



THE ADVOCATE

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PUBLIC SERVICE ANNOUNCEMENTS

COVID-19 UPDATE FROM CDOC: The Department of Corrections has returned to limited in-person visitation, based on very specific criteria.

<https://www.colorado.gov/cdoc/>

RE: SOMB COVID-19 MEASURES: SOMB is allowing in -person therapy sessions again.

AFC MISSION STATEMENT

AFC supports those with a sex offense and their families by:

- Advocating for change in sex offense laws and policies, and for the adherence to constitutional rights;
- Educating the public, lawmakers, and the judiciary;
- Promoting the successful treatment and reintegration of those with an offense into the community, thus reducing victimization and enhancing the safety of all.

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A MESSAGE FROM THE CHAIR

Hello Friends and Advocates!

It's Summer 2021 and time has flown from our places of isolation. But AFC has been busy this last year working through ZOOM for our online meetings. The SOMB Reauthorization bill was our primary focus and opportunity. AFC hired a lobbyist to assist us with a bill in this process. With the SOMB audit of 2019 and the recommendations from DORA for reauthorization , we saw this as an opportunity to make so many needed changes. We joined forces with CSOR and Colorado CURE to have the broadest experience available.

Representatives Tipper and Benavidiz were the sponsors of the bill and we had many, many changes to the current legislation. We had a reduction in the SOMB size, minimization of the use of the polygraph, wider choice of treatment providers, removing the label of SVP and create a tier system, removing the words "sex offender" to "a person with a sexual offense", and more.

We worked diligently to find facts and information to help legislators understand how broken the system actually is. Near the end of the legislative session we finally had our opportunity to testify in front of the House Judiciary. We were there for 10 hours and 50 people from all points of view testified. Around midnight, the amended bill was passed and the SOMB was reauthorized for 2 years. But....the bill sponsors decided this bill was not nearly good enough and in the end decided to abandon the effort and rework it for next year.

There was so much work put into this, it was a sincere disappointment to have this bill set aside but many more legislators finally began to notice the massive problems with the entire SOMB system. AFC will continue to work with CSOR and Colorado CURE and our hope is that a new and far better bill will be written for 2022.

*Pat Harris, Chair
Advocates for Change*

MAJOR REFORMS TO THE JUVENILE SO REGISTRY: HB21-1064 & T.B.

The Colorado Supreme Court decided *T.B.* and held 6-2 that “¶43 We first address whether mandatory lifetime sex offender registration for offenders with multiple juvenile adjudications constitutes punishment for purposes of the Eighth Amendment, ultimately concluding that it does.

We next address whether that punishment is cruel and unusual, and similarly answer that question in the affirmative. Accordingly, we hold that CSORA violates the Eighth Amendment in imposing mandatory lifetime sex offender registration for offenders with multiple juvenile adjudications.”

PARTIAL TESTIMONY GIVEN TO THE COLORADO HOUSE JUDICIARY ON THE SOMB REAUTHORIZATION - HB21-1320

AFC supported HB21-1320 for systemic change to the SOMB to create a more effective system that desperately needs reform.

The SOMB has repeatedly been ordered by law to undertake difficult far-reaching change, and while things have improved somewhat, the SOMB world and practices, despite legal mandates to change, remains largely the same. As it was in 2008 the board is huge – far too large to be effective. Too often, “It’s a board voting for and setting standards for a class of people who, to many members, seem irredeemable, abnormal, and amoral in significant ways, and therefore very dangerous. People who view individuals who’ve committed sexual offenses this way, cannot accept the overwhelming scientific consensus that the population is for the most part (95%) unlikely ever again to engage in the behavior that led to their conviction. Thus, they must be “treated” and “monitored” as a serious danger.

And while sexual re-offense is very low (about 3-5% by the most carefully constructed peer-reviewed studies), there are so many mandated requirements that its far too easy to fail.

The majority of this population is in the low to medium risk category but, they are generally treated as a homogeneous high-risk group. Treatment needs more individualization with providers who can help clients see and understand what unacceptable behavior

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is and want the best possible outcomes for those treated. The costs borne by individuals and the state of Colorado are unnecessarily high but with more thoughtful treatment policies, better outcomes can be accomplished and provide what we all want - a safe and productive community.

NEW COLLECTION OF RESEARCH ON SEX OFFENSE REGISTRATION

July 1, 2021

by Collateral Consequences Resource Center Staff

Cambridge University Press has just published a new book, edited by Professors Wayne A. Logan and J.J. Prescott, containing chapters from the nation’s leading

social science researchers on the many important empirical questions surrounding sex offense registration and community notification (SORN). Since SORN’s origin in the early 1990s, basic questions have existed regarding its effects, including whether it actually achieves its intended purpose of reducing sexual offending.

SORN surely numbers among the most significant social control methods of the past several decades. Although the Supreme Court in 2003 rejected two constitutional challenges to SORN laws (*Connecticut Dept. of Public Safety v. Doe* and *Smith v. Doe*), of late courts, including the Sixth Circuit Court of Appeals (*Does v. Snyder*, 2016), have cast a more critical eye, invalidating new generation SORN laws that have become more onerous and expansive in their reach.

An updated review of case law from Professor Logan on SORN and other collateral consequences triggered primarily by sex offenses will be included in the forthcoming fourth edition of Love, Roberts & Logan, *Collateral Consequences of Arrest & Conviction: Law Policy & Practice* (West/NACDL, 4th ed. 2021). Also, as readers might be aware, the American Law Institute, as part of its overhaul of the Model Penal Code’s sex offense-related provisions, has tentatively approved a slate of reforms advocating a vastly reduced approach to registration and discontinuation of community notification. (We plan a post about the MPC’s important new model in the near future.)

The Logan and Prescott collection promises to be an invaluable resource as policy-makers begin to consider whether SORN laws should be retooled or perhaps done away with altogether.

You have brains in your head.
 You have feet in your shoes.
 You can steer yourself any direction you choose.
 You're on your own.
 And you know what you know.
 And YOU are the one who'll decide where to go...

Dr. Seuss

**PRESTIGIOUS AMERICAN LAW INSTITUTE RECOMMENDS
 SWEEPING CHANGES TO REGISTRY,
 INCLUDING NO PUBLIC DISSEMINATION**

By Dr. Ira Ellman

On June 8, 2021 the membership of the American Law Institute gave its final approval to a revision of the Model Penal Code's chapter on Sexual Assault and Related Offenses. As is normal with ALI projects, these groups included practicing attorneys, judges, and scholars who are experts in the subject.

The complete Tentative Draft, 600 pages long, addresses the substance of the full range of sexual assault crimes. The original version of the Model Penal Code was published by the ALI in 1962. One important and influential contribution of the 1962 MPC was the removal of noncommercial sexual acts between consenting adults....

...While the MPC adopts something called a registry, its substance departs significantly from existing registry laws, federal and state. Key differences are:

1. Only these five offenses (as defined by other sections of the MPC) trigger a registration obligation:

- Sexual Assault by Aggravated Physical Force or Restraint
- Sexual Assault by Physical Force, but only when committed after the offender had previously been convicted of a felony sex offense

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- Sexual Assault of an Incapacitated Person, but only when committed after the offender had previously been convicted of a felony sex offense
- Sexual Assault of a Minor, but only when the minor is younger than 12 and the actor is 21 years old or older
- Incestuous Sexual Assault of a Minor, but only when the minor is younger than 16

2. There is no public notification that individuals are on the registry. Access to the registry is limited to law enforcement personnel. The knowing or reckless disclosure of registry information to others is a felony.

3. The maximum registration period for the small group who remain on the registry is 15 years, but those who do not re-offend, and comply with parole, probation, or supervised release conditions, are removed after ten years. Failure to register cannot be the basis of parole or probation revocation; it is punishable only as a misdemeanor offense.

4. General rules that required location monitoring of persons convicted of a sexual offense are barred, as are most restrictions on residency, access to schools or the internet. Judges could impose such restrictions in particular cases. In no case may a judge require public notification. Mandatory restrictions on employment applicable primarily to persons convicted of a sexual offense that are created by other state laws are not repealed by the MPC, but anyone subject to them may petition a court for relief from the employment bar.

 The American Law Institute, established in 1923, is the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law.

If you can't fly then run, if you can't run then walk, if you can't walk then crawl, but whatever you do you have to keep moving forward.

-Martin Luther King Jr.

Editorial Policy

The Advocate is published by Advocates for Change. We provide information on our efforts to affect change in legislation, treatment, and re-integration into the community, primarily for those who have been convicted of a sex offense. Nothing offered by AFC is intended to be legal advice, and any information provided should never be a substitute for obtaining counsel and/or conducting your own research.

Submissions from inmates/offenders, parolees, and members, are encouraged. Please limit articles to 300 words. The editor reserves the right to publish all, part or none of the contributions submitted. Send contributions for publication and/or comments on the newsletter to: Advocates for Change, Newsletter Editor, PO Box 103392, Denver, CO 80250.

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NEW: You can also join electronically from our website
<http://www.advocates4change.org>



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