

RESOLUTION REGARDING SEX OFFENDER REGISTRATION REQUIREMENTS FOR YOUTH YOUNGER THAN AGE 18

WHEREAS, the Adam Walsh Act, Public Law 109-248 requires that certain youth younger than age 18 be placed on sex offender registries;ⁱ and

WHEREAS, research shows that placing youth on sex offender registries does not advance public safety and can actually make communities less safe;ⁱⁱ and

WHEREAS, research confirms that reoffending rates for youth who offend sexually are extremely low and that juvenile sexual reoffense risk assessments have been validated for predicting sexual reoffending;ⁱⁱⁱ and

WHEREAS, research demonstrates that most youth who sexually offend respond well to evidence-based early intervention and treatment programs; and

WHEREAS, a substantial proportion of youth who sexually offend have themselves been victims of sexual assault as children;^{iv} and

WHEREAS, youth of color^v and children subjected to abuse or neglect, and children in foster care are at greater risk of being placed on registries; and

WHEREAS, a substantial proportion of youth sexual offending is intra-family and families often desire resources to allow them to keep the family together rather than forced separation that often results from residency restrictions imposed as part of registration requirements;^{vi} and

WHEREAS, the negative collateral consequences of placing youth on sex offender registries are well documented and include suicide, homelessness, difficulty attending school, unemployment, and increased risk of being the victim of sexual abuse; and

WHEREAS, implementing the Adam Walsh Act's juvenile registration requirements can be very costly for states; and

WHEREAS, states have challenged the requirements of the Adam Walsh Act, for example, Pennsylvania's sex offender registration requirements for youth were successfully challenged and the Pennsylvania Supreme Court deemed mandatory lifetime registration unconstitutional for young people holding that the registration requirements violate juvenile offenders' due process rights by using the irrebuttable presumption that all juvenile offenders "pose a high risk of committing additional sexual offenses."^{vii}

NOW, THEREFORE, BE IT RESOLVED:

The NCJFCJ recognizes that juvenile court judges have a responsibility to care for and protect youth within their jurisdiction, as well as to promote community safety, and therefore supports efforts to prevent youth from being placed on sex offender registries.

The NCJFCJ recognizes that most youth have the capacity to change, particularly given that youth do not yet have fully developed and mature brains and neurological systems, and believes that they should be given an opportunity to change, even when they have caused harm.

The NCJFCJ shall continue to educate judges and others with all available information and data on the harms to both public safety and to youth that result from the placement of youth on sex offender registries, community notification, and associated requirements.

The NCJFCJ remains committed to educating judges and others on the best practices and evidence-based interventions and treatment programs for youth who sexually offend.

The NCJFCJ encourages federal, state, territorial, and tribal governments to recognize that treatment for most youth who sexually offend will improve public safety and reduce reoffending more effectively than placing youth on registries.

The NCJFCJ urges Congress and state legislatures to provide increased funding to better meet both the short- and long-term treatment needs of child victims of sex crimes and sexual exploitation.

The NCJFCJ urges Congress and the state legislatures to provide increased funding for assessment and effective treatment interventions for youth adjudicated for sexual offenses.

The NCJFCJ believes that registration, community notification, and associated requirements are warranted in only in a limited number of cases involving especially violent sexual offending, thus, the offenses for which youth are considered for sex offender registration should be significantly narrowed to include only the most violent crimes.

The NCJFCJ urges Congress to amend Public Law 109-248 to restore judicial discretion regarding registration in cases involving youth who were younger than age 18 at the time of their offense, so that such decisions can be made on a case-by-case basis and be guided by valid sexual reoffending risk assessments.

The NCJFCJ urges state, territorial, tribal, and local governments to develop procedures to allow offenders to retroactively petition for removal from sex offense registries and associated community notification requirements individuals who were required to register based upon convictions or adjudications for offenses that occurred when they were younger than age 18.

Adopted by the NCJFCJ Board of Directors on Saturday, March 16, 2019, Henderson, Nevada.

References

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Endnotes

- ⁱ Title I of the Adam Walsh Act, also known as the Sex Offender Registration and Notification Act (SORNA), has been codified in large part at 42 U.S.C. § 16911 *et. seq.*^[1]
- ⁱⁱ Letourneau, E. J. & Armstrong, K. S. (2008). Recidivism rates for registered and nonregistered juvenile sexual offenders. *Sexual Abuse: A Journal of Research and Treatment*, 20, 393-408; Letourneau, E. J., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2009). The influence of sex offender registration on juvenile sexual recidivism. *Criminal Justice Policy Review*, 20, 136-153. Registration policies do not improve public safety. Studies show that registration has no effect on sexual and nonsexual violent recidivism. In other words, the rate at which juveniles commit new offenses – an already low number – is not affected by registration.
- ⁱⁱⁱ Caldwell, M. (In Press). Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy and Law*. Caldwell (2016). Quantifying the decline in juvenile sexual recidivism rates. *Psychology, Public Policy, and Law*; Caldwell (2010). Study characteristics and recidivism base rates in juvenile sex offender recidivism. *International Journal of Offender Therapy and Comparative Criminology*, 54, 197-212. Sexual recidivism rates for youth who sexually offend are vanishingly low. There are now more than 100 published studies evaluating the recidivism rates of youth who have sexually offended: the average 5-year recidivism rate is less than 3%.
- ^{iv} Pittman, N. (2015). Reanalysis of interview data. Unpublished. *Raised on the registry: The irreparable harm of placing children on sex offender registries in the U.S.* Human Rights Watch. ISBN: 978-1-62313-0084
- ^v Pittman, N. and Parker, A. (2013). *Raised on the Registry: The irreparable harm of placing children on sex offender registries in the U.S.* New York, NY: Human Rights Watch.
- ^{vi} Pittman, N. and Parker, A. (2013). *Raised on the Registry: The irreparable harm of placing children on sex offender registries in the U.S.* New York, NY: Human Rights Watch.
- ^{vii} *In re J.B.*, 107 A.3d 1 (Pa. 2014); Supreme Court of Pennsylvania 107 A.3d 1 (Pa. 2014). The Pennsylvania State Supreme Court has provided the most comprehensive ruling to date, making a range of legal arguments against juvenile registration (Most fundamentally, the Court held that juvenile registration violates a child's right to due process by creating a faulty but "irrebuttable" presumption that all juvenile sex offenders are dangerous.