



Safer, Smarter, and More Humane Registration for Kids Support House Bill 20-1079

A BILL BASED ON EVIDENCE, BEST PRACTICES, AND COLLABORATION BY STAKEHOLDERS

House Bill 20-1079 is the result of multiple years of collaboration between prosecutors, defense counsel, victim advocates, and the Colorado Sex Offender Management Board (SOMB); and received bipartisan support from the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Health Disorders in the Criminal and Juvenile Justice Systems.ⁱ

The bill implements SOMB recommendations made by a committee of treatment providers, evaluators, law enforcement, and attorneys after a review of current law, studies, and research on best practices.ⁱⁱ

REQUIRING JUVENILE REGISTRATION BASED ON OFFENSE HARMS KIDS AND MAKES US LESS SAFE

- Research has demonstrated that placing juveniles on a sex offender registry is harmful to children.ⁱⁱⁱ
 - **One in five people put on the registry as children attempt suicide.**^{iv}
 - Therapists overwhelmingly report that requiring juveniles to register has negative consequences in the areas of **mental health, harassment and unfair treatment, school problems, and living instability.**^v
- Registries cause this harm without providing a benefit—**juvenile sexual offense recidivism is low.**
 - Some studies show that only 7-13% of juveniles on the registry are likely to commit another sexual offense within 5 years; **recent studies show a re-offense rate below 3%.**^{vi}
 - When registries contain names for hundreds of people who are low risk and unlikely to reoffend, they do not work—law enforcement is distracted from focusing on high risk offenders.
- **12 states and the District of Columbia currently have no juvenile sex offender registry. These jurisdictions do not experience higher recidivism rates than other states.**^{vii} 10 additional states make juveniles with certain offenses *eligible* to register, but a judge decides if registration is required.^{viii}

HB 20-1079 MAKES THREE KEY CHANGES

I. Registration based on risk, not offense

- Current law requires judges to order juveniles who have committed certain crimes to register.
 - **But the fact that a youth has committed a certain sex offense is not predictive of risk.**^{ix}
- **This bill expands judicial discretion, allowing the court to determine if the juvenile must register.**
 - *Only if* an SOMB evaluator recommends no registration, and the juvenile has no prior sexual offenses.

II. Ends mandatory lifetime registration for juveniles

- Current law requires any person found guilty of more than one sex offense as a juvenile to register for life.
 - **But experts agree that juveniles should not be labeled sex offenders for life.**^x Research shows most juveniles do not continue on to commit future sexual offenses.^{xi}
 - Statutes requiring juvenile registration for life have also been found unconstitutional in other states.^{xii}
- **This bill ensures that juvenile adjudications alone may not trigger *mandatory* lifetime registration,** by allowing a petition to the court for removal from the registry.

III. Makes juvenile registry information available to only those who need to know

- Current law places juveniles on a public registry.
 - **But 52% of registry youth have experienced violence** or threats of violence against self or family.^{xiii}
- **This bill limits access to juvenile registration information** to law enforcement, probation, parole, the division of child welfare, victims, and persons who request information about a specific individual under certain restrictions, and clarifies that juveniles should not be placed in an online registry.

- In addition to the above, the bill:
 - Specifies that juveniles moving to Colorado who have already been relieved by a court of the duty to register do not have to register in Colorado
 - Requires the court, at the end of a juvenile sentence, to determine (with input from the prosecution and victim) whether the duty to register will continue
 - Updates language to ensure that victims are informed when any petition or motion is made to terminate sex offender registration

ⁱ The ABA urges state legislatures to reexamine laws that require youth to register, and to require that judges consider factors relevant to the individual juvenile. See *ABA Recommendation, Juvenile Sex Offender Policy* (February 2009), https://www.americanbar.org/groups/public_interest/child_law/resources/attorneys/juvenile_sex_offenderpolicy/.

ⁱⁱ *Sex Offender Management Board White Paper on Research, Implications, and Recommendations Regarding Registration and Notification of Juveniles Who Have Committed Sexual Offenses* (August 2017), <http://cdpsdocs.state.co.us/somb/juvenile/WhitePaperREJuvenileRegistrationFinal8-18-17Board.pdf>.

ⁱⁱⁱ See Human Rights Watch, *Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the US* (2013), <https://www.hrw.org/report/2013/05/01/raised-registry/irreparable-harm-placing-children-sex-offender-registries-us>.

^{iv} See <https://impactjustice.org/impact/center-on-youth-registration-reform/>. See also Exhibit D, *Letter from Johns Hopkins Moore Center for the Prevention of Child Sexual Abuse & Scientific Experts to SMART Office, Office of Justice Programs, United States Department of Justice* (June 7, 2016), <https://republicans-judiciary.house.gov/wp-content/uploads/2017/03/Pittman-Testimony.pdf> (“Compared to nonregistered youth, youth currently or previously registered report significantly higher rates of seriously considering and/or attempting suicide”).

^v See *Letter from Johns Hopkins, supra*.

^{vi} *Id.* See also *Chapter 3: Recidivism of Juveniles Who Commit Sexual Offenses, Christopher Lobanov-Rostovsky, Sex Offender Management Assessment and Planning Initiative (SOMAPI), Office of Justice Programs, US Department of Justice*, https://www.smart.gov/SOMAPI/sec2/ch3_recidivism.html (reporting sexual recidivism rates ranging from 7-13% over a 5 year follow up period, as compared to nonsexual recidivism rates of 29-43%). For comparison to general recidivism rates, look at youth released from DYS: 34.4% reoffend within 1 year, 52.1% within 2 years, and 61.1% within 3 years. <https://drive.google.com/drive/folders/0B32vshZrERKsWkZ6UjV1ODhyWjA>.

^{vii} Nebraska, New Mexico, Georgia, West Virginia, Pennsylvania, New York, Vermont, New Hampshire, Connecticut, Maine, Alaska, Hawaii, and Washington, D.C. do not put juveniles on a registry. See <https://www.theatlantic.com/politics/archive/2015/11/states-slowly-scale-back-juvenile-sex-offender-registries/433473/>; <https://impactjustice.org/impact/center-on-youth-registration-reform/>.

^{viii} Arizona, Arkansas, Indian, Massachusetts, Montana, North Carolina, Ohio, Oklahoma, Texas, and Virginia had discretionary registration as of 2015. See U.S. Dept. of Justice, *SMART Summary* (March 2015), <https://www.smart.gov/pdfs/SMARTSummary.pdf>.

^{ix} See *Letter from Johns Hopkins, supra* (analysis of “63 data sets examining more than 11,000 juvenile sex offenders” found a “mean 5-year sexual recidivism rate” of 7%. In a new meta-analysis of studies done within the last 15 years, a review of 106 data sets examining more than 33,000 juvenile sex offenders revealed “a mean 5-year recidivism rate of 2.75%, confirming the decline in sexual abuse rates....” Additionally, “[y]outh who offend sexually pose similar risks as youth who have committed nonsexual offenses.” A comparison of 106 registered and 66 unregistered youth found that registered youth scored significantly lower on scales that most accurately predicted general recidivism. Comparison of the recidivism patterns of 249 youth adjudicated of sex offenses and 1780 youth adjudicated of nonsex offenses found that “the nonsex offending youth were equally likely to commit a new sex offense as the sex offending youth.”).

^x *Chapter 3: Recidivism of Juveniles, supra*.

^{xi} *Id.* (SOMAPI recommends that “Juveniles who commit sexual offenses should not be labeled as sexual offenders for life. The recidivism research suggests that most juveniles do not continue on to commit future juvenile or adult sexual offenses. Therefore, labeling juveniles as sex offenders legally or otherwise — particularly for life — is likely to result in harm for many juveniles without a commensurate public safety benefit. The empirical evidence suggests that sexual offending prior to age 18 is not necessarily indicative of an ongoing and future risk for sexual offending. Moreover, the unintended but nevertheless harmful effects of inappropriate labeling have repeatedly been identified in other research.”).

^{xii} *In re C.P.*, 131 Ohio St. 3d 513 (2012); *In re J.B.*, 630 Pa. 408 (2014).

^{xiii} *Raised on the Registry, supra*, at 56.