

SB 3060

Measure Title: RELATING TO QUALIFIED COMMUNITY REHABILITATION PROGRAMS.

Report Title: Qualified Community Rehabilitation Programs; Reports

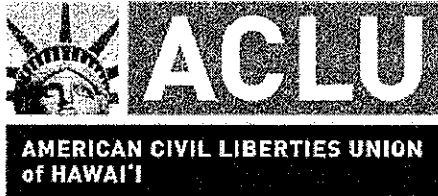
Description: Repeals the requirement for the Department of Human Resources Development to submit annual reports to the Legislature regarding expenditures of qualified community rehabilitation programs.

Companion: HB2549

Package: Gov

Current Referral: HMS, WAM

Introducer(s): TSUTSUI (BR)



Committee: Committee on Human Services
Hearing Date/Time: Tuesday, February 14, 2012, 1:25 p.m.
Place: Room 016
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 3060, Relating to Sex Offenders

Dear Chair Chun Oakland and Members of the Committee on Human Services:

The American Civil Liberties Union of Hawaii writes in opposition to S.B. 3060.

Sex crimes are deplorable. They are often violent, and sometimes involve children. Victims suffer devastating, long-term psychological impacts. Communities, families, and individuals are understandably outraged by such crimes, and want to take all possible measures to protect children from the tragedy of sexual abuse. Residency restrictions are advanced by those who genuinely believe that they are an important measure to prevent children from becoming victims. The theory behind residency restrictions is that by keeping registered offenders from living near places where children gather, communities can prevent these former offenders from victimizing children.

However, this approach rests on two pervasive misconceptions about registered offenders. First, that they reoffend at a rate that far exceeds that of any other kind of offender; and second, that those who do reoffend choose victims who live near to them. As explained below, decades of evidence show that neither of these assumptions is true.

All of the existing evidence from more than a decade of state experiments with this type of restriction on former sex offenders demonstrates that these restrictions do not work. They fail for several reasons: first, the rate of re-offending among sex offenders is in fact quite low. Second, residency restrictions are premised on the false notion that there is a relationship between where offenders live and where they offend. Third, courts are beginning to strike residency restriction laws down because they effectively leave former offenders with nowhere they can live. Finally, residency restrictions have the counterproductive consequence of driving registered offenders “underground” and ceasing to comply with reporting requirements, which may actually lead to a decrease in public safety.

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Registered Sex Offenders Do Not Reoffend at a High Rate

Residency restriction laws assume that registered sex offenders are responsible for most sexual crimes. In fact, 96% of people arrested for child molestation were first-time offenders. The most recent study by the Bureau of Justice Statistics found that just 3.3% of people convicted of violent sexual offenses against children were rearrested for a new sex crime within three years of their release (the time during which most re-arrests occur). One long-term study of 12,863 individuals convicted of committing sex crimes in New York found that just 2% of released inmates who served time for a sex offense were subsequently convicted of another sex crime. Recidivism rates among sex offenders are in fact much lower than recidivism rates among people convicted of other felonies. There is little evidence to support the conclusion that placing restrictions on where registered sex offenders live prevents future sexual violence.

Residency Restrictions are Ineffective

Residency restriction laws presume that former sex offenders will commit crimes again if they live close to children. However, all of the empirical research into the efficacy of residency restriction laws has found that such restrictions do not reduce the risk of harm to children.

Residency restriction laws assume that children are most often sexually assaulted by strangers and in public places. However, 93% of sexual assault victims under the age of 17 are assaulted not by a stranger, but by a family member or an acquaintance. 70% of sexual assaults take place within the residence of the victim. Such laws may incorrectly lead communities to feel secure by overstating the threat posed by strangers. As a result, families may ignore the fact that children are most likely to be sexually assaulted by people they already know and in their own homes.

Preventing registered sex offenders from living near public places where children gather will not prevent assaults. Research has found that sex offenders are less likely to offend near their homes, and may travel up to three to five miles to access victims. A Colorado study found that sex offenders who committed crimes against children did not live within close proximity to schools or playgrounds, but were scattered randomly throughout the state.

As a practical matter, prohibiting registered offenders from living within 750 feet of a school may entirely preclude these individuals from being able to live in certain communities. A study of residency restrictions in Orange County, Florida (which prohibit registered offenders from living within 1000 feet of schools, parks and day cares) found that only 5% of the county was

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habitable for registered offenders. Registered offenders often resort to homelessness or living under bridges (with the approval of their states) because the residency restrictions prevent them from living anywhere else. Courts are beginning to strike down statewide residency restrictions because they make it too difficult for registered offenders to find permanent homes.

Residency Restrictions May Increase the Threat to Public Safety

In actuality, residency restrictions may result in a decrease in community safety by destabilizing registered offenders. Residency restrictions can result in sex offenders living separately from their families, thereby depriving them of an important source of stability. The restrictions push sex offenders to reside in more rural and isolated areas, resulting in decreased access to employment opportunities and valuable social services. Residency restrictions can lead to isolation, economic and emotional stress, and instability, all of which are factors associated with recidivism and technical parole violations. One recently commissioned study on residency restrictions in Colorado concluded that “a tight web of supervision, treatment and surveillance may be more important in maintaining community safety than where a sex offender resides.”

Unable to find an acceptable place to live, registered offenders may choose to stop reporting their locations and “go underground,” making it more difficult for law enforcement to keep track of sex offenders in their jurisdiction. Iowa found that it went from having 140 sex offenders who were not reporting their residencies to 400 “underground” registered offenders after enacting a strict residency restriction. Such a result contravenes the purposes of sex offender registry requirements, and limits law enforcement’s ability to monitor registered offenders.

Ultimately, S.B. 3060 will not promote safety by limiting where registered sex offenders can live. It will result in significant harms to registered offenders and will likely have the counterproductive effect of increasing the likelihood of re-offense. For these reasons, we oppose the bill and urge members of this Committee to vote against it.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

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Sincerely,

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Honorable Chair Chun-Oakland,

I would like to offer testimony in favor of SB3060.

For the past sixteen years I have been the pastor of the Pali View Baptist Church in Kaneohe. The church itself has one of the oldest preschools on the Windward side with between sixty and seventy children ages three and four. During my years here I have seen hundreds of families come through our doors with the expectation that the church and preschool would be a safe and nurturing environment for their child. The preschool and church staff take their safety very seriously and were therefore concerned to learn recently that there was a registered sex offender living within a few dozen yards of the playground and Hawaii has no law which would restrict even registered child molesters from living right next door to a school or playground.

Do we not have a responsibility to protect and see to the safety of those who are weakest and most vulnerable among us? Small children certainly qualify for this.

In the Sunday, February 5, 2012 Star Advertiser there was an article about child abuse which stated, "there is an epidemic of child sex abuse around the world...at least one in four girls is sexually abused and at least one in five boys." I'm sure we are all are familiar with local news stories of child abuse here in the islands and the awful consequences they have had on families. Why wait until something terrible happens to react at when action can be taken now to make their lives a little safer.

Therefore I urge passage of SB3060 for the sake of the children.

Sincerely,

Pastor Steve Irvin

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2012 9:00 PM
To: HMS Testimony
Cc: breaking-the-silence@hotmail.com
Subject: Testimony for SB3060 on 2/14/2012 1:25:00 PM

Categories: Red Category

Testimony for HMS 2/14/2012 1:25:00 PM SB3060

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Adult Survivor of Child Sexual Abuse
Organization: Individual
E-mail: breaking-the-silence@hotmail.com Submitted on: 2/13/2012

Comments:

As a survivor of child sexual abuse who has struggled a lifetime with the consequences, I would like to make a few friendly amendments to SB3060 that would assist in preventing the reoccurrence of abuse as well as support victim-survivors in their struggle to heal from their trauma.

If the following language could be added (in capitals):

Makes it a class C felony for persons convicted of certain sexual offenses committed against a child twelve years of age or younger to reside within seven hundred fifty feet of any school building, any real property comprising a school OR ANY REAL PROPERTY WHERE THE VICTIM MAY RESIDE.

Although TROs specify that an abuser is not to "visit or remain within 100 yards of any place where the Plaintiff lives or works" it does not prohibit an offender from moving into the neighborhood or building where the offender's victim resides so adding wording to encompass such situations would be appreciated.

Another critical component to point out is that many child sex abusers are not even reported to or prosecuted by authorities that in effect exempts victims from the protection and justice they deserve. Therefore if language could be added to this measure to include unreported victims who can provide third party professional validation and/or confirmation of their abuse, medical documentation of abuse or who can provide evidence of their abuse, ie:

A VICTIM WHO DID NOT REPORT ABUSE OR ASSAULT IN A TIMELY MANNER WHO CAN PROVIDE PROOF OF ABUSE THROUGH THIRD PARTY PROFESSIONAL CONFIRMATION WILL BE SUBJECT TO PROTECTION.

Learning that your abuser has "accidentally, inadvertently, coincidentally, haphazardly or unwittingly or on purpose" (as in my case) moved into the same building or into the neighborhood where you live poses very real problems for survivors who are trying to move on and forget about what happened to them. Telling the victim-survivor to "just move" is once again compromising the victim and catering to "the rights" of the abuser" and in an abuser-victim situation, the rights of the victim and the rights of the abuser are NOT the same because the victim's rights have already been violated in unspeakable ways! To then say "In all fairness" or that "he has rights too" rubs salt into the wound adding insult to injury. Victims should not have to spend the rest of their lives literally running away from the person who abused them!

Thank you for your consideration

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Testimony for HMS 2/14/2012 1:25:00 PM SB3060

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Dara Carlin, M.A.
Organization: Individual
E-mail: breaking-the-silence@hotmail.com Submitted on: 2/13/2012

Comments:

Good Afternoon Senators and thank you for this opportunity to provide testimony in support of SB3060. I would like to make a suggestion, however. Would it be possible to add "a victim's place of residence" to the 750 foot exclusionary zone?

Establishing and maintaining a sense of safety is crucial for the healing and functioning of survivors post-abuse and achieving that sense of safety is something that survivors work diligently in their lives to obtain. Unfortunately, the lines that are drawn to protect survivors can be easily crossed by abusers without consequence or repercussion years after the abuse so this added language will provide some measure of comfort and assurance to survivors that the safety they've worked so hard to achieve cannot be so easily taken away, violated or compromised.

Thank you for your time and consideration.

Respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate