

Supplementary Statement on Need for Separate Sexual Offender Policies for Children and Adolescents

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problematic sexual behavior among children/adolescents and juvenile sexual offending
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It is difficult to come to consensus about public policy about sex offenders. Nonetheless, we believe this Commission missed a valuable opportunity regarding adolescents and children with sexual behavior problems.

Research and experience show that only a very small percentage of adolescents charged with a sexual crime re-offend sexually. Community safety is *increased* when higher-risk adolescents or children are provided quality specialized treatment and positive youth development is supported. However, Massachusetts has not followed other states in clearly distinguishing youth from adults, particularly in post-adjudication registration and management of youth.

The Department of Justice is responsible for the oversight of SORNA (registration and notification implementation). DOJ recently released new guidelines ***allowing and encouraging*** states to develop different policies for youth and adults. These guidelines recognize the unique developmental issues of youth. Massachusetts registration and notification policies were developed largely with adult sexual offenders in mind and before research demonstrating key developmental differences between youthful and adult sexual offenders. They have not been amended to take adequate account of those differences or new forms of youthful offending (“sexting”).

This Commission missed an opportunity to strongly recommend clear distinctions in sexual offender policy between youth and adults. The SORB has made exceptions for leveling adolescents and children, but **Massachusetts legislators can create policies that encourage families to reach out for help without the very real concern of their child being placed on the sex offender registry.**

We recognize that a very small percentage of youth would be charged as Youthful Offenders and potentially incarcerated in the Department of Corrections if found to have committed a sexual offense and are deemed dangerous to the community and at high risk to sexually reoffend. They can be classified by SORB as high risk, dangerous offenders. But these cases would be exceptions rather than the current broad inclusion now legally permissible.

We support:

1. A recommendation to the Legislature and Governor that statutes be amended so that children age 12 and under are not charged with a sexual offense and instead are addressed as Children Requiring Assistance (CRA) unless a Juvenile Court determines that a child is dangerous and at high risk to reoffend sexually.
2. A recommendation to the Legislature and Governor that youth adjudicated of a sexual offense will not be placed on the SORB registry or subject to community notification unless ordered by the adjudicating Court. The current system by which the Juvenile Court must

“waive” an obligation to register is replaced by registration only if the Juvenile Court finds the youth dangerous and high risk of sexual re-offense. Youth registered for a juvenile sexual offense who have not sexually re-offended are removed at age 25 unless the SORB demonstrates by clear and convincing evidence that registration is required to protect the public.

There is increasing consensus that youth are different from adults. Their developmental differences should be the basis for sexual offender policy and practice demonstrably different for children and adolescents than for adults.