



## **Sexual Offender Residency Restrictions**

This I-CAN report summarizes current residency restrictions for sexual offenders across the United States and examines the effectiveness of these laws.

### **Residency Restriction Laws**

#### **Iowa**

Current Iowa law states that sex offenders cannot live within 2,000 feet of a school or daycare facility. Proposals to modify the law were filed in both the Iowa House and Senate during the 2007 legislative term. The bill proposed in the House (HF 552) was in subcommittee for almost two months. It called for the repeal of the current residency restrictions to be replaced by restrictions that would prevent sex offenders from being present in areas where minors are usually present. These areas are referred to by many supporters as “safe-zones.” The file proposed in the Senate (SF 455) was introduced early in the term and sent to subcommittee. Unlike the House File, the Senate File did not call for the repeal of the residency restriction laws, but it did call for the implementation of “safe-zones.”<sup>1</sup> During the final week of the term, the pending legislation was not placed on the schedule and the earliest any change to the current Iowa sex offender laws will not take place until the beginning of the 2008 legislative term.

#### **Other States**

In the last ten years, 27 states and many local jurisdictions have enacted residency restriction laws regarding convicted sexual offenders.<sup>2</sup> The following table gives a brief summary of each state’s current laws. Please note that this table summarizes only residency restrictions, not all restrictions and requirements placed on convicted sex offenders. In addition, several communities have passed their own laws. State laws vary significantly. For example, the closest sex offenders can live to schools ranges from 500 feet to 2500 feet. Some states limit where sex offenders can work and the locations that they can visit.

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<sup>1</sup> “House File 552,” “Senate File 455.” <<http://www.legis.state.ia.us/>>

<sup>2</sup> Koch, Wendy. “Sex-offender Residency Laws get Second Look.” *USA TODAY*. 26 February 2007. [http://www.usatoday.com/news/nation/2007-02-25-sex-offender-laws-cover\\_x.htm](http://www.usatoday.com/news/nation/2007-02-25-sex-offender-laws-cover_x.htm)

**Table 1: Current Residency Restriction Laws**

State	Type of restriction
Alabama	Offenders can't work or live within 2,000 feet of schools, child care facilities.
Arkansas	Serious offenders can't live within 2,000 feet of schools, day care centers.
California	Offenders may not live within 2,000 feet of schools, parks, other places where kids gather.
Florida	Offenders who've hurt minors can't live within 1,000 feet of where kids gather.
Georgia	<b>Restriction Law struck down by Georgia Supreme Court on November 21, 2007.</b>
Idaho	Offenders can't live or loiter within 500 feet of school with kids under age 18.
Illinois	Offenders of children can't live within 500 feet of a school.
Indiana	Violent offenders can't live within 1,000 feet of a school, public park or youth program center.
Iowa	Offenders can't live within 2,000 feet of school or child care facility.
Kentucky	Offenders can't live within 1,000 feet of school, child care facility, ball fields and playgrounds.
Louisiana	Serious offenders can't live within 1,000 feet of schools or related activities, including school buses.
Maryland	Parole commission restricts registrants from living or loitering near places used mostly by kids where feasible.
Minnesota	Parole commissioner decides whether serious offenders may live within 1,500 feet of school zones.
Mississippi	Offenders can't live within 1,500 feet of school or child care facility.
Missouri	Offenders can't live within 1,000 feet of school or child care facility.
Montana	Judges can bar offender of children from living near schools, churches, parks and day care centers.
Nebraska	Offenders can't live within 500 feet of schools or child care facilities.
New York	Serious offenders can't enter school grounds or facilities caring for kids.
Ohio	Offenders can't live within 1,000 feet of schools, child care facilities or places kids gather.
Oklahoma	Offenders can't live within 2,000 feet of schools, day care centers or parks.
Oregon	Department of Corrections decides where offenders may live.
South Dakota	Offenders can't live or loiter within 500 feet of community safety zones.
Tennessee	Offenders can't live within 1,000 feet of schools, child care facilities or their victims.
Texas	State Parole Board decides where offenders may live or go.
Virginia	Some offenders can't loiter within 100 feet of schools or child care centers.
Washington	High-risk offenders can't live within 880 feet of schools or day care centers.
West Virginia	Offenders can't live within 1,000 feet of schools or child care facilities.

Source: Table reproduced from the following article- Wendy Koch. "Sex-offender Residency Laws get Second Look." *USA TODAY*. 26 February 2007. [http://www.usatoday.com/news/nation/2007-02-25-sex-offender-laws-cover\\_x.htm](http://www.usatoday.com/news/nation/2007-02-25-sex-offender-laws-cover_x.htm)

### Constitutional Issues

Several states have decided cases brought by convicted sex offenders who argue that the residency restriction laws violate either their constitutional due process rights or the Takings Clause of the Fifth Amendment. Depending on the state and the severity of law, courts have ruled in different ways. In November, Georgia overturned their residency restrictions<sup>3</sup>, but on

<sup>3</sup> Goodman, Brenda. "Georgia Justices Overturn a Curb on Sex Offenders." *The New York Times*. 22 November 2007. <<http://www.nytimes.com/2007/11/22/us/22offender.html>>

December 7, 2007, the Iowa Supreme Court upheld the current residency restriction in place for Iowa.<sup>4</sup>

### **Effectiveness of Residency Restriction Laws**

Although research about the effectiveness of current residency restriction laws is still in its early stages, some reports have been released recently. Among the most comprehensive is a study released by the Minnesota Department of Corrections in April 2007 that analyzed the deterrent effects of residency restriction laws. The study examined the behaviors of 224 recidivist sex offenders who were released from their initial incarceration between 1990 and 2002 and re-incarcerated before 2006. The study concluded that residency restriction laws would not have affected any of the 224 offenses. In other words, all 224 offenses would likely have taken place even if these laws were in place. The study arrived at this conclusion by analyzing data about the offender's initial contact with the victim (both where the contact occurred and how the offender knew the victim), the distance of the contact from the offender's place of residence, and the age of the victim at the time of the offense. Residency restriction laws typically only apply to those offenders who have violated a minor. The conclusion of the Minnesota Department of Corrections study was that "... housing restrictions might promote conditions that work against the goal of reducing the extent to which [sexual offenders] recidivate sexually."<sup>5</sup>

A study conducted by the Colorado Department of Public Safety for the Colorado State Legislature also concluded that placing residency restrictions on offenders may not deter the offender from re-offending. The study found that restrictions often limit offenders from living with supportive family members or friends and such support groups play a key role in preventing a re-offense.<sup>6</sup>

Human Rights Watch, a human rights interest group, released a report in September 2007 that called for the repeal of residency restrictions. The report was based on a comprehensive review of state laws and interviews with over 100 convicted offenders, family members and friends, and law enforcement officials. The group advocates that many law enforcement officials and sex offender treatment providers believe that a stable, support environment is most important in preventing recidivism. Many officials claim that residency restriction laws force registered offenders to hide from officials or to live in un-safe, unstable locations.<sup>7</sup>

The Iowa County Attorneys Association wrote a memo to the Iowa State Legislature and the Governor of Iowa in early 2006 outlining fourteen reasons why they support changing the law to include what they believe are more effective measures.<sup>8</sup> The group's decision was based on the experiences of county attorneys and not scientific data. The reasons the group opposes the current laws are:

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<sup>4</sup> Associate Press. "Iowa Supreme Court again Upholds Sex Offender Residency Law." *Quad-City Times*. 7 December 2007. <<http://www.qctimes.com/articles/2007/12/07/news/state/doc475972ae34c95094025269.txt>>

<sup>5</sup> The Minnesota Department of Corrections. "Residential Proximity & Sex Offense Recidivism in Minnesota." April 2007. <http://www.corr.state.mn.us/documents/04-07SexOffenderReport-Proximity.pdf>

<sup>6</sup> "Report on Safety Issues Raised by Living Arrangements for and Location of Sex Offenders in the Community." Colorado Department of Public Safety. 14 March 2004. <<http://dcj.state.co.us/ors/pdf/docs/FullSLAFinal.pdf>>

<sup>7</sup> "US: Sex Offender Laws May Do More Harm Than Good." Human Rights Watch. 6 September 2007. <[http://hrw.org/english/docs/2007/09/06/usdom16819\\_txt.htm](http://hrw.org/english/docs/2007/09/06/usdom16819_txt.htm)>

<sup>8</sup> Iowa County Attorneys Association (2006). *Statement on Sex Offender Residency Restrictions in Iowa*. Des Moines, Iowa. <http://www.cacj.org/PDF/2006/Statement%20on%20Sex%20Offender%20Residency%20Restrictions.pdf>

- Sex crimes are typically perpetrated against children by acquaintances and relatives at places other than those specified in the law.
- The law is very costly to enforce.
- Convicted offenders often fail to register with law enforcement agencies or register using false information.
- The restrictions apply to a broad group of offenders, many who pose no risk to minors.
- The family members of offenders and victims who have reunited with their offenders suffer as a result of the restriction.
- Because the prohibited zones cover such a large physical space, offenders cannot find affordable, inhabitable housing, and offenders do not have access to proper resources (schools, medical facilities, employment opportunities).

### **Suggested Alternatives to Current Residency Restriction Laws**

As mentioned in the introduction to this report, several state legislatures are in the process of enacting change to current laws. Some legislatures, including those in Iowa, Kansas, Oklahoma, and Georgia, are currently debating new legislation that would alter or eliminate residency restrictions. Other groups and jurisdictions, such as the city of Dyersville, Iowa, are attempting to take more dramatic steps by preventing sex offenders from living anywhere in the jurisdiction.<sup>9</sup>

Some researchers have encouraged authorities to replace residency requirements with alternative methods such as increased checks by probation officers, mandatory counseling and mental health services, polygraphing, electronic monitoring, and required activity logs.<sup>10</sup> The Iowa County Attorney's Association outlined a number of methods that they would support in terms of new legislation. The following list summarizes their suggestions.

- The creation of "safe-zones" around schools and other facilities known as a gathering place for children.
- The right for sex offenders to enter "safe-zones" with permission when the offender's own children are involved in activities in these areas.
- Restrictions should apply only to offenders whose charges stemmed from interaction with a child (someone under the age of 14).
- State statutes should override all local ordinances in order to create statewide uniformity.
- In order for laws to be effectively enforced, restrictions should apply to a more specific group of offenders (i.e. each offender should be individually assessed to determine the danger they pose to minors).<sup>11</sup>

The Center for Sex Offender Management (CSOM), a project of the Office of Justice Programs, U.S. Department of Justice released two important documents during the summer of 2007. One advocates for the individual assessment of sex offenders and the other is a handbook for policy makers to help them enact more effective laws. Both documents can be found at <http://www.csom.org/pubs/pubs.html>.

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<sup>9</sup> Wendy Koch. "Sex-offender Residency Laws get Second Look." *USA TODAY*. 26 February 2007.  
[http://www.usatoday.com/news/nation/2007-02-25-sex-offender-laws-cover\\_x.htm](http://www.usatoday.com/news/nation/2007-02-25-sex-offender-laws-cover_x.htm)

<sup>10</sup> Ibid.

<sup>11</sup> Iowa County Attorneys Association (2006). *Statement on Sex Offender Residency Restrictions in Iowa*. Des Moines, Iowa.  
<http://www.cacj.org/PDF/2006/Statement%20on%20Sex%20Offender%20Residency%20Restrictions.pdf>

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