

Safe & Just Michigan

Written Statement of
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Submitted to the
Senate Committee on Judiciary and Public Safety
Re: SB 289, 290, 291
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Lansing, Michigan

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Thank you, Chairman Lucido, and to all of the members of the committee for allowing me to testify. My name is Joshua Hoe and I am a policy analyst at Safe & Just Michigan a criminal justice research and advocacy organization based in Lansing.

Any new registry bill cannot make Michigan safer.

- SB 289, 290, 291 Make Michigan Less Safe
- SB 289, 290, 291 Do Not Address the Concerns of the Courts
- Conclusion and Recommendations

I urge everyone to oppose this legislative package.

SB 289, 290, 291 Make Michigan Less Safe

Michigan currently has a private child abuse registry. The only question at issue here is if Michigan should institute a public registry for individuals sentenced for child abuse.

A veritable mountain of evidence exists to show that public registries detract from public safety. The most cited and well-respected meta-analysis was by Prescott and Rockoff and concluded that public registries increase recidivism:

We also demonstrate that notification laws may affect sex offense frequency, albeit not necessarily as lawmakers intended. We estimate that notification laws reduce the number of sex offenses when the size of the registry is small but that these benefits dissipate as more offenders become subject to notification requirements. This pattern is consistent with notification deterring nonregistered individuals but encouraging recidivism among registered offenders, perhaps because of the social and financial costs associated with the public release of their criminal history and personal information.

When a registry is of average size, adding a notification regime effectively increases the number of sex offenses by more than 1.57 percent.¹

Just a few weeks ago, new research suggested more reasons why registries, in creating a public system of shaming, are likely to increase the triggers of recidivism:

¹ There are hundreds, if not thousands of articles, concluding that sex offense registries have not been effective, the Prescott and Rockoff is a meta-analysis summarizing much of that research. J.J. Prescott & Jonah E. Rockoff, Do Sex offender Registration and Notification Laws Affect Criminal Behavior?, 54 J.L. & Econ. 161 (2011).

We know that current stressors and living in a constant state of anxiety can reactivate maladaptive coping styles...A life lived in fear reactivates early maladaptive schemas about the world as a dangerous place and fosters an understandable mistrust of authority figures. **A life lived in fear weakens an individual's capacity for emotional management, because when people are constantly in survival mode, their cognitive processing skills are compromised. Under such circumstances, their capability for healthy self-regulation is undermined.**²

In addition, we have seen time after time that single-case lawmaking, while popular, often ends in bad policy that becomes incredibly hard to amend or rescind.³ In addition, there can be real collateral consequences from registries. People on registries find it much harder to find employment and housing because their registration shows up in background checks.⁴ Making people housing and employment insecure is obviously a recipe for recidivism. Perhaps the most ignored collateral consequence is to the children of people on registries often singled out for abuse at school and whose parents have less ability to effectively support them at school and in life because of their reduced prospects and onerous restrictions.⁵

SB 289, 290, 291 Do Not Address the Concerns of the Courts

This proposed bill package addresses many of the concerns of the 6th Circuit Court of Appeals *Doe's v. Snyder* decision⁶ but seems to ignore entirely the previous decision by Judge Cleland in the Eastern District of Michigan finding that many requirements were unconstitutionally vague.⁷ Michigan's SORNA is currently under scrutiny in Judge Cleland's court right now to ensure compliance with the findings of both of those decisions (including internet identifiers, in-person reporting, and other requirements).

² Harris and Levenson, "Life on 'the List' is a Life Lived in Fear: Post-Conviction Traumatic Stress in Men Convicted of Sexual Offenses," *Int J Offender Ter Comp Criminal*, Aug 27 2020

³ "If a Law Has a First Name, That's a Bad Sign" *Los Angeles Times* 9/19/2016

<https://www.latimes.com/opinion/op-ed/la-oe-frank-named-laws-20160919-snap-story.html>

Jennifer K. Wood. "In Whose Name? Crime Victim Policy and the Punishing Power of Protection" *NWSA Journal*, vol. 17, no. 3, 2005,

Harwood, *Can Victims' Rights Go Too Far*, Reason, April 2019

<https://reason.com/2019/03/16/can-victims-rights-go-too-far/>

⁴ Tewksbury, "Collateral Consequence of Sex Offender Registration," *Journal of Contemporary Criminal Justice*, February 1, 2005

Tewksbury and Ehrhardt, "Stress and Collateral Consequences for Registered Sex Offenders" *Journal of Public Management & Social Policy*, 2009, Vol. 15 Issue 2.

⁵ Levenson, J., Tewksbury, R. *Collateral Damage: Family Members of Registered Sex Offenders*. *Am J Crim Just* 34, 54–68 (2009). <https://doi.org/10.1007/s12103-008-9055-x>

⁶ <https://law.justia.com/cases/federal/appellate-courts/ca6/15-1536/15-1536-2016-08-25.html>

⁷ <https://docs.justia.com/cases/federal/district-courts/michigan/miedce/2:2012cv11194/267862/103>

In addition, very few people who have been forced to register for a sex offense ever recidivate⁸ while many are re-arrested for so-called “failure to register” violations which have also been shown to not be predictive in the commission of new crimes (beyond the regulatory violations).⁹ Replicating a system that forces law enforcement to spend zero-sum resources enforcing registry requirements seem likely to trade-off with investigations of actual crimes.¹⁰

Conclusion and Recommendations

There is no evidence that public registries provide a public safety benefit and a large amount of evidence that public registries make our communities less safe. I would humbly suggest that after decades of extensive research the burden of proof should be on proponents of new registries to provide non-anecdotal evidence proving new registries would be effective. Laws based around single, often horrific, case law have historically been counterproductive but hard to amend or rescind. We would strongly suggest not creating a new and expensive legal superstructure that ensnares tens of thousands of Michiganders while we have good reason to believe such a scheme could decrease public safety at great cost to taxpayers. We oppose the passage of this legislative package.

⁸ You can read a summary of the evidence here AMICI CURIAE BRIEF OF THE ASSOCIATION FOR THE TREATMENT OF SEXUAL ABUSERS, CITIZENS ALLIANCE ON PRISONS AND PUBLIC SPENDING, HUMAN RIGHTS DEFENSE CENTER, MICHIGAN CHAPTER OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS, MICHIGAN COUNCIL ON CRIME AND DELINQUENCY, NORTHWEST INITIATIVE, OHIO JUSTICE AND POLICY CENTER, PROFESSIONAL ADVISORY BOARD TO THE COALITION FOR A USEFUL REGISTRY, AND THE SENTENCING PROJECT http://www.sado.org/content/pub/10761_CAPP-Amici-Brief.pdf

⁹ Zgoba and Levenson, Failure to Register As a Predictor of Sex Offense Recidivism: The Big Bad Wolf or Red Herring, *Sexual Abuse, A Journal of Research and Treatment*, 2012, 24 (4) 328-349
Levenson, J. S., Letourneau, E., Armstrong, K., & Zgoba, K. (2010). Failure to register as a sex offender: Is it associated with recidivism? *Justice Quarterly*, 27, 305-331.

¹⁰ Zgoba and Levenson, Failure to Register As a Predictor of Sex Offense Recidivism: The Big Bad Wolf or Red Herring, *Sexual Abuse, A Journal of Research and Treatment*, 2012, 24 (4) 328-349