

To: Graham Filler, Chair of the House Judiciary Committee

Cc: Members of the House Judiciary Committee

Date: May 11, 2020

Re: H.B.5679

This bill should not get out of committee. It does little to effectively amend the M.S.O.R. to comply with what the courts have determined:

People v. Temelkoski, No. 150643 The Michigan Supreme Court ruled that HYTA youth cannot be subjected to SORA if they pled under the expectation of a sealed record.

I have submitted previous testimony regarding how our son has lived with the burden, since his plea agreement under HYTA provision in 1997. The non-public registry of that time has been amended multiple times over the last twenty years, all of which eliminated the “promise” made to him that if he successfully served his probationary sentence he could move on with his life.

H.B.5679 fails to recognize this injustice.

Doe v Snyder made it clear that offense-based, public tiers are unconstitutional, while acknowledging that a tier system might be O.K. if they are based on “risk assessments” or if they are non-public.

H.B. 5679 falls short of addressing the issue and remains flawed by the decision of the 6th circuit court. The fact of the matter is that you cannot determine today, of the 44,000 people who are on S.O.R., who is a “risk” and who is not. The people of the state of Michigan deserve better. If you vote this bill out of committee then you really have little or no interest in providing our citizens with a useful registry. It will remain “bloated”, expensive to administer and not of much use to law enforcement.

A number of years ago I provided testimony in front of the Senate Judiciary Committee, who were considering a bill about the *SOR*. Following that hearing, one of the members of the committee approached me to acknowledge how unjust the current Michigan Sex Offender law had treated our family and specifically the broken promise that our son was living with at that time. I thanked her for her concern and though she was a “lame duck” at the time, I at least felt that someone was listening and there was hope that reasonable people who would follow her and the legislature would be really to address the issues that need to be resolved.

That lame duck Senator is now the Governor of the State of Michigan.

To: Graham Filler, Chairmen of the House Judiciary Committee

Cc: Members of the Committee

May 6, 2020

Dear Chairmen Filler,

I have provided written testimony to your committee and attended the hearing today, via ZOOM teleconference. I want to thank you and your legislative aid Nick Capone for the effort and willingness to hear from those who had the opportunity to be included in today's hearing. I think you received some compelling testimony from Dr. Jill Levenson, lawyers and people, who have had to deal with the M.S.O.R., which in its present form requires significant change. I hope that you and the members of this committee will have the courage to recognize that H.B. 5679 does not address that challenge and in fact, looks to me to be another "halfhearted" effort to amend a statute that is terribly flawed.

In my written testimony I outlined a number of previous amendments to the registry that have been added to the original statute that my son understood would govern his decision, when in 1997 he accepted the courts offer, granted by the Holmes Youth Trainee Act, to a plea of CSC 3rd degree sexual misconduct. Had I been called upon today my intent was to share with the committee how these decisions, over the course of the last twenty plus years, have impacted my son's life.

A key element of the S.O.R. in 1997 was that the M.S.O.R. was a nonpublic registry, used only by law enforcement. In 1999 that changed. *Public Act 85*, advanced the thought it would be a good idea to make the M.S.O.R. available to the public, via the internet. I don't recall who sponsored the bill, but what I know is that it had a significant impact on my son. It clearly violated the condition that was in place two years earlier and totally shredded the promise of having his record sealed.

Result: A year later, our son, who was trained as a commercial carpenter, applied for a job with a company that did build outs for a large franchise food chain. He had, at that time successfully completed his H.Y.T.A. sentence, and his record was expunged. He completed his job application, identifying that he had no convictions, no record. He was hired by person doing the interview, only to find out a week later that "corporate", doing their follow up, found his name on the internet as a sex offender. Job Lost.

In 2002, another change to the M.S.O.R. – *Public Act 542* required that information regarding work address or location of higher learning be added to the registry listing.

Result: At that time my son was working for large Condo development, using his skill set to do repairs, ongoing maintenance and refurbishing of units. The owner determined that the listing of the address and related information was detrimental to their business and my son lost his job.

2004, *Public Act 237*, in addition to requiring a photo be added to the registry listing required that anyone assigned to HYTA status, prior to October 1, 2004 would remain on the registry.

Result: The opportunity to petition the court for release from the registry at the end of ten years was lost. The promise of a “second chance” if he stayed on the straight and narrow for ten years was totally taken off the table, so now he was confronted with, what was referred to back in 1997, as the “worst case senior” a 25 year term.

2006, *Public Act 46* – another effort to add a layer of public protection, providing notification via email when an individual on the S.O.R. moves into a designated zip code.

Result: He, like many of those who are burdened with this law, received calls, threats and are constantly put in a position to try and explain why they are listed.

Then in 2011 the final move when Michigan decided to comply with the Adam Walsh Act, expanding the states 25 year registration period to a life time sentence. Need I tell you that our son was devastated with that decision? There is not a day goes by now that he wishes that he had gone to trial. He is bitter, has little faith in the legislative process and deals with a lost sense of self-worth. He is not forty two years old, has a six year old son and has been called to task in front of him by school officials for wanted to attend school related functions. Anything about any of this sound reasonable to you?

So here we are; another effort to amend the M.S.O.R. with H.B. 5678. If you really want to do something constructive then address the issues that will produce a meaningful registry that can be used to identify and track people who pose a threat to the citizens of our state. There are thousands of people on the current M.S.O.R. who do not fit that description. Our son is one of many whose life has been severely impacted by this flawed law, judged to be unconstitutional and requires change.

Listen to the people who understand this challenge, like Dr. Levenson and seek a “best case” example, as Mariam Ackerman suggested in her testimony. The people of this state deserve your best effort.

Respectfully Submitted,

Doug Stranahan

Testimony May 5th, 2020

House Judiciary Committee Hearing – H.B. 5679

Chairman Graham Filler

Chairman Filler and members of the House Judiciary Committee. Thank You for the opportunity to provide testimony with regards to H.B. 5679. I speak today in opposition of this legislation and would ask that you vote No for any further consideration.

My wife and I have lived with the cloud of the Michigan Sex Offender Registry since 1997 and it has not been an easy time in our life as parents of a son who thought, with our consul back then, that he was making the right decision.

Let me explain. When our son was a senior in high school, he made a wrong decision, was accused of a 1st degree sexual offense and confronted with a choice. The choice was to go to trial or consider an alternative, proposed by the prosecuting attorney, to accept a lesser plea under the provisions granted by the Holmes Youth Trainee Act (HYTA). Some of you on this committee are attorneys and may be familiar with this law. If not, allow me to share with you what it provided, which in 1997 was what we understood to be the conditions for this important decision.

HYTA specifically states that the ***“assignment of an individual to the status of youth trainee is not a conviction for a crime”***(MCL762,14(2) and it says ***“the individual assigned to the status of youthful trainee shall not suffer a civil disability or loss of right or privilege following his or her release from that status.”*** Finally, and was very important to the consideration of this agreement, HYTA also states ***“all proceedings regarding the disposition of the criminal charge and the individual’s assignment as a youthful trainee shall be closed to public inspection”***

In other words, rather than taking this allegation to trial, our son was given a second chance; serve his sentence and move on with his life without a record. It sounded like a good alternative and our attorney advised us to consider it, with the consul that there are never any guarantees with going to trial.

One other consideration had to be weighted. In addition to accepting the plea to CSC 3rd degree, our son would have to be placed on the Michigan Sex Offender Registry. So what was that? In 1997 the MSOR was a non-public registry. It was a tool used solely by local law enforcement agencies. The worst case scenario was that our son would have to remain on this registry for ten years and if he had no further issues he would be able to petition the court release. At the time, that sounded like a reasonable condition.

Given all that information, we encouraged our son to accept the agreement and the promise that was made by the law known as the Holmes Youthful Training Act. He accepted. He successfully served his sentence. He has no record. He is not a sex offender. However, the promise of a second chance and the guarantee that he would not suffer a further disability or loss of privilege that every citizen should enjoy has been lost. Why, because the current law is terribly flawed.

Here is what happened since we accepted the promise made by the law and court in 1997

1999 – Public Act 85 made the M.S. O.R. available to the public via the Internet

2002 – Public Act 542 requires information regarding work address or location of higher learning Be added to the M.S.O.R.

2004 – Public Act 237 required a photo and required a person assigned to HYTA prior to October 1, 2004 to remain on the registry.

2005 – Public Act 121 and Public Act 126 added residency restrictions

2006 – Public Act 46 the MSP created a subscriber system that provides notification via email
When an individual on the M.S.O.R. moves into a designated zip code.

2011 – Michigan complies with the Adam Walsh Act, expanding the states 25 yr registration period to a life time registration.

The current law is not only punitive but clearly violates every promise that was granted to our son twenty three years ago. He has lived over half of his adult life with this unfounded label of being a sex offender. He is no more a sex offender than any of you on this committee and is joined by thousands of other Michigan citizens who suffer the same label.

The 6th circuit District court has recognized the injustice of Michigan Sex Offender Registry as it is current constructed and has asked you to fix it. H.B. 5679 does not do that nor does it address meaningful changes that have been considered and agreed upon.

I urge you to reject this bill and move in a positive direction to provide the citizens of Michigan with a meaningful direction.