

CRS Report for Congress

Residence Restrictions for Released Sex Offenders

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Summary

Monitoring the movement of sex offenders in communities continues to be of interest to Congress, state legislatures, and local governments. In response to some citizens' concerns, Congress passed the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248), which, among other provisions, provides for mandatory registration of sex offenders who are released from prison, closer scrutiny of them, and community notification of their whereabouts. Through the community notification process, the public has more knowledge of where sex offenders reside. At least 23 states and hundreds of local governments have passed laws to prohibit sex offenders, who must register as such, from living within a specified distance of a particular area. Often, restricted areas include parks, playgrounds, recreation centers, swimming pools, schools, bus stops, libraries, convenience stores, and other facilities that serve large numbers of persons under 18 years of age.

With passage of the Adam Walsh Act, Congress sought to ensure through the registration process that released sex offenders are monitored properly so that they are no longer a threat to the public. Opponents of state and local residence restriction laws argue that they greatly affect the ability of sex offenders to obtain housing, employment, education, and health services. The inability of many released sex offenders to obtain work and other services contributes to their becoming homeless. Consequently, without an address for offenders, it becomes very difficult for law enforcement to track them. On the other hand, proponents of the laws state that their primary concern is protection of children from predators, not the inconvenience of some sex offenders. Possible oversight issues related to residence restrictions include their impact on public safety and how registration provisions of the Walsh Act are actually implemented to determine if they conform to congressional intent.

Findings of studies commissioned by Colorado and Minnesota influenced their approach to residence restriction laws. Colorado chose not to enact a residence restriction law. The Colorado study addressed safety issues raised by living arrangements of sex offenders in the community. It found that for sex offenders under the supervision of criminal justice, residence restriction laws may not deter the offender from sexual reoffending and should not be considered as a method to control sexual offending recidivism. It also found that sex offenders with good support systems had lower recidivism rates than those with poor or no support system. In addressing residence restriction for sex offenders, Minnesota enacted a law, but does not impose specific distance restrictions on where a sex offender can live. It requires the agency responsible for supervising a high risk offender to consider the proximity of the offender's residence to other high risk offenders, as well as to schools. The Minnesota study examined the effect of using housing restrictions to reduce sexual recidivism. This study found that when offenders seek a victim through direct contact, the offenders were more likely to leave their neighborhood to commit an offense; and that residential proximity is *not* a major factor in reducing sexual recidivism, but that social or relationship proximity is.

This report analyzes the issue of residence restriction laws for released sex offenders. It will be updated to reflect any congressional legislative activity.

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Residence Restrictions for Released Sex Offenders

Introduction¹

The question of how to protect children and the general public from sex offenders without violating the offenders' civil liberties continues to be of interest to Congress and state legislators. The Department of Justice (DOJ) reports that strangers rarely sexually offend young juveniles. In 2000, strangers were reported as offenders in 3% of sexual assaults of victims who were under age 6, 5% of the sexual assaults of youth from 6 through 11 years of age, and 10% of assaults of juveniles from 12 to 17 years of age. According to DOJ, the vast majority of sex offenses against minors are perpetrated by someone the child knows (such as a biologically related, immediate family member, relative, friend or babysitter).² Yet, many people remain fearful that a child is more likely to be sexually assaulted or abducted by a stranger than from someone the child knows.

In the past few years, the media have given national coverage to a number of sex crimes perpetrated by strangers against children, including those against Jetseta Gage of Cedar Rapids, Iowa (2005); Jessica Lunsford (2005), Sarah Lunde (2005), and Carlie Brucia (2004) all of Florida; Elizabeth Smart of Utah (2002); and Samantha Runnion of California (2002). In addition, two notable sexual assaults by repeat sex offenders against young adult women, Dru Sjodin in North Dakota (2003) and Alexandra Nicole Zapp in Massachusetts (2002), were widely reported.³ Both federal and state governments have enacted laws with provisions that increase penalties for crimes against children, require sex offenders released from prison to register, and require law enforcement to monitor them.

With passage of these laws, the public has gained access to information on where sex offenders live, work and go to school. On learning that a released sex offender lives or works in proximity to their homes or areas where children are likely

¹ For this report, Michael Matheron, Information Research Specialist, Knowledge Services Group, provided information on provisions of state statutes that relate to residence restrictions for released sex offenders.

² U.S. Department of Justice, Office of Justice Statistics, Bureau of Justice Statistics, *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics*, by Howard N. Snyder, National Center for Juvenile Justice, July 2000, p. 10.

³ See for example: Fox News, "Suspected Child Abductor in Police Custody," FoxNews.Com, March 25, 2005; Courttv.com/trials/lynsford/index.html.; and Joh Ellement, "Convicted Sex Offender Goes to Trial in Restroom Killing," *The Boston Globe*, September 22, 2003, p. B3.

to congregate, many people become alarmed. They have picketed the homes of some of the released sex offenders and have demanded that sex offenders be more closely monitored. Consequently, to protect public safety, many states, counties, and municipalities have passed laws that restrict where a released sex offender can live and, sometimes, work. These state and municipal laws vary greatly, sometimes conflict with each other and do not always recognize the various risk levels of a sex offender reoffending. Possible issues for Congress are whether residence restriction laws for released sex offenders actually protect public safety and whether sex offender registration and community notification provisions of the Adam Walsh Act are being implemented to conform to congressional intent.

This report analyzes the issue of residence restriction for released sex offenders by briefly examining provisions of the Adam Walsh Act; identifying and comparing residence restriction laws in a number of states; discussing the impact of residence restriction laws on sex offenders, law enforcement and the public; presenting arguments in support of and against residence restriction laws; and reviewing some alternative proposals for monitoring released sex offenders. Other CRS reports address legal and constitutional issues as well as the civil commitment of sex offenders.⁴

Adam Walsh Act

Congress passed the Adam Walsh Child Protection and Safety Act of 2006 (hereafter, the Walsh Act),⁵ which authorizes a comprehensive national system for managing sex offenders, of which a component is a process for sex offender registration and community notification.⁶ Under provisions of the Sex Offender Registration and Notification Act (Title I of the Walsh Act), a sex offender is an individual convicted of a sex offense by any jurisdiction in the United States, whether under federal, military, state, territorial, tribal or local law. Generally, federal sex offenses include criminal offenses as defined under Title 18, Chapter 109A (sexual abuse) and Chapter 110 (sexual exploitation and other abuse of children) of the U.S. criminal code. In brief, the Walsh Act contains provisions to integrate state sex offender registries, combat crimes against children by perpetrators who use the Internet, and increase penalties for conviction of crimes against children. It provides for a three-tier classification system for sex offenders and, based on their risk of reoffending, determines who must register, for how long, and whether they are to be listed on the Internet. The Walsh Act also allows sexually dangerous persons to be civilly committed. The Act authorizes funding for local law enforcement as well as requires the Attorney General to use the U.S. Marshals Service to assist local jurisdictions in tracking and apprehending released sex offenders who fail to comply

⁴ For an analysis of legal and constitutional issues related to sex offenders, see CRS Report, RL33967, *Adam Walsh Child Protection and Safety Act: A Legal Analysis*, by Charles Doyle. For information on the issue of civil commitment of sex offenders, see CRS Report, RL34068, *Civil Commitment of Sexually Dangerous Persons*, by Nathan James.

⁵ P.L. 109-248; 120 Stat. 587; 42 USC 16901.

⁶ The Walsh Act also repeals and replaces provisions of several federal laws (including the Jacob Wetterling Act, Megan's Law, and the Pam Lychner Act) that relate to the registration, punishment and monitoring of sex offenders, and community notification.

with registration requirements. In addition, it authorizes funding for the training of law enforcement personnel, such as probation and parole officers, who work with sex offenders.⁷

The Walsh Act does not impose residence restrictions on released sex offenders who must register. It does, however, direct the Attorney General to conduct a study of the effectiveness of monitoring and restricting the activities of sex offenders through conditions imposed as part of supervised release or probation. Specifically, the study's evaluation must include the methods of monitoring and restricting where sex offenders can reside, work, and attend school.⁸ The evaluation must also include the methods of monitoring and restricting sex offenders' access to the Internet, specific Internet sites, pornography, and other obscene materials. In addition, the study must assess the ability of law enforcement agencies and courts to enforce such restrictions, as well as the efficacy of imposing any other restrictions on sex offenders to reduce recidivism. Not later than six months after enactment of the Adam Walsh Act, the Attorney General was to report the results of the study to the House of Representatives and Senate Committees on the Judiciary. DOJ is in the process of selecting researchers to conduct this study that is required by the Adam Walsh Act.⁹

State and Local Residence Restrictions for Sex Offenders

Community notification provisions of the Adam Walsh Act¹⁰ allow the public to obtain information on sex offenders through accessing the Internet. The Internet site(s) provide the address of a sex offender, enabling an individual to determine the proximity of a convicted sex offender's residence. At the state and local level, elected officials have responded to the concern of some residents by passing laws and ordinances that use the registration and community notification requirements of the Walsh Act to identify sex offenders and to prohibit them from living in certain areas. The objective of these legal restrictions is to deter child sex offenders from having direct access to children.

Depending on the state where the sex offense occurs, however, residence restriction laws can apply to individuals who have been convicted of a wide range of offenses, from rape of a child to exhibitionism¹¹ or one-time acts of consensual oral sex.¹² In recent years, at least 23 states have passed laws that forbid released sex

⁷ For a fuller discussion of the registration provisions of the Walsh Act, see CRS report RL32800, *Sex Offender Registration and Community Notification Law: Recent Legislation and Issues* by Garrine P. Laney.

⁸ P.L. 109-248; 120 Stat. 646.

⁹ Telephone conversation with DOJ representative, February 1, 2008.

¹⁰ 42 U.S.C. 16918-16921.

¹¹ Wendy Koch, "Sex-offender Residency Laws Get Second Look," *USA Today*, February 26, 2007, p. A1.

¹² Southern Center for Human Rights, Press Release, "Federal Court Order Protects Public From HB1059's School Bus Stop Provision," July 25, 2006.

offenders from residing in certain areas. (See **Table 3**.) Typically, residence restriction laws prohibit sex offenders who must register under provisions of the Walsh Act from living within a specified distance of areas where children are likely to congregate. These off-limit areas can include schools, bus stops, gyms, recreation centers, playgrounds, parks, swimming pools, libraries, nursing homes, and places of worship. Usually, the distance within which a sex offender cannot live ranges from 500 feet to 2,500 feet of these places. While Oregon's law does not impose a distance restriction, it limits residence for sex offender registrants to permanent housing that is located where children are not the primary occupants or users, unless a parole or probation officer makes exception to the restriction.¹³

Residence Restrictions Provisions for Selected States. As **Table 3** reveals, residence restriction laws among the 23 states that have them vary greatly. The laws provide details on precisely where a sex offender registrant can live, with whom, and any exceptions to the rule. States that do not provide exceptions to their residence restriction laws include Indiana, Louisiana, Minnesota, Ohio, Oklahoma, and Washington.

Generally, states allow a sex offender registrant to remain in a residence if the registrant lived there prior to enactment of a residence restriction law or if a new prohibited facility were built or opened within the forbidden designated distance of the registrant's living quarters. States that provide some exemption from application of residence restriction laws to a sex offender registrant who owned or occupied property before enactment of the measure include Arkansas, Idaho, Illinois, and Washington. Kentucky requires an offender to move within 90 days if a new facility opens within 1,000 feet of a sex offender's residence. On the other hand, rather than requiring a sex offender registrant to move, Missouri requires the registrant to notify the county sheriff if a public or private school or child care facility opens within 1,000 feet of the registrant's residence.

Although state residence restriction laws rarely make exceptions for persons suffering from dementia or disability or even age, a few do. Michigan, Mississippi, and South Dakota exempt a registrant who is either a patient in a hospital or hospice or is committed to a mental health facility that is located within the restricted area. Iowa exempts a person who is subject to a commitment order, is incarcerated, or is a minor or a ward under a guardianship. Kentucky's residence restriction law does not apply to a juvenile on probation, parole, or enrolled in an elementary or secondary educational program.

Residence restriction laws in some states address with whom a sex offender registrant can live (see **Table 3**). Tennessee allows a registrant to reside with a minor only if the registrant is the parent of the minor, the registrant's parental rights have not been terminated, and the minor or adult child of the registrant was not sexually victimized by the registrant. West Virginia permits any sexual offender registrant who is the parent, grandparent, or stepparent of a child to live in the same household

¹² (...continued)

[<http://www.schr.org/aboutthecenter/pressreleases>].

¹³ Or. Admin. Rules Comp. § 255-060-0009 & § 291-202-0040.

with the child provided the stepparent was such prior to conviction for a sex offense, the parental rights have not been terminated, the registrant did not sexually victimize the child, and a court has determined that the child will be safe. California provides an exemption to its residence restriction law for a registrant who wants to reside in a single family dwelling with another sex offender registrant, as long as they are legally related and the single family dwelling does not include a residential facility that serves six or fewer persons.

As enacted, Georgia's law imposes both residence and employment restrictions on sex offenders. It prohibits anyone on the state's sex offender registry from living, working, or loitering within 1,000 feet of a church.¹⁴ Sex offenders on the registry who worked within 1,000 feet of a church must resign from their jobs. Many clergy in Georgia reportedly are confronted with the question of how to respond if a sex offender attends church. The state law does not define "loitering"; consequently, it is unclear whether a sex offender on the registry can attend worship or bible study, join support groups or participate fully in church activities.¹⁵

Legal challenges to Georgia's residence restriction law included charges that it denied due process, violated religious freedom, and interfered with property rights.¹⁶ On November 21, 2007, in the case of *Mann v. Department of Corrections*,¹⁷ the Georgia Supreme Court ruled that residence restrictions could constitute a regulatory taking of property. However, in the same case, the court found that, as applied to a business owner, a restriction on the owner working at his place of business need not be found to be such a taking.

Passage of an Iowa state residence restriction law, which prohibits sex offenders from living within 2,000 feet of a school or child-care center, was followed by cities and counties passing stringent ordinances that bar sex offenders from libraries, swimming pools, parks, and bike trails. Consequently, much of urban Iowa is off limits to those convicted of sex crimes against a minor. As a result of these laws, according to press reports, many sex offenders have moved to rural areas; others are homeless or live in motels, at campgrounds, or at freeway rest stops.¹⁸

Penalties. As **Table 3** indicates, some states treat violations of residence restriction laws as misdemeanors while others treat violations as felonies. Fines vary from \$1,000 (Idaho and Kentucky) to \$3,000 (Oklahoma) for a first offense

¹⁴ Southern Center for Human Rights, Press Release, "Evictions from Nursing Homes Stopped," October 30, 2006. [<http://www.schr.org/aboutthecenter/pressreleases>].

¹⁵ Jill Young Miller and Nancy Badertscher, "Judge Hears Sheriffs Rip Sex Offender Law," *The Atlanta Journal-Constitution*, July 12, 2006, p. D2.

¹⁶ Yolanda Rodriguez, "Registered Sex Offenders: Several Changes in Place," *The Atlanta Journal-Constitution*, July 6, 2006, p. JF.1; Southern Center for Human Rights, Press Release, "Injunction Filed to Stop Evictions from Nursing Homes," October 12, 2006. [<http://www.schr.org/aboutthecenter/pressreleases>].

¹⁷ *Mann v. Georgia Department of Corrections*, 2007 Ga. Lexis 849 (November 21, 2007).

¹⁸ Jenifer Warren, "Sex Crime Residency Laws Exile Offenders, California Voters Weigh Restrictions Similar to Those Passed in Iowa," *Los Angeles Times*, October 30, 2006, p. A1.

misdemeanor. In Mississippi, violation of the residence restriction law is a felony, punishable by a fine of not more than \$5,000 or imprisonment for not more than five years, or both a fine and imprisonment. The penalty for a residence restriction violation in Ohio is injunctive relief.¹⁹

State Studies. While state laws that restrict where sex offenders can live, loiter, and work are widespread, questions remain as to whether the public is safer as a result of them. Before enacting residence restriction laws for sex offenders, a few states commissioned studies to determine if the laws were likely to reduce the chances of a child being victimized by a sex offender.

Colorado. The state of Colorado authorized the Colorado Division of Criminal Justice, Office of Domestic Violence and Sex Offender Management to research whether there is a relationship between the living arrangements of a sex offender, where the offender lives, and the commission of sexual crimes. The study focused on a random sample of released sex offenders in the Denver metropolitan area who were under probation supervision as well as an all-inclusive sample of those living in a Shared Living Arrangement (SLA)²⁰ over a 15-month period.²¹

The Colorado study found that high-risk sex offenders living in SLAs had significantly fewer violations than those in other living arrangements. Sex offenders in the study who reoffended while being supervised did not live any closer to schools or child care centers than those who were not recidivists. Further, the study found that sex offenders who committed a criminal offense while under the supervision of the criminal justice system seemed to be randomly scattered throughout the study areas; that is they did not appear to live any closer to schools and child care centers than other types of offenders. Consequently, the study concluded that restrictions on where sex offenders who are under correctional supervision reside “may not deter the sex offender from re-offending and should not be considered as a method to control sexual offender recidivism.”²² The Colorado study also examined the support system for sex offenders. It defined support as “having someone significant to the offender and/or a roommate who attends treatment with the offender, has a positive

¹⁹ *Black’s Law Dictionary* defines “injunction” as: “A court order commanding or preventing an action.”

²⁰ According to the Colorado report, as a concept, a Shared Living Arrangement is viewed as a living environment where sex offenders can be both treated and monitored. Under SLA two or three sex offenders live together in a house that they either rent or own. The location of the residence and the housemates are approved in advance by the treatment provider and supervising officer. Usually, the SLA is not placed near a school, playground, or near a residence that has a swing set and other play items used by children. In SLA, residents are required to hold each other accountable for their actions and responsibilities. For example, they are expected to notify the appropriate authorities if a roommate violates curfew or has contact with children.

²¹ Colorado Department of Public Safety, Division of Criminal Justice, Sex Offender Management Board, *Report on Safety Issues Raised by Living Arrangements for and Location of Sex Offenders in the Community*, March 15, 2004, pp. 12-13. (Hereafter, Colorado Dept. Of Public Safety, *Report on Safety Issues*.)

²² Colorado Dept. Of Public Safety, *Report on Safety Issues*, p. 4.

relationship with the probation officer and treatment provider, and is well versed in the offender's probation and treatment requirements."²³ The study found that those sex offenders with good support systems committed fewer rule violations and had lower recidivism rates than those offenders with poor or no support.²⁴

Minnesota. In conducting a study of the potential deterrent effect of residence restrictions on reducing sexual recidivism, the Minnesota Department of Corrections analyzed the sexual reoffense patterns of 224 recidivists released between 1990 and 2002 who were reincarcerated for a sex crime prior to 2006.²⁵ To determine if the 224 cases might have been affected by residency restrictions, the study used the following four basic criteria:

- Offenders had to establish direct contact with the victims rather than gaining access to a victim through a relationship with another person (girlfriend, fiancée, wife, acquaintance);
- Contact with the victim had to occur within at least one mile of the offender's residence at the time of offense;
- The location of the initial contact with a victim had to have been near a school, park, daycare center, or other prohibited area; and
- The victim had to have been under 18 years of age when the offense occurred.

Among other factors examined in this study were the relationship between the victim and the sex offender, the distance between the offender's residence and the location of the offense; whether and what physical force was used; and whether the offender had used alcohol or drugs. Using these criteria, the study concluded that none of the 224 sex offenses would likely have been deterred by a residence restriction law.²⁶ Some results of the Minnesota study include:

- Of the 224 sex offenses, 85% occurred in a residential location, for example, the offender's or the victim's home, while 15% took place in a public location;
- Half of the sex offenders gained access to their victims through collateral contact with, for instance, a girlfriend, wife, co-worker, friend, or acquaintance; and
- Fourteen percent of the sex offenders were biologically related to their victims.

Results of the Minnesota study indicate that social or relationship proximity play a key role in sexual recidivism, *not* residential proximity. Of the 224 sex offenders in

²³ Ibid., p. 31.

²⁴ Ibid., pp. 31-35.

²⁵ Minnesota Department of Corrections, *Residential Proximity & Sex Offense Recidivism in Minnesota*, April 2007. [<http://www.doc.state.mn.us/documents/pr-07SexOffenderReport.Proximity.pdf>].

²⁶ Ibid., p. 2.

the study, 79% victimized someone they already knew.²⁷ As **Table 1** reveals, in the Minnesota study the most common relationships between the offender and victim were acquaintance/other known (23%), followed by stranger (21%), and then significant other's son/daughter (17%). In 14.3% of the cases, the relationship between the sex offender and victim was family/biological.

Table 1. Victim-Offender Relationship of Sex Reoffenses

Victim-Offender Relationship	Number	Percent
Stranger	48	21.4
Acquaintance/Other Known	51	22.8
Babysitter	13	5.8
Neighbor	8	3.6
“Romantic/Dating”	13	5.8
Friend of Family	20	8.9
Significant Other's Son/Daughter	39	17.4
Family/Biological	32	14.3
Total	224	100.0

Source: Minnesota Department of Corrections, *Residential Proximity and Sex Offense Recidivism in Minnesota*, April 2007.

In the Minnesota study, the distance between the sex offender's residence and the location of the offense occurred further than 2,500 feet at least 48% of the time (see **Table 2**). Further, the table shows that in nearly 9% of cases contact between sex offender and victim was greater than 20 miles from the offender's residence. About 5% of sex offenders in the study used the telephone for their first contact, while even less, just over 1%, used the Internet. This suggests that, at least in this study, a sex offender is more likely to leave the area of residence to reoffend in a more distant neighborhood.

²⁷ Ibid.

Table 2. Distance Between the Offender's Residence and the Location of the Offense

Distance	Number	Percent
Less than 1,000 ft.	18	22.8
1,000-2,500ft.	5	6.3
2,501-5,280 ft.	7	8.8
1-2 miles	6	7.6
3-5 miles	10	12.7
6-10 miles	4	5.1
11-20 miles	4	5.1
Greater than 20 miles	7	8.8
Telephone	4	5.1
Internet	1	1.2
Unknown	13	16.5
Total	79	100.0

Source: Minnesota Department of Corrections, *Residential Proximity and Sex Offense Recidivism in Minnesota*, April 2007.

Localities. Many municipal and county governments throughout the nation also have passed laws that limit where a sex offender can reside. Residents of communities often object to a sex offender living among them. As a town enacts residence restriction ordinances, this can set off a chain reaction with adjacent communities passing such laws.²⁸ Sometimes these local ordinances exceed or conflict with state laws. According to the press, more than 100 municipalities in New Jersey have passed ordinances restricting the residence options for sex offenders; nearly 50 municipalities in New Jersey place restrictions on sex offenders that exceed state law.²⁹ In Colorado, which has no state law, some municipalities and counties have passed ordinances prohibiting more than one registered sex offender

²⁸ Don Thompson, "Calif. Sex Offenders Go Homeless," October 31, 2007, *Associated Press*; Peter Y. Hong, "On His Block, a Molester," *Los Angeles Times*, December 5, 2006, p. A1; Emily Ramshaw, "Do Cities Go Too Far to Restrict Sex Offenders?," *The Dallas Morning News*, October 15, 2006; Jenifer Warren, "Sex Crime Residency Laws Exile Offenders," *Los Angeles Times*, October 30, 2006, p. A1.

²⁹ Tom Baldwin Gannett, State Bureau, "State Pushing Town to Allow Sex Offender," *Daily Record* (Morristown, N.J.), October 19, 2006, p. NEWS02.

from residing in a household, family, or group home.³⁰ As a consequence of residence restriction laws, many sex offenders are effectively banned from living in certain cities and towns.

Many local law enforcement officials increasingly are uncomfortable with some residence restriction laws. Some officials have refused to enforce them, complaining that more restrictive regulations are forcing sex offenders into rural areas or vagrancy, making them less stable, and making law enforcement more difficult.³¹ Other law enforcement officials claim the local restrictions are ineffective and hard to enforce.³² Their objections include concerns that enforcement of these restrictive regulations could uproot so many sex offenders that it would be difficult to track them primarily because some offenders would not report their whereabouts for fear that they would be displaced.

Critics of residence restriction law in Georgia reportedly object to a provision that prohibited registered sex offenders from living within a designated distance of a school bus stop.³³ The Southern Center for Human Rights and other organizations challenged the constitutionality of Georgia's law. As mentioned earlier in this report, the Georgia Supreme Court found that, as applied to a homeowner, the Georgia residence restrictions could constitute a regulatory taking of property.³⁴ Georgia has an estimated 285,000 school bus stops and their location can change every year. According to many sheriffs and other law enforcement officers, most sex offenders would have to move if this provision of state law were enforced. Several sheriff departments in Georgia also object to enforcing a provision of the law that requires eviction of elderly or disabled sex offenders from nursing homes or hospices.³⁵

Homeowners Association. The residence status of convicted sex offenders has caught the attention of some new housing developers, as they work closely with homeowners' associations to ban registered sex offenders from living in their housing developments. Reportedly, potential homeowners in the development would undergo background checks. If a homeowner becomes a sex offender after moving into the development, the homeowners' association can impose a fine. In addition,

³⁰ Colorado Department Of Public Safety, *Report on Safety Issues*, p. 9.

³¹ Laura Mansnerus, "Zoning Laws That Bar Pedophiles Raise Concerns," *The New York Times*, November 27, 2006, p. A1.

³² Lee Rood, "Legislature Could Ease Sex Offender Housing Law, A New Proposal Would End the 2000-Foot Residency Rule But Add Child 'Safe Zones'," *Des Moines Register*, December 12, 2006.

³³ Laura Mansnerus, "Zoning Rules That Bar Pedophiles Raise Concerns for Law Enforcers," *The New York Times*, November 27, 2006, pp. A1, A21; Jill Young Miller and Nancy Badertscher, "Judge Hears Sheriffs Rip Sex Offender Law," *The Atlanta Journal-Constitution*, July 12, 2006, p. D2.

³⁴ *Mann v. Georgia Department of Corrections*, 2007 Ga. Lexis 8489 (November 21, 2007).

³⁵ Laura Mansnerus, "Zoning Rules That Bar Pedophiles Raise Concerns for Law Enforcers," *The New York Times*, November 27, 2006, pp. A1, A21; Jill Young Miller and Nancy Badertscher, "Judge Hears Sheriffs Rip Sex Offender Law," *The Atlanta Journal-Constitution*, July 12, 2006, p. D2.

a lien may be put on the house to collect the fine. In Lenexa, Kansas, a planned, new housing subdivision reportedly would become the first sex-offender-restricted development in the Kansas City area. The developer of this subdivision had previously constructed such a restricted project in Lubbock, Texas. Registered sex offenders are not a protected class under the Fair Housing Act. According to a published report, the development company would like legislators to provide financial incentives for developers to create neighborhoods that ban sex offenders.³⁶

Institutions of Higher Education. According to a press account, at least two institutions of higher education have expressed concerns about the presence of sex offenders on or near their campuses. A sex offender, with convictions for sexually abusing a child, registered as a student at the College of Staten Island. The college campus is also home to a public high school. Although the faculty and students at the college initially were informed that the sex offender would be attending the school, upon further reflection, it apparently was decided not to allow the offender to attend classes.³⁷

The Seattle Times reported that 21 registered sex offenders were living in five homes near the University of Washington. According to the report, the university, with the support of the governor, had 13 of these sex offenders, who are under the supervision of the state Department of Corrections (DOC), removed from a neighborhood adjacent to its main campus.³⁸ Of the 13 sex offenders, two are ranked as Level 3 sex offenders, the state's most violent predators. DOC staff members are trying to find housing for the evicted sex offenders. The university also seeks to ban more than a dozen registered sex offenders (who are not under DOC supervision) from living near the school campus. According to university officials, they only recently discovered how many offenders were housed in the area and the seriousness of the crimes they had committed. A DOC spokesperson states that in these homes the department only places sex offenders who are pedophiles and felons with convictions for assaulting children, not sex offenders with a history of crimes against young men or women. DOC states that the sex offenders living in the neighborhood do not pose a threat to university students.³⁹

The newspaper quoted one resident, identified as a Level 3 sex offender,⁴⁰ saying that the homes are affordable. Further, he stated that residents of the home police their roommates and inform the landlord when rules are violated. A spokesman in DOC's sex offender unit reportedly has complimented the landlord of the properties that houses the sex offenders, stating that she is one of the best

³⁶ The Indy Channel, "Ban Sex Offenders from Moving In," June 13, 2006. [<http://www.theindychannel.com/family/9362047/detail.html>]. (Last visited September 28, 2007.)

³⁷ *New York Daily News*, "Stay Away, College Tells Staten Island Pervert," *New York Daily News*, August 28, 2007. [www.nydailynews.com/].

³⁸ Jennifer Sullivan, "University Gets Sex Offenders Booted From Area," *The Seattle Times*, October 8, 2007. [<http://seattletimes.nwsourc.com/>].

³⁹ *Ibid.*

⁴⁰ A sex offender with the highest risk of sexually reoffending is given a Level 3 rating.

landlords with whom he has worked in King County and that she “has managed to appropriately and diligently keep her properties in compliance [with DOC rules].”⁴¹

Consequences of Residence Restrictions

State and local residence restriction laws for released sex offenders may have some surprising and perhaps unintended consequences for both law enforcement and sex offenders.

Impact on Law Enforcement. In the case of law enforcement, these laws can impact plea agreements. Plea agreements are often made in sex offender cases because without them, cases must go to trial and, thus, must rely on victims who may not wish to testify. Some prosecutors report having more difficulty convicting alleged sex offenders, because once offenders discover that they will be subject to residence requirements if they are convicted, they resist plea agreements. To the extent this is accurate, it could reduce a prosecutor’s chances of getting a conviction for a sex crime.⁴²

Parole and probation officers complain that they have to find housing for offenders and local residence restriction laws make it much more difficult for them to do so. California law states that “an inmate who is released on parole shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration.”⁴³ Notwithstanding this provision, the law provides that “an inmate may be returned to another county if that would be in the best interests of the public.”⁴⁴ Reportedly, Mike Jimenez, president of the California parole officers union, has stated that, “It will be impossible for parole agents to enforce Jessica’s Law in certain areas, and encouraging ‘transient’ living arrangements just allows sex offenders to avoid it altogether.”⁴⁵ According to this report, in San Francisco, all homes are within 2,000 feet of a school or park (areas from which sex offenders are barred); reportedly, California still requires parolees to seek housing in the city.

Iowa’s law includes provisions that prohibit sex offenders whose victims were minors from living within 2,000 feet of a school or licensed day-care provider. After this law was enacted, the number of sex offenders who registered reportedly declined. The *Des Moines Register* reported that the number of sex offenders who failed to register in the state increased from 142 in June 2005 to 346 in December 2006. As

⁴¹ Ibid.

⁴² Lee Rood, “Keep Iowa’s Sex Offender Laws Strict, One City Says,” *Des Moines Register*, February 13, 2007.

⁴³ Calif. Penal Code § 3003.

⁴⁴ Ibid.

⁴⁵ Thompson, “Calif. Sex Offenders Go Homeless,” October 31, 2007, *Associated Press*; Kavan Peterson, “Anti-Sex Offender Zoning Laws Challenged,” [stateline.org.], December 9, 2006; Mansnerus, “Zoning Rules That Bar Pedophiles Raise Concerns for Law Enforcers,” *The New York Times*, November 27, 2006, p. A21.

a consequence, some prosecutors and police oppose the residence restriction provisions.⁴⁶

Homelessness of Released Sex Offenders. Released sex offenders (who are required to register as such) are affected by residence restrictions in fundamental ways — housing, employment, education, and health. As a result of residence restrictions, many sex offenders reportedly are forced into rural areas, where there is less access to the jobs and mental health services they may need.⁴⁷ A survey of sex offenders released from prison in Indiana revealed that 37% could not live with family members and nearly a third were refused housing.⁴⁸

Sheriffs in Iowa state that many registered offenders have been forced to live in motels, rest stops, or become homeless.⁴⁹ *The Boston Globe* reports that, in Massachusetts, a large number of released sex offenders are living in homeless shelters with a range of potential victims sleeping near them. According to Jim Greene, director of Boston’s Emergency Shelter Commission, homeless shelters “are a militantly anti therapeutic milieu for people with mental health or other behavior problems.”⁵⁰ The incidence of homelessness among California’s registered sex offenders, reportedly, has increased 27% since the state’s residence restriction law became effective in November 2006. *The Associated Press* reports that some sex offenders in California, who have been unable to find a place to live, avoid re-arrest for failing to register by falsely reporting that they are homeless and then returning to their homes in prohibited areas.⁵¹ Some law enforcement officers believe that the homeless are more difficult to track. In many large shelters, there also is a lack of supervision, as only a few people may even know the offender, leaving the offender free to leave the shelter during the day.⁵²

Pro and Con Arguments Concerning Residence Restriction Laws for Released Sex Offenders

⁴⁶ Lee Rood, “Legislature Could Ease Sex Offender Housing Law,” *Des Moines Register*, December 12, 2006; Megan Woolhouse, “Can Bans Protect Kids From Attack?; Some Raise Doubts on Residency Limits,” *The Boston Globe*, July 16, 2006, p. 1; Koch, “Sex-offender Residency Laws Get Second Look,” *USA Today*, February 26, 2007, p. A1.

⁴⁷ Koch, “Sex-offender Residency Laws Get Second Look,” *USA Today*, February 26, 2007, p. A1.

⁴⁸ J.S. Levenson, “Residence Restrictions and Their Impact on Sex Offender Reintegration, Rehabilitation, and Recidivism,” *The Association for the Treatment of Sexual Abusers (ATSA) Forum*, vol. XVIII(2), 2007, p. 5.

⁴⁹ Lee Rood, “Legislature Could Ease Sex Offender Housing Law,” *Des Moines Register*, December 12, 2006.

⁵⁰ David Abel, “Many Sex Offenders End Up At Shelters,” *The Boston Globe*, June 18, 2007.

⁵¹ Thompson, “Calif. Sex Offenders Go Homeless,” October 31, 2007, *Associated Press*.

⁵² Lee Rood, “Legislature Could Ease Sex Offender Housing Law,” *Des Moines Register*, December 12, 2006.

Proponents. Some supporters of restrictive residence laws for sex offenders defend them by stating that, while enforcement of the laws may inconvenience some sex offenders, their primary purpose is to protect children from predators.⁵³ Some proponents of residence restriction laws argue that while there are no studies indicating that residency limits on sex offenders reduce the number of sex crimes, “common sense and public anxiety make it a smart idea to ban former offenders from areas where children gather.”⁵⁴ Others believe more time needs to elapse before the value of residence restriction laws can be determined and that it is too early to consider repeal of such laws.⁵⁵

Opponents. Those who oppose restrictive residence laws for sex offenders argue that there is no correlation between someone’s residence and likelihood of reoffending.⁵⁶ Moreover, they argue that this legislation does not protect children from being victimized by people they know, who comprise from 80% to 90% of all child sex abuse cases.⁵⁷ Some law enforcement officials in Iowa, reportedly, described state and local residence requirements as “feel-good laws, which heap work on law enforcement while doing nothing to make children more safe.”⁵⁸ According to the Southern Center for Human Rights and some law enforcement officers, rather than protecting children, Georgia’s residence restriction law actually made them more vulnerable because it drove sex offenders from urban areas into isolated and poorly monitored ones.⁵⁹ Opponents of restrictive residence laws charge that they are too inclusive, failing to make distinctions among sex offenders. Depending on the state, a sex offense can range from exhibitionism, urinating in public, incest, rape, and pedophilia. They urge that these laws should target offenders who have committed sexual crimes against children.⁶⁰ Other critics of these restrictive laws

⁵³ Laura Mansnerus, “Zoning Laws That Bar Pedophiles Raise Concerns,” *New York Times*, November 27, 2006, p. A1; Jill Young Miller, “Critics: Sex Offender Law Would Drive Them Underground,” *The Atlanta Journal-Constitution*, March 17, 2006.

⁵⁴ Jenifer Warren, “Sex Offender Crackdown Is Tied to Trend,” *Los Angeles Times*, September 18, 2006, p. B1.

⁵⁵ Koch, “Sex-offender Residency Laws Get Second Look,” *USA Today*, February 26, 2007, p. A1.

⁵⁶ Lee Rood, “Legislature Could Ease Sex Offender Housing Law,” *Des Moines Register*, December 12, 2006.

⁵⁷ *Ibid.*

⁵⁸ Lee Rood, “Keep Iowa’s Sex Offender Laws Strict, One City Says,” *Des Moines Register*, February 13, 2006; Koch, “Sex-offender Residency Laws Get Second Look,” *USA Today*, February 26, 2007, p. A1.

⁵⁹ Southern Center for Human Rights, “Sex Offender Residency Restrictions Harm Public Safety,” March 21, 2007. [www.schr.org/aboutthecenter/pressreleases/HB1059_litigation/PressReleases/press_1...].

⁶⁰ Koch, “Sex-offender Residency Laws Get Second Look,” *USA Today*, February 26, 2007, p. A1.

state that they unfairly target persons who have served their sentence and turned their lives around.⁶¹

Alternative Proposals for Monitoring Released Sex Offenders

Using residence restrictions to prohibit released sex offenders from living in areas children frequent is not the only way to potentially deter sex offenders from sexually reoffending. Some alternative proposals to this approach include improving how an offender is targeted for special monitoring, reducing the size of the restricted area, improving the support system for an offender, and better educating the public about who is more likely to sexually victimize a minor. There is some support for using Global Positioning Systems (GPS) to monitor sex offenders. GPS enables law enforcement to detect a sex offender's location and whether the offender has entered a restricted area. Some believe that this system is well suited for tracking sexual predators and other violent, high-risk offenders. Others, however, express concern about the high cost of using GPS for tracking purposes.⁶²

A proposal, supported by both the Iowa County Attorneys Association and the Iowa State Sheriffs' and Deputies' Association, would allow sex offenders to reside where they wish, but would require them to acquire written permission before entering "safe zones" around schools or child-care centers. Another proposal would refine and enhance provisions of residence restriction laws that target sexual predators, providing for the most serious offenders to be tracked closely and increasing funding for prevention efforts that would be directed at both adults and children.⁶³ It has also been suggested that off-limit areas need to be made smaller. In doing so, it would be easier for offenders to find housing outside the zone and there still could be a buffer around children's areas.⁶⁴ Laura A. Ahearn, director of Parents for Megan's Law, advocates longer prison sentences and some form of supervision for life for convicted sex offenders.⁶⁵

A Shared Living Arrangement (SLA) for released sex offenders, as used in the Colorado study discussed earlier in this report, is another possible approach to monitoring sex offenders. Under SLA two or three sex offenders reside in a house that has been approved in advance by the treatment provider and supervising officer. The sex offenders must notify the appropriate authorities if a housemate has contact with children or violates any other rules. A cited advantage of SLA is that it allows for both the treatment and monitoring of sex offenders.

⁶¹ Trannon Goble, "Homeless Offenders? New Law Evicts Thousands From Their Homes," *The Chatsworth Times* (Chatsworth, Georgia), June 14, 2006.

⁶² Peter Y. Hong, "On His Block, A Molester," *Los Angeles Times*, December 5, 2006, p. A1.

⁶³ Lee Rood, "Legislature Could Ease Sex Offender Housing Law," *Des Moines Register*, December 12, 2006.

⁶⁴ *Courier-Post* "More Controls Needed to Check Sex Offenders," *Courier-Post*, (Cherry Hill, New Jersey), March 20, 2007, Section B, p. 6G.

⁶⁵ Robert F. Worth, "Questions About Legality and Effectiveness," *The New York Times*, October 3, 2005, p. B1.

Conclusions

Research on whether residence restriction laws actually reduce the recidivism rate of sex offenders is limited. The results of studies commissioned by two states, however, provide some understanding of the relationship between where a sex offender resides and sexually offends. The Colorado study indicated that restricting where a sex offender, who is under supervision, lives may not deter the offender from sexual reoffending and should not be used as a method to control sexual recidivism. In addition, the study found that sex offenders with a good support system violated fewer rules and had lower recidivism rates than those with poor or no support system. The Minnesota study found that sex offenders who seek direct contact with a victim usually leave their neighborhood to commit an offense to minimize the chance of being recognized. Also, the Minnesota study found that social or relationship proximity had a greater impact on sexual recidivism than residential proximity. Residence restrictions for sex offenders may not be the most effective way to protect public safety. In light of the findings of these two studies, the debate on the use of residential proximity to protect the public from sex offenders may be expanded to include social or relationship proximity as well as other factors.

Because of residence restriction laws, sex offenders often end up in rural areas. Many rural areas lack the law enforcement personnel and resources to adequately monitor sex offenders. Consequently, some sex offenders are poorly monitored and may more easily threaten public safety.

Federal courts and, generally, state courts have ruled that efforts to protect the public have a higher value or priority than a sex offender registrant's need to freely choose a place to live. Because hundreds of jurisdictions have enacted residence restriction laws, often the laws are confusing to sex offenders and cast doubt in the minds of some on whether they are indeed protecting the public from sex offenders. The legality of many local residence restriction ordinances is being challenged, especially if they exceed or conflict with state laws. For instance, a New Jersey state law (Megan's Law) prohibits the registration status of a sex offender from being used to deny housing or other accommodations. This law has enabled the state of New Jersey to legally challenge local residence restriction laws. The Georgia Supreme Court found that, as applied to a homeowner, residence restriction could constitute a regulatory taking of property. However, in the same case, the court found that, as applied to a business owner, a restriction on the owner working at his place of business need not be found to be such a taking of property.

In the Walsh Act, Congress directed the Attorney General to conduct a study that evaluates the effectiveness of monitoring and restricting the activities of sex offenders to reduce sex offense recidivism. Among other considerations, the study is to specifically evaluate the effectiveness of monitoring and restricting the activities of sex offenders, including restrictions on the areas in which sex offenders can reside, work, and attend school. Many state and local residence restriction laws conflict with each other and do not recognize the different risk levels of sex offenders. Reportedly, as a result of these laws, some sex offenders are not registering as required under the Walsh Act and, consequently, are not being monitored. Possible oversight issues include monitoring and restricting the activities of sex offenders, especially where

they can reside, work, and attend school, to bring some uniformity to residence restriction laws; examining residence restriction laws and their impact on public safety; and reviewing the way registration provisions of the Walsh Act are actually being used, and if they conform to congressional intent.

Table 3. Residence Restriction Provisions for Sex Offenders in 23 States

State/Citation(s)	Residence Type	Distance/ Restricted Area	Exceptions to Residence Restrictions	Penalty for Noncompliance
Alabama Ala. Code §15-20-26	Any	2,000 feet of a school or child care facility 1,000 feet of property on which any of his/her former victims, or the victim's immediate family members reside Anywhere a minor resides	Residence restrictions do not apply to offenders when "subsequent changes to property" occur within 2,000 feet of his/her residence. Residence restrictions do not apply if the offender is the parent, grandparent, or stepparent of the minor. ^a	Class C felony
Arkansas Ark. Code Ann. § 5-14-128	Any	2,000 feet of public or private elementary or secondary school or child care facility	Residence restrictions do not apply if the offender's residence was "owned" prior to July 16, 2003, or was "owned," "occupied" and "purchased" prior to the date that a facility was subsequently established. ^b	Class D felony
California Calif. Penal Code § 3003.5	Any Also, a parolee may not, during the period of his/her parole, reside in any single family dwelling with any other sex offender.	2,000 feet of any public or private school, or park where children regularly gather ^c	(1) Single family residence prohibition does not apply if the persons are legally related by blood, marriage, or adoption, and (2) Single family dwelling does not include a residential facility which serves six or fewer persons.	Possible revocation of parole

State/Citation(s)	Residence Type	Distance/ Restricted Area	Exceptions to Residence Restrictions	Penalty for Noncompliance
Florida Fla. Stat. Ann. § 794.065	Any	1,000 feet of school, child care center, park, or playground	Residence restrictions do not apply to offenses that occurred on or before November 30, 2004.	Third degree felony if the original conviction was a first degree felony or higher First degree misdemeanor if the original conviction was a second or third degree felony
Georgia^d Ga. Code Ann. § 42-1-15	Any	1,000 feet of elementary or secondary school, child care center, church, or area where minors congregate	None	A felony punishable by imprisonment for not less than ten nor more than 30 years.
Idaho Idaho Code Ann. § 18-8329(1)(d)	Any	500 feet of a school	Residence restrictions do not apply if offender's residence was "established" prior to July 1, 2006.	Misdemeanor
Illinois Ill. Compiled Statutes Ann. § 5/11-9.3(b-5)	Any	500 feet of elementary or secondary school	Residence restrictions do not apply if the offender's residence was "owned" and "purchased" before July 11, 2005.	Class 4 felony

State/Citation(s)	Residence Type	Distance/ Restricted Area	Exceptions to Residence Restrictions	Penalty for Noncompliance
Ill. Compiled Statutes Ann. § 5/11-9.4(b-5) & (b-6)	Any	500 feet of: (1) playground, child care center, day care center, part day child care facility, or a “facility providing programs or services exclusively directed toward persons under 18 years of age.” [§ (b-5)] (2) the victim(s) [§ (b-6)]	Residence restrictions of § (b-5) do not apply if the offender’s residence was “owned” and “purchased” before June 26, 2006. Residence restriction of § (b-6) does not apply if the offender’s residence was “owned” and “purchased” before August 22, 2002.	Class 4 felony
Indiana Ind. Ann. Code § 35-42-4-11(c)	Any ^e	1,000 feet of school property, a youth program center, or a public park 1 mile of victim’s residence	None	Class D felony
Iowa Iowa Code Ann. § 692A.2A	Any	2,000 feet of public or nonpublic elementary or secondary school, or child care center	Residence restrictions do not apply if the offender is subject to an order of commitment, is incarcerated, or the offender is a minor or a ward under a guardianship. Residence restrictions do not apply if the offender has established a residence prior to July 1, 2002, or a school or child care facility is newly located within 2,000 feet of offender’s residence.	Aggravated misdemeanor
Kentucky Ken. Rev. Stat. Ann. § 17.545	Any	1,000 feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care center ^f	Residence restrictions do not apply to a youthful offender probated or paroled during his or her minority, or enrolled in an elementary or secondary education program.	Class A misdemeanor for a first offense, and a Class D felony for the second and each subsequent offense

State/Citation(s)	Residence Type	Distance/ Restricted Area	Exceptions to Residence Restrictions	Penalty for Noncompliance
Louisiana La. Stat. Ann. § 91.1(A)(2)	Any	1,000 feet of any public or private elementary or secondary school, child care center, playground, public or private youth center, public swimming pool, or free standing video arcade facility	None	Fine of not more than \$1000, imprisonment for not more than six months, or both
La. Stat. Ann. § 538D(1)(c)	Any	1,000 feet of any public or private elementary or secondary school, child care center, playground, public or private youth center, public swimming pool, or free-standing video arcade facility	None	Revocation of parole, fine of not more than \$1,000, imprisoned for not more than six months, or both
Michigan Mich. Compiled Laws Ann. § 28.735	Any	1,000 feet of a Student Safety Zone, which is statutorily defined as “the area that lies 1,000 feet or less from school property.” ^g	Residence restrictions do not apply if: <ol style="list-style-type: none"> (1) An offender is under 20 years old, attends secondary or post-secondary school, and resides with his/ her parent or guardian; (2) An offender is under 26 years old, attends a special education program, and resides with his/her parent/ guardian, or resides in a group home or assisted living facility; (3) An offender who was residing within a student safety zone before January 2, 2006; (4) An offender who is a patient in a hospital or hospice; 	A misdemeanor for the first offense, punishable by imprisonment for not more than one year or a fine of not more than \$1,000, or both. Any subsequent violation is a felony punishable by imprisonment for not more than two years or a fine of not more than \$2,000, or both.

State/Citation(s)	Residence Type	Distance/ Restricted Area	Exceptions to Residence Restrictions	Penalty for Noncompliance
			(5) An offender who resides within a student safety zone because the individual is an inmate or resident of a prison, jail, juvenile facility, or other correctional facility or is a patient of a mental health facility under an order of commitment. ^h	
Minnesota Minn. Stat. Ann. § 244.052 Subd. 4a	Any	No specific distance indicated; however, when an offender assigned to the highest risk level (Level III) is released to reside in the community, or when a released offender changes residence, the agency responsible for the offender's supervision must take into consideration "the proximity" of the offender's residence to that of other Level III offenders, as well as "proximity to schools" and, to "the greatest extent feasible, mitigate the concentration of Level III offenders."	None	None indicated

State/Citation(s)	Residence Type	Distance/ Restricted Area	Exceptions to Residence Restrictions	Penalty for Noncompliance
Mississippi Miss. Code Ann. § 45-33-25	Any	1,500 feet of a public or nonpublic elementary or secondary school, or child care center	Residence restrictions do not apply if: <ol style="list-style-type: none"> (1) the offender is serving a sentence at a jail, prison, juvenile facility or other correctional institution or facility; (2) the offender is subject to an order of commitment; (3) the offender is a minor or a ward under a guardianship; (4) the offender established his/her residence prior to July 1, 2006, or a school or child care facility is subsequently located within 1,500 feet of the offender's residence. 	A felony punishable by a fine not more than \$5,000, or imprisonment for not more than five 5 years, or both
Missouri Mo. Stat. Ann. § 566.147	Any	1,000 feet of any public or private elementary or secondary school, or child care center	Residence restrictions do not apply if an offender has already established a residence and subsequently a public or private school or child-care facility is built or placed within 1,000 feet of his/her residence. The offender must notify the county sheriff within one week of the opening of the facility and provide verifiable proof that he/she resided there prior to the opening of the facility.	Class D felony, any subsequent violation is a class B felony Class A misdemeanor for not reporting to sheriff when a new facility opens, further violations are Class D felonies

State/Citation(s)	Residence Type	Distance/ Restricted Area	Exceptions to Residence Restrictions	Penalty for Noncompliance
Mo. Stat. Ann. § 211.181	Any	1,000 feet of the residence of the victim (until the victim is 18 years old) Note: Restrictions apply to juvenile offenders	Residence restrictions do not apply when the juvenile offender and the abused child are siblings or children living in the same home.	None indicated
North Carolina N. Car. Gen. Stat. Ann. § 14-208.16	Any	1,000 feet of any public or private elementary or secondary school, or child care center	Residence restrictions do not apply when changes occur in the ownership of or use of property within 1,000 feet of a registrant's registered address	Class G felony
Ohio Ohio Rev. Code Ann. § 2950.031	Any	1,000 feet of any public or private school	None	Injunctive relief
Oklahoma Okla. Stat. Ann. § 590	Any ⁱ	2,000 feet of any public or private elementary or secondary school, "educational institution," playground, park, or licensed child care center		First offense: Up to \$3,000 fine, or 1 - 3 years imprisonment, or both Subsequent offenses: Up to \$3,000 fine, or 3 years minimum imprisonment, or both
Oregon Or. Rev. Stat. Ann. § 144.642 & § 144.644 Or. Admin. Rules Comp. § 255-060-0009 & § 291-202-0040	Permanent housing, not "transitional housing" ^j	Locations where children are the "primary occupants or users"	Residence restrictions do not apply when made by the supervising parole/probation officer if it is determined that there is "sufficient information to support an exception" to the resident restrictions "in terms of public safety and the rehabilitation of the offender." ^k	None indicated

State/Citation(s)	Residence Type	Distance/ Restricted Area	Exceptions to Residence Restrictions	Penalty for Noncompliance
<p>South Dakota</p> <p>S. Dakota Cod. Laws § 22-24B-22 & § 22-24B-23</p>	Any	500 feet of a “community safety zone” (CSZ) which includes any elementary or secondary school, public park, public playground, or public pool	<p>Residence restrictions do not apply within a CSZ if the offender is incarcerated, in a health care facility, or receiving services from a licensed community service provider located within a community.</p> <p>Residence restrictions do not apply to an offender who established his/her residence prior to July 1, 2006.</p> <p>Residence restrictions do not apply if the school, public park, public pool, or public playground was built or established subsequent to the offender’s establishing residence at the location</p>	None indicated
<p>Tennessee</p> <p>Tenn. Code Ann. § 40-39-211</p>	Any	<p>1,000 feet of</p> <p>(1) any public, private, or parochial elementary or secondary school, “licensed” day care center, other child care facility, public park, playground, recreation center, or public athletic field;</p> <p>(2) the offender’s former victim(s), or where the immediate family members of the victim(s) reside;</p> <p>(3) may not “knowingly establish a primary or secondary residence or any other living accommodation where a minor</p>	<p>Residence restrictions do not apply when an offender resides with a minor, if the offender is the parent of the minor.¹</p> <p>Residence restrictions do not apply if changes in the ownership or use of property within 1,000 feet of an offender’s primary or secondary residence occur after an offender establishes residence</p>	Class E felony.

State/Citation(s)	Residence Type	Distance/ Restricted Area	Exceptions to Residence Restrictions	Penalty for Noncompliance
		resides”		
Washington Wash. Rev. Code § 9.94A.712(6)(a)(ii)	Any	800 feet of a Community Protection Zone, <i>i.e.</i> , “the facilities and grounds of a public or private school” ^m	Residence restrictions do not apply to offenders who were convicted before after September 1, 2001.	Revocation of community custody
West Virginia W. Va. Code Ann. § 62-12-26(b)	Any	1,000 feet of: (1) an elementary or secondary school, or child care center; (2) the residence of the victim(s) (3) may not reside “in a household in which a child under sixteen resides”	Residence restriction prohibiting offender from residing in any household with a child under 16 years old does not apply if the offender is the child’s parent, grandparent, stepparent. ⁿ Residence restrictions do not apply prior to March 8, 2003.	Possible revocation of supervised release

Source: Westlaw, State Law Databases. Information compiled on December 7, 2007.

- a. Exceptions: Residence restrictions do apply, however, if “(1) The adult criminal sex offender’s parental rights have been or are in the process of being terminated as provided by law. (2) The adult criminal sex offender has been convicted of any criminal sex offense in which any of the offender’s minor children, grandchildren, or stepchildren was the victim. (3) The adult criminal sex offender has been convicted of any criminal sex offense in which a minor was the victim and the minor resided or lived with the offender at the time of the offense. (4) The adult criminal sex offender has ever been convicted of any criminal sex offense involving a child, regardless of whether the offender was related to or shared a residence with the child victim.” Ala. Code §15-20-26(c)(1-4).
- b. Neither exception, however, applies to an offender who pleads guilty or *nolo contendere* to, or is found guilty of another sex offense after the facility is established, or after July 16, 2003. Ark. Code Ann. § 5-14-128(c)(1)(2).
- c. “Nothing in this section shall prohibit municipal jurisdictions from enacting local ordinances that further restrict the residency” of any offender. Calif. Penal Code § 3003.5(c).
- d. On November 21, 2007, the Georgia Supreme Court found that, as applied to a homeowner, the Georgia residence restrictions could constitute a regulatory taking of property. However, in the same case, the court found that, as applied to a business owner, a restriction on the owner working at his place of his business need not be found to be such a taking.
- e. “‘Reside’ means to spend more than two nights in a residence in any thirty day period.” Ind. Ann. Code § 35-42-4-11(b).
- f. “If a new facility opens, the registrant shall be presumed to know and, within ninety (90) days, shall comply with this section.” Ken. Rev. Stat. Ann. § 17.545(2)(b). Also note, “Any registrant residing within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care

facility on July 12, 2006, shall move and comply with this section within ninety (90) days of July 12, 2006, and thereafter, shall be subject to the penalties set forth under subsection (3) of this section.” Ken. Rev. Stat. Ann. § 17.545(4).

- g. Student Safety Zones are established by Mich. Compiled Laws Ann. § 28.733(f).
- h. None of these exceptions, however, applies to an individual who initiates or maintains contact with a minor within that student safety zone. Mich. Compiled Laws Ann. § 28.735(3)(a-e).
- i. “Any nonprofit organization established and housing sex offenders prior to June 2, 2006 is permitted to continue its operation.” Okla. Stat. Ann. § 590
- j. “[T]ransitional housing means housing intended to be occupied by a sexually violent dangerous offender or a predatory sex offender for 45 days or less immediately after release from custody.” Or. Admin. Rules Comp. § 255-060-0009(2) & § 291-202-0040(2). Also, “a sex offender may not reside with another sex offender who is on probation, parole, or post-prison supervision unless approved by the Parole Board, supervising authority, or supervising officer.” Or. Rev. Stat. Ann. § 144.102(3)(b)(M). This does not apply to residential treatment facilities or halfway houses for sexual offenders. *Id.*
- k. “In making this determination, the following factors must be considered: (a) Other residential placement options pose a higher risk to the community, or (b) An enhanced support system that endorses supervision goals and community safety efforts is available at this residence, or (c) Enhanced supervision monitoring will be in place (e.g. electronic supervision, curfew, live-in-care provider, along with community notification), or (d) This residence includes 24-hour case management, or (e) The offender is being released from prison unexpectedly and more suitable housing will be arranged as soon as possible. If any of these factors apply to the offender and the residence under review, an exception to the permanent residence prohibition may be allowed.” Or. Admin. Rules Comp. § 255-060-0009(3) & § 291-202-0040(3). Also note, “If a supervising officer makes an exception under this rule, the supervising officer must inform the community affected by this decision about the reasons for the decision prior to the offender’s release from custody.” Or. Admin. Rules Comp. § 255-060-0009(4) and § 291-202-0040(4).
- l. Exceptions: “[S]uch an offender may reside with a minor, if the offender is the parent of the minor, unless one (1) of the following conditions applies: (1) The offender’s parental rights have been or are in the process of being terminated as provided by law; or (2) Any minor or adult child of the offender was a victim of a sexual offense or violent sexual offense committed by the offender.” Tenn. Code Ann. § 40-39-211(c).
- m. Community Protection Zones are established by Wash. Rev. Code § 9.94A.030(8).
- n. Exceptions: Residence restrictions do apply, however, if the offender becomes the stepparent of the child after being convicted; the offender’s parental rights to any children in the home have terminated; the child is a victim of a sexually violent offense perpetrated by the offender, and the court determines that the offender is likely to cause further harm. W. Va. Code Ann. § 62-12-26(b)(2).