



Pennsylvania Association for Rational Sexual Offense Laws

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Shortcomings of 2023 HB77 “SVP Residency Restrictions”

“Sexually Violent Predator” (SVP)

- Misleading conception modeled after Washington’s [State] Community Protection Act of 1990¹
- Most SVP assessments are not based on any empirically sound assessment tools (i.e. Static-99R, Static-2002R, and STABLE-2007).
- SVP laws require that the individual in question have some type of mental abnormality²
- “Mental abnormality”- a vaguely defined legal term and is not necessarily medically diagnosed³ as the assessor is frequently a social worker or counselor, not a psychiatrist with medical diagnostic credentials or abilities.
- Vagueness causes difficulties for mental health officials who must evaluate individuals from a medical standpoint while relying on mental abnormality criteria created by the state legislature⁴
- “The judgments made by professionals in SVP cases are largely political; they reflect societal value judgments, and they are vulnerable to the pressures of the political process. Professionals judge whether the individual meets the legal criteria for a diagnosis based on mental condition and level of risk. These are questions that involve medical and psychological judgment and the application of legal thresholds.”⁵

SVP Laws

- SVP laws politicize psychiatry in ways that go well beyond the traditional interconnection between psychiatry & law.⁶
- Advocates of SVP laws claim that their application to individuals is legitimate because key determinants for SVP labels are certified by mental health professionals. The purpose and application of SVP laws are thereby made to appear scientific and inevitable, rather than contingent and political.⁷

SVP Recidivism Rates- High Risk Offenders

- Rates of sexual recidivism in individuals classed as high risk varied substantially, with the lowest fourth of samples reporting average annual recidivism rates below 3.2%.⁸ (Meta-analysis included 10,422 individuals who were convicted of a sexual offense in 29 Samples from 21 independent studies from Jan. 1, 1995 to Jan. 1, 2011).

General Recidivism Rate

- PA parolees who were incarcerated for sexual offenses have the lowest three-year overall recidivism rate.⁹
- The most compelling sexual offense recidivism studies, conducted by Canadian researchers and involving over 20,000 ‘sex offenders’ from North America and England, reported an average re-arrest rate of 14% over 4-6 years.¹⁰
- Over 95% of sexual offenses are committed by first-time offenders.¹¹

¹ Sparks, Kasee. "Differences in legal and medical standards in determining sexually violent predator status." *Law and Psychology Review*, vol. 32, spring 2008, pp. 175+. *Gale Academic OneFile*, link.gale.com/apps/doc/A192394044/AONE?u=googlescholar&sid=bookmark-AONE&xid=1e64da2e. Accessed 11 Sep. 2023. Pg. 2

² Ibid. p. 4 and 42 Pa.C.S. § 9799.12. Definitions.

³ Ibid.

⁴ Ibid.

⁵ Janus, Eric S. "Sexually violent predator laws: psychiatry in service to a morally dubious enterprise." *Medicine, Crime, and Punishment* Vol 364 December 2004. Pg. 50

⁶ Ibid.

⁷ Ibid.

⁸ Singh, J. P., Fazel, S., Gueorguieva, R., & Buchanan, A. (2012). Rates of sexual recidivism in high risk sex offenders: A meta-analysis of 10,422 participants. *Sex Offender Treatment*, 7, p. 7

⁹ Bureau of Planning, Research and Statistics. Pennsylvania Department of Corrections Recidivism Report 2022. Pg. 26.

¹⁰ Hanson, R. K., & Bussiere, M. T. (1998). "Predicting relapse: A meta-analysis of sexual offender recidivism studies." *Journal of Consulting and Clinical Psychology*, 66(2), 348-362. and

Hanson, R. K., & Morton-Bourgon, K. (2005). "The characteristics of persistent sexual offenders: A meta-analysis of recidivism studies." *Journal of Consulting and Clinical Psychology*, 73(6), 1154-1163.

¹¹ Sandler, J. C., Freeman, N. J., & Social, K. M. (2008). Does a watched pot boil? A time-series analysis of New York state's sex offender registration and notification law. *Psychology, Public Policy, and Law*, 14(4), 284-302.



Shortcomings of HB77 SVP Residency Restriction (page 2)

Expert Studies, including Pennsylvania's own Department of Corrections, have shown:

- There is no established empirical link between residency restrictions and reduced sexual recidivism.¹²
- There is no established correlation between proximity to schools or child care facilities and sex offense recidivism.¹³
- Housing availability is greatly diminished by residence restriction policies.
- In Orange County, Florida, the locations of over 137,000 residential parcels were analyzed and 95% were found to be located within 1,000 feet of schools, parks, daycares, or school bus stops.¹⁴
- 2,500 feet resulted in exclusion of more than 99% of all residential parcels and eliminated all but 37 properties in the entire county.¹⁵
- Increased homelessness, transience, and reduced employment opportunities for people subjected to residency restrictions.

PA Courts have previously ruled:

- “[Residency restrictions] [u]ndermine the General Assembly's policies of rehabilitation, reintegration, and diversion from prison of appropriate offenders, and significantly interferes with the operation of the Sentencing and Parole Codes.”¹⁶

The Reality is:

- Residential restrictions regulate only where ‘sex offenders’ sleep at night and do nothing to prevent them from engaging in inappropriate contact with children during the day.
- Contrary to the goal of preventing abuse, housing instability is consistently and strongly correlated with increased criminal recidivism, parole failure, and absconding.¹⁷
- Residence laws also imply that children are at risk from predators lurking in schoolyards or playgrounds. The myth of “stranger danger” persists despite that most offenders are well-known to their victims.
 - Family members- 34% reported by Dept. of Justice in 2000¹⁸
 - Friends- 59% reported by Dept. of Justice in 2000¹⁹
 - About 40% of crimes take place in the victim's own home, and 20% take place in the home of a friend or relative.²⁰
- Individuals labeled as “sexually violent predators” attend mandatory monthly counseling and are closely monitored by PA Sex Offender Assessment Board approved therapists.. They are required to undergo annual polygraph exams to ensure that they are complying with treatment.

“One of the great mistakes is to judge policies and programs by their intentions rather than their results.”

- MILTON FRIEDMAN -

¹² Blood, P., Watson, L., & Stageberg, P. (2008). State legislation monitoring report. Des Moines, IA: Criminal and Juvenile Justice Planning.

¹³ Zandbergen, P., Levenson, J. S., & Hart, T. (2010). “Residential proximity to schools and daycares: An empirical analysis of sex offense recidivism.” *Criminal Justice and Behavior*, 37(5), 482-502.

¹⁴ Zandbergen, P., & Hart, T. C. (2006). “Reducing housing options for convicted sex offenders: Investigating the impact of residency restriction laws using GIS.” *Justice Research and Policy*, 8(2), 1-24.

¹⁵ Ibid.

¹⁶ *Fross v. County of Allegheny*, 20 A.3d 1193 (Pa. 2011) and *Lake Naomi Club, Inc. v. Rosado*, 285 A.3d 1 (Pa. Commw. Ct. 2022)

¹⁷ Meredith, T., Speir, J., & Johnson, S. (2007). “Developing and implementing automated risk assessments in parole.” *Justice Research and Policy*, 9(1), 1-21.

¹⁸ Bureau of Justice Statistics. (2000). “Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics.” Washington, DC: U.S. Department of Justice.

¹⁹ Ibid.

²⁰ Bureau of Justice Statistics. (1997). “Sex offenses and offenders: An analysis of Data on rape and sexual assault.” Washington, DC: U.S. Department of Justice.