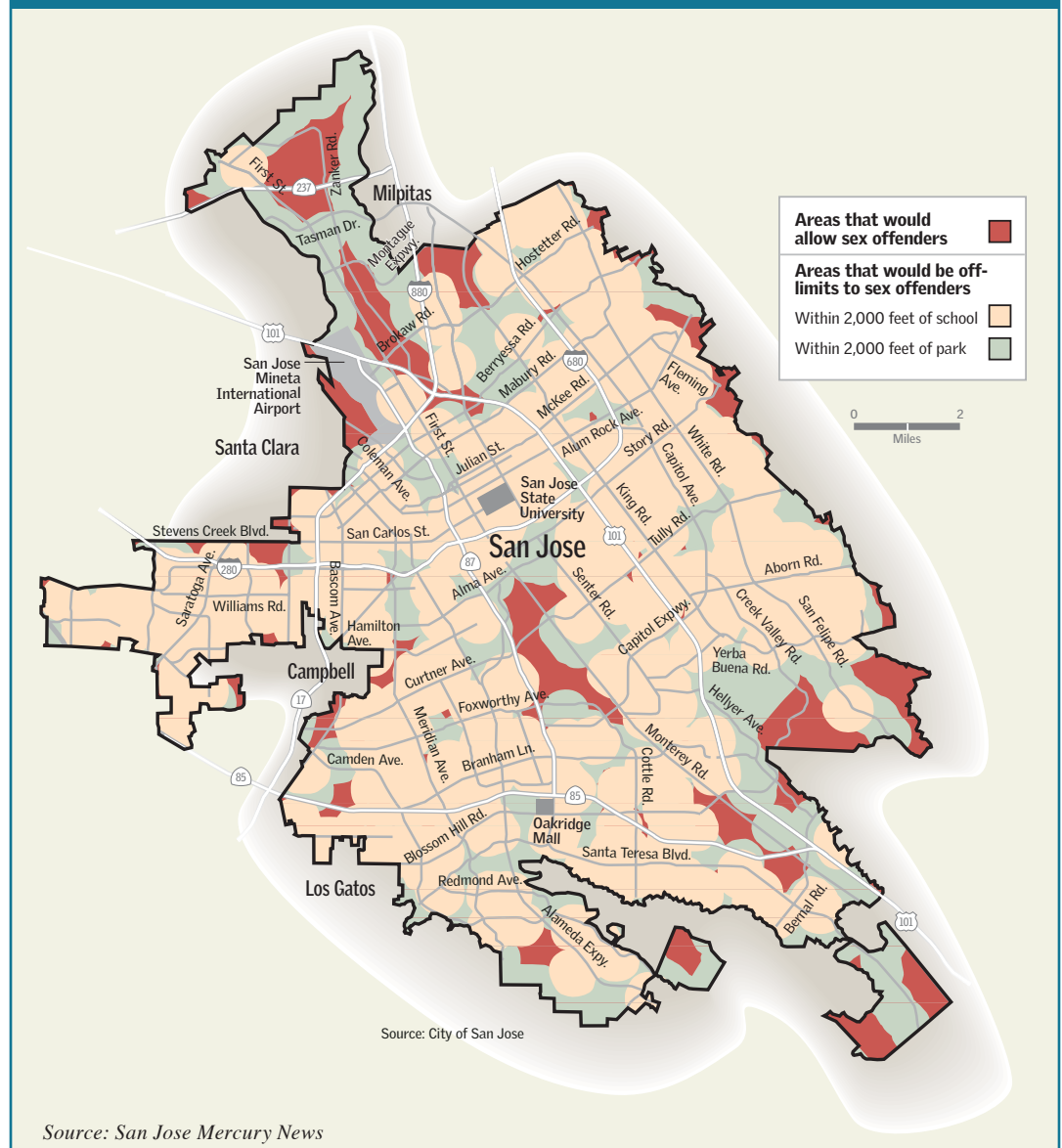
ported that the Iowa law displaced approximately 6,000 offenders and their families and resulted in the homelessness of many offenders.

As a result, in 2006 the Iowa County Attorneys Association issued a “Statement on Sex Offender Residency Restrictions in Iowa,” which found that the restrictions “do not provide the protection that was originally intended and the cost of enforcing the requirements and the unintended effects on families of offenders warrant replacing the restrictions with more effective protective measures.” The statement further argued that

the residency restrictions result in fewer confessions and plea agreements, which placed added burdens on the criminal justice system and decreased the likelihood of adjudications and, ultimately, appropriate convictions.

During the 2007 legislative session, Iowa legislators considered several measures to repeal or modify the existing sex offender residency restriction law; however, no action was taken. Proposals put forth for consideration included an amendment limiting the applicability of the law to registered sex offenders convicted of offenses involving children, and a proposal au-

Residency Restriction Zones Illustrated—San Jose, CA



thorizing probation and parole officers to use assessments of offenders to assist in making determinations on residency requirements.

Where is It Safe? A Lingering Question for Lawmakers

For policymakers, questions remain about the efficacy of residency restrictions in enhancing public safety against sex offenders. Although some research has been conducted on this issue, findings have generally been inconclusive.

In a 2004 study by the Colorado Department of Public Safety's Sex Offender Management Board, researchers found that proximity to schools and child care centers did not seem to have a strong correlation to re-offenses committed by sex offenders on community supervision.

"[S]ex offenders who have committed a criminal offense (both sexual and nonsexual) while under criminal justice supervision appear to be randomly scattered throughout the study areas—there does not seem to be a greater number of these offenders living within proximity to schools and other child care centers than other types of offenders," the report states.

Likewise, a 2003 study by the Minnesota Department of Corrections found that residential proximity to a park or school was not a contributing factor to sexual re-offenses by sex offenders in the community.

In a 2001 study by Jeffery Walker, James Golden and Amy VanHouten in Arkansas, however, 48 percent of child molesters residing in the study area lived in close proximity to schools, day care centers or parks. Although researchers were unable to draw conclusions regarding the motivations of these offenders, they speculated that their intent in living close to schools, day

care centers and parks was to be near potential child victims. The study did not look at the association between the location of child sex offender housing and re-offense rates.

While research on the efficacy of sex offender residency restrictions is limited, practitioners and policymakers alike have highlighted some of the challenges associated with residency laws. Among the most noted concerns is the availability of appropriate housing for sex offenders returning to the community where residency restrictions are in effect.

In a 2004 survey of sex offenders in Florida, half the offenders reported that residency restrictions forced them to move, and nearly half of respondents reported that the re-

strictions prevented them from living with supportive family members.

In April 2007, reports surfaced of five sex offenders in Miami, who were residing under the Julia Tuttle Causeway. The situation is blamed, in part, on a housing shortage created by the city's stringent residency restrictions law, which bars a registered sex offender from living within 2,500 feet of a school, park or other area where children gather.

Gretl Plessinger, public information officer for the Florida Department of Corrections said, "We are finding it increasingly difficult to find housing for sex offenders because of the restriction zones. The zones were created to protect the pub-

lic, but have had unintended consequences in making the offenders homeless. This is the only place they can live, but at least we know where they are. If we don't know where they are and they go underground, we can't supervise them, which does not increase the public's safety."

By February 2008, 19 sex offenders were residing under the Julia Tuttle Causeway. The makeshift home includes a couch, a generator-powered television and X-Box, a kitchen area and two dogs. State officials have recently advised the offenders they will have to move.

For corrections professionals, the lack of housing for sex offenders can be a serious public safety concern. Research indicates that stable relation-

their families and thwart law enforcement efforts to effectively supervise sex offenders, make offender registries less reliable and mislead communities into believing they've discovered a magic bullet for protecting their children."

Moreover, experts express concerns over the broad reach of many sex offender residency restrictions, including individuals convicted of low-level sex offenses as well as high-risk sexual offenders.

In a 2005 report to the Florida legislature, Levenson noted that "all sex offenders are not the same." Moreover, she warned that, "broad strategies may, by lumping all sex offenders together, dilute the public's ability to truly identify those who pose the greatest threat to public safety. At the same time, classification systems allow limited resources to be used more cost-efficiently to monitor, treat and restrict highly dangerous offenders without unnecessarily disrupting the stability of lower risk offenders and their families."

Kentucky's residency restrictions have had similar effects. State Rep. Robert Damron said, "The classification of sex offenders on the registries may be causing some low-risk individuals to move from their neighborhoods where for the last 20 years they have lived as responsible law-abiding citizens. One of my constituents lived in a rural area and the subdivision began to build up around him. The county government built a park near his home and he was forced to move. He was within a year of completing his time on the registry. I think we must focus more of our limited resources in monitoring the most violent offenders and predators in our community."

Carl Wicklund, executive director of the American Probation and Parole Association who has spent many years

For corrections professionals, the lack of housing for sex offenders can be a serious public safety concern.

Residency Restriction Zones

State	Distance/Location	Citation	Year Enacted
Alabama	2,000 ft/school, child care facility	Ala. Code § 15-20-26	2005
Arizona	1,000 ft/ school, childcare facility for offenders/ dangerous crimes against children level 3	A.R.S. §13-3727	2007
Arkansas	2,000 ft/school, day care center	Ark. Code Ann § 5-14-128	2003
California	2,000 ft/school, park, where children gather	Cal. Penal Code § 3003.5	2006
Florida	1,000 ft/where children gather	Fla. Stat. 948.30	2003
Georgia	1,000 ft/where children gather	Ga. Code Ann. § 42-1-15	2006
Idaho	500 ft/ school with children under 18	Idaho Code § 18-8329	2006
Illinois	2000 ft/school, playground	720 Ill. Comp. Stat. 5/11-9.4	2006
Indiana	1,000 ft/school, park, youth program center	Ind. Code § 35-42-4-11	2006
Iowa	2,000 ft/school, child care facility	Iowa Code § 692A.2A	2002
Kentucky	1,000 ft/school, child care facility, playground, ball field	Ky. Rev. Stat. § 17.545	2006
Louisiana	1,000 ft/school, related activities, school buses	La. Rev. Stat. Ann. § 14:91.1	2001
Maryland	Parole Commission restricts where feasible	Md. Code Ann., Crim. Pro. § 11-724	2006
Michigan	1,000 ft/school (student safety zone)	Mich. Comp. Laws §§ 28.733-735	2006
Minnesota	End-of-Confinement Review Committee decides	Minn. Stat. Ann. § 244.052	1996
Mississippi	1,500 ft/school, child care facility	Miss. Code Ann. § 45-33-25	2006
Missouri	1,000 ft/school, child care facility	Mo. Rev. Stat. § 566.147	2006
Montana	Judge decides	Mont. Code Ann. § 46-18-255	2001
Nebraska	500 ft/school, child care facility	Neb. Rev. Stat. § 29-4017	2006
New Mexico	School/day care center in	N.M. Stat. Ann. § 29-11A-5.1 1 mile radius contacted	2000
Ohio	1,000 ft/school, child care facility, where children gather	Ohio Rev. Code Ann. § 2950.031	2003
Oklahoma	2,000 ft/school, day care center, park	Okla. Stat. 57 § 590	2003
Oregon	Department of Corrections decides	Or. Rev. Stat. §§ 144.642, 144.644	2001
South Carolina	1,000 ft/school, day care, childrens recreation facility, park, playground	S.C. Code Ann. § 23-3-535	2008
Tennessee	1,000 ft/school, child care facility, victim	Tenn. Code Ann. § 40-39-211	2004
Texas	Distance specified by Parole Board	Tex. Gov't Code Ann. § 508.187	1997
Virginia	100 ft/school, child care center	Va. Code Ann. § 18.2-370.2	2000
Washington	880 ft/school, day care center	Wash. Rev. Code §§ 9.94A.712(6)(a)(ii), 9.95.425-430	2006
West Virginia	1,000 ft/school, child care facility	W. Va. Code § 62-12-26	2006



“The long-term solutions to eradicating sexual violence from our society, however, do not lie in measures taken to stop re-offense, but rather in preventing sexual violence from happening in the first place.”

—Elizabeth Barnhill
Iowa Coalition Against Sexual Assault



examining policy affecting offenders re-entering the community, agrees.

“We have to guard against arbitrarily widening the net in regard to adding individuals to our registries and, consequently, forcing them to abide by exclusion zones. The nets we create to protect society from the highest risk, most dangerous sex offenders cannot withstand the added burden of including those individuals that are least likely to re-offend,” Wicklund said. “In the end, the safety net we create will be stretched to the point of making our communities less safe by demanding more than our resources can provide and putting unnecessary hurdles to an individual’s ability to effectively conduct him/her in a legal and legit manner.”

Finally, while the intent of residency restriction laws is to ensure the protection of children against sexual predators, many experts point out the myth of “stranger-danger.” A 1997 report by BJS found that approximately 75 percent of all sexual assault victimizations are committed by an individual known to the victim, such as a family member, intimate or acquaintance. In addition, offenders are known to rape victims in nearly 90 percent of rape cases involving victims under age 12.

Further, according to a report published by BJS in 2000, police reports indicate that in reported incidents of juvenile sexual assault cases, the victims identified their perpetrators as family members in 34 percent of cases and acquaintances in 59 percent of cases. Only 7 percent of perpetrators of sexual assault against juveniles were identified as strangers to the victim.

Testifying before the Nebraska Judiciary Committee in 2006, Elizabeth Barnhill, executive director of the Iowa Coalition Against Sexual Assault noted, “The sad reality is

that most of the time, children know, and often have trusted, the person who sexually abuses them ... Public policy should create community supports to protect children from all sex offenders.”

Determining Effective Strategies

Given the lack of conclusive research undertaken on the general efficacy of sex offender residency restrictions as a method to prevent future sexual assaults, state officials are beginning to take a closer look at the full range of impacts these laws have in their communities as well as in neighboring states. More are focusing on the overall effectiveness of these laws and potential unintended consequences.

Rep. Damron has been a proponent of toughening laws against sex offenders and helped enact legislation in Kentucky to restrict offenders from living within 1,000 feet of schools and playgrounds. “It has been less than a year since the legislation passed and it is too early to determine the effects of the legislation,” Damron said in 2007. “We know that children are being protected in the state, but in passing any piece of legislation there may be unintended consequences. It is incumbent upon the legislature to always research the effects of what we pass and make the necessary corrections. Initially what we are finding is that the residency restrictions may be causing a clustering of sex offenders.”

Some states have developed sex offender policy boards to study a range of issues related to the management of sex offenders, including residency restrictions, and provide guidance to policymakers.

The Kansas Sex Offender Policy Board (SOPB) was created jointly by the 2006 Kansas legislature and Gov. Kathleen Sebelius. Established under the auspices of the Kansas Criminal

Justice Coordinating Council (KCJCC), the SOPB was authorized to advise the KCJCC on issues relating to the treatment, rehabilitation, reintegration and supervision of sex offenders. Further, the SOPB was tasked with reporting its findings to the KCJCC, as well as the governor, attorney general, chief justice of the Kansas Supreme Court, chief clerk of the House of Representatives and the secretary of the Senate.

In January 2007, the SOPB submitted the results of a year-long study of sex offender management with recommendations to the Kansas legislature. The board found, “although resident restrictions appear to have strong support, there is no evidence to support its efficacy. It is imperative that policymakers enact laws that will actually make the public safe and not laws giving a false sense of security.”

Sex offender boards have been active in guiding policy development in other states as well. The Colorado General Assembly established the Sex Offender Management Board (SOMB) in 1992 to develop and oversee guidelines for the treatment, evaluation and supervision of sexual offenders. The SOMB is a collaborative effort comprising representatives from the Department of Corrections, the judicial department, local law enforcement, district attorneys, the public defender’s office, polygraph examiners, the Department of Safety, the Department of Human Services, licensed mental health professionals experienced in treating sex offenders, victims advocates and the Department of Community Corrections.

In a March 2004 report to the Colorado General Assembly, the SOMB stated that, “Placing restrictions on the location of correctional supervised sex offender residences may not deter the sex offender from re-offending and should not be considered as a method to control sexual

offending recidivism.” Lawmakers decided against passing statewide residency restrictions.

Developing New Alternatives

Although residency restrictions remain a popular policy option to manage sex offenders in the community, some states are looking into alternative approaches, including the development of child safety zones, risk-based restrictions for offenders, and community education efforts promoting strategies to protect children from sexual abuse.

Child Safety Zones

Whereas residency restrictions prohibit sex offenders from living within a certain distance (usually 1,000 to 2,500 feet) of child-oriented locations, child safety zones are designed to prevent sex offenders from loitering within designated areas—typically 300 feet from schools, day care facilities, parks and playgrounds.

In addition, in contrast to blanket sex offender residency restrictions, child safety zones often target designated high-risk sex offenders whose victims were minors.

In Texas, judges may prohibit child sex offenders on probation and certain sex offenders on parole from going within 1,000 feet of schools, day care facilities, playgrounds, youth centers, public swimming pools and video arcades. Further, these offenders are prohibited from supervising or participating in athletic, civic or cultural activities with participants under age 18, although restrictions may be modified if they interfere with an offender’s ability to attend school or maintain employment.

Lawmakers in Iowa considered legislation that would establish child safe zones during the 2007 legislative session. Under the proposed bill, the presence of

registered sex offenders whose victims were minors would be prohibited from the property of a school or child care facility, unless under certain designated circumstances. The legislature took no action on the bill prior to the end of the session.

In June 2007, Maine legislators passed a law establishing a new Class D crime of prohibited contact with a minor in a sex offender restricted zone. The new law makes it a crime for registered sex offenders whose victims were under age 14 to have any direct or indirect contact with a child under 14 in designated sex offender restricted zones. These zones include the property of a school, day care facility, athletic field, park, playground, recreational facility, children’s camp or other place where children are the primary users.

Risk-Based Restrictions for Sex Offenders

While most state residency restrictions for sex offenders are broad in scope, some state laws target certain high-risk offenders. For instance, Arkansas prohibits level three and four sex offenders (the most serious offenders) from living within 2,000 feet of schools or day care centers. Meanwhile, Washington prohibits sex offenders convicted of a serious offense with a high-risk assessment from residing within 880 feet of a school or day care facility.

Other states, like Minnesota, make individualized determinations about residency restrictions for sex offenders based on risk assessments. Minnesota classifies sex offenders under a three tier ranking system, with tier one representing the lowest-risk offender and tier three including those assessed as having the highest risk of re-offense.

Restrictions on an offender’s residential proximity to schools are made on a case-by-case basis

among tier three sexual offenders by the agency responsible for the offender’s community supervision.

According to the Minnesota Department of Corrections, “Proximity restrictions, based on circumstances of an individual offender, serve as a valuable supervision tool. Continued use—through extension of conditional release and specific release conditions and restrictions—is appropriate.”

Community Education Efforts

In addition to policies targeting sexual offenders, some experts and practitioners advocate for additional community education efforts to promote strategies to prevent sexual abuse from occurring.

In her testimony to the Nebraska legislature in 2006, Barnhill noted, “When a brutal sexually violent crime occurs, such as the one that occurred in Iowa last year, our societal tendency is to focus all our resources and energy on stopping offenders. The long-term solutions to eradicating sexual violence from our society, however, do not lie in measures taken to stop re-offense, but rather in preventing sexual violence from happening in the first place.”

Victims’ advocates, criminal justice professionals and academic experts all underscore the importance of community education efforts in preventing sexual assaults.

In their “Statement on Sex Offender Residency Restrictions in Iowa,” Iowa prosecutors advocated measures “that aim at keeping all young people safe from all offenders. This should include programs that focus on the danger of abuse that may lie within a child’s family and circle of acquaintances. It is important to help children and parents recognize the signs and dangers of sex abuse by persons with ordinary access to children.”

Secretary Werholtz agrees. “We are living in a time of



public safety brief

Zoned Out: States Consider Residency Restrictions for Sex Offenders

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heightened concern about sex offenders. People are frightened and want to take steps to address those fears. It is not good enough to simply tell communities not to enact residence restrictions. We must also offer alternatives that provide parents and communities with a level of comfort that they are taking steps to protect their children, and those alternatives must be real and ef-

fective,” he said. “Right now, it appears that the best alternatives are in the form of community-wide education and training regarding steps that can be taken to educate parents and children about risk indicators for which we should be vigilant.”

If you would like more information or references, please visit our Web site at www.csg.org.

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