



State of Connecticut

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**TESTIMONY OF CHRISTINE RAPILLO
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COMMITTEE ON THE JUDICIARY – March 22, 2010

RAISED BILL NO. 33
AN ACT CONCERNING THE REGISTRATION OF SEXUAL OFFENDERS

The Office of the Chief Public Defender opposes passage of *Senate Bill 33, An Act Concerning Sex Offender Registration*. This bill would place onerous burdens and requirements upon indigent and homeless persons convicted of certain offenses and would be virtually impossible to comply with.

The direct financial costs of expanded registration as proposed in this bill are also daunting, as the federal law requires retroactive application of this requirement. Connecticut does not need statutory changes to comply with the Adam Walsh Act. Even if the federal authorities were to find Connecticut law does not meet the SORNA (Sex Offender Registration and Notification Act) requirements, the cost of the monetary penalty is significantly less than the cost of compliance.

A state that fails to comply with the registration requirements of the Adam Walsh Act faces a penalty equal to 10% of the state's total Byrne Grant money from the federal government. Many states, including Texas, Ohio, and New York are struggling to decide whether to implement the terms of SORNA because they realized that implementation will cost significantly more than the money to be lost in penalties. **Attached to this testimony is a chart prepared by the Justice Policy Institute.** The chart shows the estimated cost for compliance with SORNA and the amount of BYRNE grant funding lost by failing to comply. Connecticut's estimated cost for implementation in 2009 was \$5,680,602. The estimated penalty for noncompliance is \$218,900.¹ The 2010 numbers are not yet available.

¹ Registering Harm: How Sex Offense Registries Fail Youth and Communities, Amanda Petteruti and Nastassia Walsh, Justice Policy Institute, November 21, 2008

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Section 1 of this bill would require juveniles who are adjudicated delinquent for a crime of a sexual nature to be added to the Connecticut Sex Offender Registry and appears to be an effort to insure compliance with the federal Adam Walsh Child Protection and Safety Act, PL 109-248. This bill is unnecessary. Requiring juveniles to register as sex offenders is contrary to the rehabilitative purpose of the juvenile court and dooms the child to a life of stigma. Furthermore, Connecticut law is likely already sufficient to meet the Adam Walsh Act requirements. Current laws relating to sex offender registration and the mandatory transfer of cases out of the juvenile court already require registration for the classification of charges covered by the federal law.

Connecticut has never required juveniles adjudicated of sexual offenses to appear on the registry. Both the Judicial Branch and CSSD provide secure and community based treatment for offenders remaining in the juvenile court. This treatment is age appropriate and shown to have the best chance at preventing reoffending. Juvenile registration undermines the essential rehabilitative purpose of the juvenile court and will discourage young people with emerging issues from seeking the treatment and services available in the delinquency system. The social cost of such a policy is high, creating a whole group of young people who, despite being the most amenable to treatment, will be doomed to a life of stigma and economic dependence. Registration for juvenile delinquents is bad public policy, as it leaves the offender with no chance for successful reintegration in to the community-the overarching goal of our juvenile justice system. Requiring registration for children adversely affects their ability to go to school, work, or even live with their families, all factors proven to help decrease recidivism in youth.

Connecticut's current statutory scheme for dealing with juveniles charged with serious sex offenses should bring the state into compliance with SORNA without adopting specific juvenile registration requirements.

Section 1 of the Adam Walsh Act, known as the Sex Offender Registration and Notification Act or SORNA, requires that youth age 14 or older who are adjudicated delinquent for an aggravated sexual assault to be placed on state sex offender registries. The SORNA guidelines published by the United States Department of Justice define aggravated sexual assault as an offense comparable to or more severe than Section 2241 of Title 18 of the U.S. Code – aggravated sexual abuse². The guidelines give this description of what is needed for “substantial compliance”.

“Considering the relevant aspects of the federal “aggravated sexual abuse” offense referenced in section 111(8), it suffices for substantial implementation if a jurisdiction applies SORNA’s requirements to juveniles at least 14 years old at the time of the offense who are adjudicated delinquent for committing (or attempting or conspiring to commit) offenses under laws that cover:

² New Registration Requirements for Juvenile Sex Offenders: The Adam Walsh Child Protection and Safety Act of 2006, H.R. 4472, NJIN Fact Sheet, April 2008

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- o engaging in a sexual act with another by force or the threat of serious violence;
- o or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.”

Connecticut law does not allow for delinquency adjudication in these cases, so it is unnecessary to change Connecticut law to comply with the SORNA requirements.

The crimes outlined in Section 2241 of Title 18 of the U.S. Code are the statutory equivalent of Conn. Gen. Stat. 53a-70 through 71, all of which deal with aggravated sexual assault or sexual assault on a minor. All of these crimes are classified as Class A or B felonies which, pursuant to Conn. Gen. Stat. Sec. 46b-127 **must** be transferred to adult court if the accused is age 14 or older. The juvenile court does not maintain any jurisdiction over these types of offenses. Conn. Gen. Stat. Sec. 46b-127 even prohibits arguments of counsel in the pro forma transfer hearing in juvenile court. SORNA clearly requires that juveniles prosecuted as adults must register according to the home state’s adult registration requirements. Connecticut law treats all juveniles transferred to the criminal docket as adults and Conn. Gen. Stat. Sec. 54-250 (1) defines conviction for registration as “a judgment of the Superior Court... after upon a plea of guilty, a plea of nolo contendere or a finding of guilty by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from such judgment”. There is no exception for juveniles who are being prosecuted as adults.

The juvenile justice system uses the transfer laws which mandate that serious sexual offenses be moved to adult court for all individuals over the age of 14. For cases that merit a less serious charge, prosecutors have the ability to move cases to the adult court. If a sexual assault case stays in juvenile court, it is only because a prosecutor has decided it is appropriate. This high amount of discretion provides significant protection to the public and allows for more rehabilitative treatment when appropriate. Public safety is protected by Connecticut’s stringent transfer laws and registration of juvenile offenders is not necessary.

Connecticut does not need to implement this costly federal mandate. Our current laws on both juvenile and adult sex offenders are sufficient to ensure public safety. Given the limits on juvenile court jurisdiction in Connecticut, our current law should comply with the registration requirements in the Adam Walsh Act. The Office of the Chief Public Defender strongly urges this committee to reject Senate Bill 33.

The Sex Offender Registration and Notification Act (SORNA)¹, which mandates a national registry of people convicted of sex offenses and expands the type of offenses for which a person must register, applies to both adults and children. By July 2009, all states must comply with SORNA or risk losing 10 percent of the state's allocated Byrne Grant money, which states generally use to enforce drug laws and support law enforcement.

In the last two years, some states have extensively analyzed the financial costs of complying with SORNA. These states have found that implementing SORNA in their state is far more costly than the penalties for not being in compliance. JPI's analysis finds that in all 50 states, the first-year costs of implementing SORNA outweigh the cost of losing 10 percent of the state's Byrne Grant. Most of the resources available to states would be devoted to the administrative maintenance of the registry and notification, rather than targeting known serious offenders. Registries and notification have not been proven to protect communities from sexual offenses, and may even distract from more effective approaches.

Given the enormous fiscal costs of implementing SORNA, coupled with the lack of evidence that registries and notification make communities safer, states should think carefully before committing to comply with SORNA.

Ohio determined that the cost of implementing new software to create a registry would approach a half million dollars in the first year.² The total estimated cost for complying with SORNA exceeds the Byrne funds Ohio would lose if it did not comply.

- Installing and implementing software alone would cost \$475,000 in the first year. The software would then cost \$85,000 annually thereafter for maintenance.
- Certification of treatment programs based on new standards and providing a description of a person on the registry to the state's Bureau of Criminal Identification and Investigation would cost another \$100,000 annually.
- Ohio also lists other factors that would increase the cost of implementing SORNA, including salaries and benefits for new personnel, new court and administration costs, and costs to counties and municipalities. These costs are in addition to the \$475,000 needed for software, but have not yet been quantified by the state.
- If Ohio chose not to implement SORNA, the state would lose approximately \$622,000 annually from its Byrne funds. However, the total estimated cost of software, certification of treatment programs, salaries, and benefits for new personnel would exceed the lost Byrne funds.

Virginia determined that the first year of compliance with the registry aspect of SORNA would cost more than \$12 million.³

- The first year of implementing SORNA would cost the Commonwealth of Virginia \$12,497,000.
- The yearly annual cost of SORNA would be \$8,887,000. Adjusted with a 3.5 percent yearly inflation rate,⁴ Virginia would be paying more than \$10 million by 2014.
- If Virginia chose to comply with SORNA, the state would spend \$12,097,000 more than it would if it chose not to implement SORNA and forfeit 10 percent of its yearly Byrne grant, a loss totaling approximately \$400,000.⁵

As evidenced by these summaries, states can expect to incur significant costs as they attempt to comply with SORNA. States should consider all possible areas in which increased expenditures will occur.

- New personnel
- Software, including installation and maintenance
- Additional jail and prison space
- Court and administrative costs
- Law enforcement costs
- Legislative costs related to adopting, and crafting state law

¹ SORNA is Title 1 of the Adam Walsh Act.

² Ohio Legislative Service Commission Fiscal Note & Local Impact Statement (Columbus, OH: Ohio Legislative Service Commission, 2007) <http://www.lsc.state.oh.us>

³ Virginia Department of Planning and Budget 2008 Fiscal Impact Statement (Richmond, VA: Department of Planning and Budget, 2008).

⁴ Oregon State University, "Yearly Inflation or Deflation Rate (CPI-U) 1915 -2005, in Percent." April 24, 2008.

<http://oregonstate.edu/cia/polisci/faculty-research/sah/pc1915f.htm>

⁵ Office of Justice Programs, "JAG State Allocations," April 23, 2008. <http://www.ojp.usdoj.gov/BJA/grant/07JAGstateallocations.pdf>

In every state, the first-year cost of implementing the Sex Offender Registration and Notification Act outweighs the cost of losing 10 percent of the state's Byrne money.⁶

	SORNA Implementation Estimate for 2009	Byrne Money Received in 2006 ⁷	10 Percent of Byrne Money
ALABAMA	\$7,506,185	\$3,178,628	\$317,863
ALASKA	\$1,108,573	\$565,971	\$56,597
ARIZONA	\$10,281,201	\$3,653,881	\$365,388
ARKANSAS	\$4,597,925	\$2,180,442	\$218,044
CALIFORNIA	\$59,287,816	\$21,876,819	\$2,187,682
COLORADO	\$7,885,178	\$2,725,489	\$272,549
CONNECTICUT	\$5,680,602	\$2,189,001	\$218,900
DELAWARE	\$1,402,612	\$1,248,534	\$124,853
DISTRICT OF COLUMBIA	\$954,186	\$1,804,991	\$180,499
FLORIDA	\$29,602,768	\$12,402,693	\$1,240,269
GEORGIA	\$15,481,193	\$5,594,288	\$559,429
HAWAII	\$2,081,603	\$933,732	\$93,373
IDAHO	\$2,431,969	\$1,170,003	\$117,000
ILLINOIS	\$20,846,306	\$8,501,000	\$850,100
INDIANA	\$10,291,799	\$3,696,033	\$369,603
IOWA	\$4,846,488	\$1,881,623	\$188,162
KANSAS	\$4,502,553	\$2,035,999	\$203,600
KENTUCKY	\$6,879,497	\$2,702,451	\$270,245
LOUISIANA	\$6,963,401	\$3,514,704	\$351,470
MAINE	\$2,136,456	\$1,172,583	\$117,258
MARYLAND	\$9,112,724	\$4,320,568	\$432,057
MASSACHUSETTS	\$10,461,238	\$4,353,201	\$435,320
MICHIGAN	\$16,336,082	\$6,793,169	\$679,317
MINNESOTA	\$8,430,328	\$3,061,831	\$306,183
MISSISSIPPI	\$4,734,150	\$2,065,269	\$206,527
MISSOURI	\$9,534,548	\$4,182,382	\$418,238
MONTANA	\$1,553,611	\$1,076,424	\$107,642
NEBRASKA	\$2,878,281	\$1,288,957	\$128,896
NEVADA	\$4,160,944	\$1,808,095	\$180,810
NEW HAMPSHIRE	\$2,134,219	\$1,192,435	\$119,244
NEW JERSEY	\$14,088,206	\$5,160,709	\$516,071
NEW MEXICO	\$3,195,121	\$1,879,901	\$187,990
NEW YORK	\$31,300,125	\$11,279,841	\$1,127,984
NORTH	\$14,696,622	\$5,460,983	\$546,098
NORTH DAKOTA	\$1,037,592	\$554,556	\$55,456
OHIO	\$18,598,869	\$6,223,825	\$622,383
OKLAHOMA	\$5,867,138	\$2,790,472	\$279,047
OREGON	\$6,078,218	\$2,251,312	\$225,131
PENNSYLVANIA	\$20,165,479	\$7,640,322	\$764,032
RHODE ISLAND	\$1,715,760	\$967,292	\$96,729
SOUTH CAROLINA	\$7,149,123	\$3,610,292	\$361,029
SOUTH DAKOTA	\$1,291,426	\$513,858	\$51,386
TENNESSEE	\$9,985,946	\$4,817,782	\$481,778
TEXAS	\$38,771,924	\$14,045,713	\$1,404,571
UTAH	\$4,290,617	\$1,557,034	\$155,703
VERMONT	\$1,007,649	\$630,419	\$63,042
VIRGINIA	\$12,508,695	\$3,943,036	\$394,304
WASHINGTON	\$10,491,519	\$3,538,816	\$353,882
WEST VIRGINIA	\$2,939,046	\$1,679,108	\$167,911
WISCONSIN	\$9,085,630	\$2,982,833	\$298,283
WYOMING	\$848,009	\$584,036	\$58,404

⁶ These numbers are calculated by using the Virginia Department of Planning and Budget total (\$12,508,694) divided by the predicted number of people in Virginia in 2009 (U.S. Census 2007 multiplied by predicted 1 percent yearly growth). The cost per person (\$1.59) was then multiplied by the predicted number of people in all states in 2009. Virginia conducted the most comprehensive analysis of the potential cost of implementing SORNA that was also available to the public.

⁷ The U.S. House of Representatives estimates that 2009 federal allocations for Byrne grants will return to 2006 levels, which total approximately \$200 million.