

May 11, 2020

Michigan Legislature
House Judiciary Committee

Members of the House Judiciary Committee:

Hello. Thank you for taking testimony on HB 5679. I am Dr. Sharon Denniston, Ph.D. My doctorate is in Public Policy and Administration with concentration in Law and Public Policy. I am a consultant, juvenile advocate, and staunch advocate for sexual abuse prevention. I specialize in juvenile sex offender registration policy, and have studied all 50 states' juvenile registration policy.

Very quickly, I support the following, but will spend more time on juvenile sex offender registration:

- 1) Juveniles adjudicated for a sexual offense should not be subject to sex offender registration. My proposed solution for doing this in HB 5679 is attached.
- 2) Individuals with no criminal record should not be subject to registration; doing so is just simply, foolish. Adult offenders that fit his condition have already had significant review by the court, and significant time in the community has lapsed to prove they are not at risk.
- 3) Registration should be based on risk assessments, not statutory offense; this tool should also be used to determine registration requirements of those required to register (i.e. whether public or private, and how frequently and how long registration should occur). As Dr. Levenson noted in her testimony, research supports that sexual risk assessments of adult offenders have greater accuracy in determining risk to reoffend than a statutory offense, or tier scheme.
- 4) Registrants should have an opportunity to petition to have registration discontinued after a review by the court of their risk to reoffend.
- 5) School safety zone restrictions should be eliminated. Again, this is supported by research. In addition, as this policy currently exists, there is a critical unintended technical issue related to juvenile offenders that needs to be fixed.

During week 1 of testimony, virtually no mention was made of juvenile sex offender registration. I am not surprised. Juvenile offenders are often overlooked when policy is being created. They often get caught up in policy intended for adults either unintentionally, or due to a lack of understanding about juvenile developmental behavior, and offending. This is why I've spent the past 16 years as a juvenile advocate in Lansing educating legislators on some key juvenile justice issues.

In 2011 when the legislature worked on legislation to implement the federal guidelines for SORNA (the Sex Offender Registration and Notification Act - Title 1 of the Adam Walsh Act), the legislature repeatedly stated they would not exceed the federal guidelines for juvenile offenders. Michigan did however, mistakenly include offense statutes that did not require registration for juvenile offenders, thereby exceeding the federal requirement. This error was identified and acknowledged before the House Judiciary Committee voted. However, in an effort to meet a federal deadline, so as not to jeopardize federal Byrne Grant Funding, the committee passed the legislation, but committed that they would correct this error after meeting the deadline. Chris Hawkins, MSP Legislative Liaison, acknowledged this problem at that time, and did not oppose it being correct. For 9 years now we have exceeded the guidelines of the federal Adam Walsh Act regarding juvenile registration. In addition, there is not clear and convincing evidence to continue to exceed this guideline. In fact, there is now

clear and convincing evidence to exclude ALL juvenile offenders from sex offender registration. In 2016 I worked with Rep. Pagel to draft a bill to correct this, 06496'16 Draft 2. The draft was put on hold, however, in 2016 when the 6th Circuit COA decision came down, with the intention this correction would be included with the changes required by the court.

The research is clear. Just last week I met with Rep. Filler and Dr. Elizabeth Letourneau, researcher and national expert on juvenile offending and sexual abuse prevention, Professor at Johns Hopkins University, and Director of the Moore Center for the Prevention of Child Sexual Abuse. Also in the meeting were a long-term senior juvenile prosecutor, and a presiding Family Court Judge from Michigan. Dr. Letourneau, shared the existing research on juvenile registration, and the basis for her finding that juvenile sex offender registration is a failed policy (a finding that the juvenile prosecutor and Family Court Judge agreed with). Research tells us:

1. Registration does not reduce sexual crimes by juvenile offenders - Studies comparing recidivism rates of juvenile offenders with like offenses that had to register, with those who did not have to register, found both rates of sexual recidivism to be very low (around 3%). This level was so low that comparative analysis could not even be done. The good news is, recidivism rates are so low that it makes it virtually impossible for registration to reduce it.
2. Juvenile sex offender registration has no impact on deterring first time offenders - Not surprisingly, juveniles that are about to engage in inappropriate sexual behavior do not say "wait; I better rethink this; I could be criminally charged, and I could go on a sex offender registry".
3. Juvenile offenders have very low recidivism rates - The recidivism rates found in #1 are in keeping with results from a huge metanalytic study examining the sexual recidivism of over 30,000 youth which found recidivism rates of approximately 2.75%.
4. Juvenile sex offender registration causes harm - Given the lack of efficacy of juvenile sex offender registration policy, we need to be mindful of harmful unintended consequences of this policy that exist. Research has found that juvenile offender registrants as adolescents have increased severity of depression, are more likely to attempt suicide, experience isolation, housing and job instability, and are more likely to be solicited sexual by an adult. My own doctoral dissertation research studied the effects of registration on juvenile offenders years later after they had matured into adulthood. My study found significantly high levels of depression and suicidal ideation in individuals that had to register, verses those who had a juvenile sexual offense that did not register. This held true regardless of whether the juvenile's information was made public or not. When the duty to register was removed, levels of depression dropped significantly; almost to the level of the general adult population. Fortunately, the harm we are causing to juvenile offender registrants does appear to significantly diminish when the duty to register is discontinued.

Please find Dr. Letourneau's statement regarding the research attached.

Sadly, we talk out of both sides of our mouth. We speak of juveniles as a protected class; vulnerable, and in need of protection from harm because of intrinsic developmental deficits, yet we often harm them when they get caught up in policy intended for adults, that lacks clear and convincing evidence of the need to treat juveniles in ways we treat adults. We need to remove all juveniles from Michigan's Sex Offender Registry, and we can do it in a way that supports the prevention of sexual abuse.

The removal of juvenile offender registrants can be done in a way that still meets with the approval of the SMART Office regarding Michigan's implementation of federal SORNA (title 1 of the Adam Walsh Act). I've shared legislative language on how this can be done with Rep. Filler, and I've attached it with my testimony. Other states have done it and achieved substantial implementation/compliance with the federal guidelines. For example, Maryland discontinues the duty to register when a juvenile completes the term of their probation, and Tennessee discontinues juvenile offender's duty to register at age 25 if they have no subsequent registerable offense.

I realize that this creates a dilemma for all of you. While it is good news that research clearly shows juveniles don't recidivate like people have assumed; and sexual reoffending does not increase when juvenile offenders are not on a registry. The bad news is that the practice of registering juveniles has lifelong harmful effects; not only for the child, but for their family, and for their future family if they have children someday. I understand your dilemma—I think you know that this policy needs to change, but it's hard to do the right thing after so much bad information and bad policy has been propagated for so long. However, you have a moral and ethical obligation to do so.

C.S. Lewis said "Integrity is doing the right thing, even when no one is watching." In this case, integrity is also doing the right thing even when *everyone* is watching.

Lastly, I offer support to make your job easier. I work with hundreds of professionals with collective expertise in all areas of sexual offending. This network is far and wide. I can tell you with certainty that that they not only support the changes I've mentioned but we willingly offer our support to all of you as you make changes to HB 5679. We can provide expert resources for specific substantive changes to the bill, and very importantly, we can educate your fellow legislators and the public as to why these changes are necessary if we are truly sincere about preventing sexual abuse.

Thank you for reading my testimony, and for your continued work on this matter. Do not hesitate to contact me with any questions or comments you may have.

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