

# Residency Restrictions Discounted as Means of Public Safety

## Collateral Damage of Residency Restrictions on Family

Family members of registered sex offenders (RSOs) are the often-overlooked victims of collateral damage. Increasingly restrictive policies expose RSOs and their families to public scrutiny and place severe limits on RSOs' employment, housing, and academic opportunities. These policies were designed to protect the public from sexually dangerous individuals, but the collateral consequences of the laws to others were presumably unanticipated.

(Levenson, J. S., & Tewksbury, R. (2009). *Collateral damage: Family members of registered sex offenders*. *American Journal of Criminal Justice*)

**30%**

"After my family member became an RSO, s(he) was unable to return to my residence"

**31%**

"I have had to move from a house that I owned or rented because of proximity to a school, park, day-care, etc., and I wanted to live with the RSO"

**33%**

"The RSO and I wanted to live together but were unable to because of residence restrictions"

**41%**

"I have found it difficult to find an affordable place to live that was not too close to a school, park, day-care, etc., and I wanted to live with the RSO"

**46%**

"A landlord refused to rent to me or renew my lease because my family member is an RSO"

**Fact:** Studies conducted by the MN Dept of Corrections and the CO Dept of Public Safety have **not shown any correlation between sex offender recidivism and living near schools or parks.** However, there is ample scientific evidence that shows residency laws do interfere with the reintegration of sex offenders into society.

## Legislative Example: Kansas

Many jurisdictions pass residency restrictions when they are introduced. In 2006, the **Kansas legislature chose not to after listening to expert testimony during two days of hearings.** The Kansas Sex Offender Policy Board issued the following:

- Although residence restrictions appear to have strong public support, the Board found no evidence to support their efficacy. It's imperative that policymakers enact laws that will actually make the public safe and not laws giving the public a false sense of security.
- It is recommended that the legislature make permanent the moratorium on residence restrictions. Any residence restrictions should be determined based on individually identified risk factors.
- A wealth of information is available to indicate that sex offender residence restrictions have not reduced the risk of re-offending behavior. In fact, research supports that these restrictions often cause alienation, destabilization, and isolation that lead to re-offending behavior.
- Research and best practices in the field of corrections, law enforcement, sex offender treatment, and more particularly, victims' advocacy groups, equally discount residence restrictions as a useful means to manage, supervise, and treat offenders.
- With regard to enforcement, the overwhelming experience of states such as Iowa in attempting to enforce residence restrictions underscores the theory that normally compliant offenders will take desperate measures to either comply with or circumvent residence restrictions. This increases the time law enforcement spends on locating offenders, decreases the time they spend on protecting the majority of potential child sexual abuse victims, and subverts the usefulness of offender registries.

***"For these reasons, sex offender residence restrictions have no demonstrated efficacy as a means of protecting public safety."***

“ Research shows the best way to [change antisocial behavior] is to normalize life. You ban somebody from the community, he has no friends, he feels bad about himself, and you reinforce the very problems that contribute to the sex abuse behavior in the first place. You make him a better sex offender.”  
(Eric Lotke, former research & policy director of the Justice Policy Institute)

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**“There is no evidence that restricting where sex offenders live will prevent repeat sexual offending against children. In fact, residence restrictions could not have prevented the murder of Chelsea King.”**  
(California's Sex Offenders Management Board)

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**“[Residency restrictions] impose additional punishment after the fact and interfere with the right of a family to live together. What they don't do is provide any measure of public safety, and what they do is drive sex offenders underground.”**

(John Reinstein, legal director ACLU of Mass.)

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**“We went from knowing where about 90 percent of [sex offenders] were. We're lucky if we know where 50 to 55 percent of them are now... the law created an atmosphere that these individuals can't find a place to live.”**  
(Sheriff Don Zeller, Linn County, Iowa)

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**“[Sex offenders] need to have a place to live, they need to be able to get jobs. They need to be able to support themselves and their families. And without those things, they're going to be more likely to resume a life of crime. That's not a debate, that's a fact.”**

**“This is not about sympathy for criminal offenders. Housing instability is one of the strongest indicators of recidivism in the criminal justice literature. Criminal offenders who have stable housing, stable employment and support systems in their lives, those people are less likely to go on and commit new crimes.”**

**“When sex offenders become homeless, they do become more difficult for probation and parole to track. That, in itself, defeats the very purpose of Megan's Law.”**

(Dr. Jill S. Levenson, Lynn University)

# Sample Residency Restriction Statutes from Around the Country

## Residency Restriction Laws for 38 States:

- 8** have no restrictions as to where sex offenders can live;
- 9** have no statewide laws but allow for local ordinances;
- 17** have restrictions that apply only to offenders on parole, probation, supervision, those who have committed certain types of crimes or are deemed high risks, or have been court ordered. Of the states with residency restrictions,
- 4** do not force offenders to move if a school, daycare, park, etc. opens after establishing residence.

**Alaska:** Residency restrictions ruled unconstitutional in 2008.

**Arkansas:** Only Level 3 (high risk) and Level 4 (sexually violent predator) offenders cannot live within 2000 feet of schools or daycare centers.

**California:** Restrictions should apply to the most serious sex offenders (SVP, repeat offenders, and offenders convicted of violent sex offenses) who have committed an offense against a child. Cities and counties should not pass residency restriction ordinances that are in conflict with or exceed state law.

**Colorado:** No state restrictions exist that apply to living arrangements and locations. Municipalities have implemented ordinances that restrict where an offender can live and are designed to promote community safety. Ironically, restrictions on housing that extend beyond requirements imposed by supervising officers and treatment providers may actually compromise public safety. Placing restrictions on the location of correctionally supervised RSO residences should not be considered as a method to control sexual offending recidivism.

**Connecticut:** "The consequence [of residency restrictions], we are aware of from other states, is that [sex offenders] then tend to go underground, they don't register at all. It actually defeats the purpose of maintaining the registry. The purpose of the registry is to let you know where they are."

**Florida:** No statewide registration law that prevents a released sex offender/predator (no longer serving any type of sanction under the DOC) from living near a school, playground, daycare, etc.

**Georgia:** Sex offender statutes amended in 2010. If an offender owns or leases and resides on property and a child care facility, church, school, or area where minors congregate thereafter locates itself within 1000 feet, such individual shall not be guilty of a violation.

**Idaho:** A sex offender cannot reside within 500 feet of the property on which a school is located, measured from the nearest point of the exterior wall of the offender's dwelling to the school's property line; this shall not apply if such person's residence was established prior to July 1, 2006.

**Iowa:** Restrictions do not apply to all registered sex offenders, only to the three Iowa statutes listed in the definition of "aggravated offense against a minor." Offenders convicted for any other offense, regardless of whether the victim was a minor, are exempt from the residency restrictions.

**Kansas:** No law mandates where a sex offender can live, nor does the law allow for local jurisdictions to have such laws.

**Maryland:** No restrictions. Research put out by other states has shown that residency restrictions do not prevent sexual offenses from occurring because the victims and the offenders, in most situations, know each other.

**Massachusetts:** No statewide statute that establishes restrictions, "child safety zones," or "sex offender-free zones." Restrictions are ineffective as well as unconstitutional (*ACLU of Massachusetts*).

**Minnesota:** The parole commissioner determines if a Level III sex offender may live within 1500 feet of school zones.

**Mississippi:** 1500 feet of the real property comprising a residential child-care agency, a children's group care home, or any playground, ball park, or other recreational facility utilized by persons under the age of 18 years. No violation if the sex offender established their residence prior to July 1, 2008, or the opening is subsequent to the date the offender established residency.

**Missouri:** Certain sex offenders may not reside within 1000 feet of any school or childcare facility which is in existence at the time of establishing residency. If the sex offender has already established residence and a facility opens within 1000 feet of the residence, the offender should notify the sheriff. The offender has the responsibility of providing proof residence was established prior to the new facility opening.

**Montana:** Unless court-ordered restrictions exist, sex offenders are constitutionally free to live wherever they choose. However, a judge may impose restrictions on an offender's place of residence if the offender was convicted of a sexual offense against a minor and designated a Level 3 offender or as a condition of probation.

**Nevada:** Except as otherwise provided in Subsection 6 or unless parole or probation restrictions exist, sex offenders are constitutionally free to live wherever they choose.

**New Hampshire:** No statewide law. Because the State "failed to produce any evidence showing a substantial relationship between [the residency restrictions of sex offenders] and the protection of minors" the ordinance was invalid because it violated equal protection rights.

**New Mexico:** The SOMB has been unable to locate research that indicates residency restrictions have resulted in reduced re-offenses, reduced victimization or had, or will have, any positive impact on public safety. Current research and anecdotal reports from law enforcement and prosecutorial professionals overwhelmingly suggest that such laws are ineffective at best, and may do more harm than good. Unless under probation or parole, sex offenders are free to live anywhere.

**North Dakota:** All citizens have the right to live and work in the community. Law does not prohibit sex offenders from living near schools, parks, or daycare facilities unless as a condition of probation. An attempt at putting 1000-foot safety zones around such areas died during the 2009 session. The bill came out of committee with a "do-not-pass" recommendation, and was killed by the House 65-28.

**Oregon:** Residence requirements are placed on sex offenders currently under supervision. No residential requirements apply to offenders off supervision.

**Rhode Island:** No agency may direct where a sex offender resides, nor can these agencies direct where the offender works or attends school.

**South Dakota:** Any person who is required to register may not reside within a "community safety zone," unless the person had established residence before July 1st, 2006 or if the school, public park, public pool, or public playground was built after the person had established residence.

**Texas:** Registered sex offenders are not prohibited from living or going near places frequented by children. Probation and parole law requires the imposition of "child safety zones" on offenders placed on supervision or released on parole if the offender's victim was a child.

**Virginia:** Adults convicted of specified sex offenses having established a lawful residence shall not be in violation if a child day center or a primary, secondary, or high school is established within 500 feet of residence subsequent to conviction.

**West Virginia:** No legal authority to direct where a sex offender lives. Additionally, unless specific court ordered restrictions exist, offenders are constitutionally free to live wherever and with whomever they choose.

**AZ, HI, ME, NE, NJ, NY, PA, SC, VT, WA, WI, WY, Washington, DC:** No statewide residence restriction laws. Local ordinances or restrictions applying to sex offenders under supervision may exist.



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"Speaking Out for Those Without a Voice."

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