



2023 Legislative Position Paper

Juvenile Justice – Juvenile Predatory Offender Registration

Policy

The Minnesota Corrections Association supports amending current predatory offender registration (POR) laws for juveniles in order to increase public safety while maximizing rehabilitative interventions that decrease recidivism.

Background

Public safety is enhanced when the system is responsive to the specific risk and needs of justice involved individuals. Immediate public safety is enhanced when high risk individuals are under supervision, when their whereabouts are known, and authorities are able to track them. Long term public safety is enhanced when justice involved individuals can be treated, rehabilitated, and effectively transitioned with necessary skills to live productive and pro-social lives. In reviewing Minnesota's current laws regarding adolescent predatory offender registration, there is need for revision and change.

Under Minnesota law, juveniles are required to register as a predatory offender if they are adjudicated delinquent of committing an offense as outlined in Minn. Stat. 243.166. This casts a wide net and does not allow for managing justice involved individuals according to risk and public safety. As a result of the POR requirements and collateral consequences, judges and attorneys are reluctant to adjudicate juveniles as delinquent in cases that require registration. These strategies result in avoiding registration, create inconsistencies in prosecution, and limit the length of probation supervision and rehabilitative interventions thereby reducing public safety. Additionally, the statutes do not offer any legal criteria for the Court regarding who should be registered as a predatory offender. The lack of legal criteria results in many jurisdictions responding differently to the same public safety risk. Lastly, Minnesota does not differentiate in any way a juvenile from an adult when requiring predatory offender registration, yet this mandate runs contrary to the purposeful differences appropriately created between the delinquency and criminal court systems.

Most juveniles who engage in PSP never reoffend. There is strong research to show that treatment is effective at reducing sexual reoffending. For instance, low (i.e. 2%) sexual recidivism rates in children have been demonstrated in a 10-year follow up study of a randomized clinical trial of a short-term, community based PSB (problematic sexual behavior) specific cognitive behavioral treatment condition.¹ A meta-analysis reviewing 107 studies found that across behavior type, over 97% of children charged with sexual offenses never harm sexually again.² In contrast to adults with illegal sexual behaviors, youth with PSB tend to have fewer victims than adults, the acts are more likely to be impulsive, situational, and transient, and most do not demonstrate deviant sexual arousal or sexual interest in children much younger than themselves.³ The research and data show that most juveniles who engage in PSB are not beginning down a path of lifelong behavior.⁴



Most states do not require juveniles to register like Minnesota's "one-size-fits-all" approach. Currently, 16 states and the District of Columbia do not require adjudicated juveniles to register as predatory offenders. Of the remaining 34 states, 22 allow courts to determine whether or not a juvenile should be required to register as a predatory offender. The State of Minnesota is one of 12 states that requires juveniles, as young as 10 years of age, to register as predatory offenders without legal criteria to guide courts. Finally, Minnesota is one of seven states that requires adjudicated juveniles to register as predatory offenders, does not provide registration criteria, and has no differences between offenses requiring registration for adults and juveniles.

On February 1, 2022, MN DOC published the Predatory Offender Statutory Framework Working Group report to the Legislature with *Five Critical Areas for Legislative Reform*.⁵

1. Eliminate or limit registration requirement for adjudicated juveniles;
2. Apply registration requirement to convictions only (not same set of circumstances/probable cause determination);
3. Eliminate/modify the restart provisions;
4. Provide an avenue of relief from registration; and
5. Limit mandatory minimum for failure to register crimes.

Based on these findings it would appear that Minnesota law regarding predatory offender registration of juveniles should be amended. The amendments proposed would increase public safety by maximizing rehabilitative interventions that decrease recidivism.

Recommendations

- 1. Amend Minnesota statutes to provide legal criteria for the Court to consider in determining if a juvenile adjudicated delinquent for a predatory offense should be required to register.**

This change would increase public safety while also creating more consistent prosecution and judicial decision making across jurisdictions. Public safety would also be greatly enhanced by providing longer periods of probation supervision and allow sufficient time to complete sex offense specific treatment and other rehabilitative interventions. Consistency could be increased as the proposed amendments would address some of the current reluctance to adjudicate juveniles delinquent of these offenses.

The proposed amendments would provide the Court with legal criteria to require registration upon an adjudication of delinquency and a finding that the circumstances of the offense require registration. Additionally, the decision to require predatory offender registration could be made at any point post adjudication including the period of probation supervision.



2. Use the following statutory language to provide the Court with legal criteria to guide the decision:

- (1) The prosecuting attorney shall file a motion for registration and can do so at any time during which the juvenile is within the jurisdiction of the court for the offense that is the basis for the motion;
- (2) the juvenile was fourteen years of age or older when the act was committed;
- (3) the juvenile was adjudicated delinquent by a juvenile court of any of the offenses requiring registration above; and
- (4) the court, in its discretion and upon motion of the prosecuting attorney, find that the circumstances of the offense require predatory offender registration.
- (5) factors to be considered by the court to determine whether registration should be required:
 - (i) the degree to which the juvenile used force, threat, or intimidation in committing the act.;
 - (ii) the age and maturity of the victim;
 - (iii) the age and maturity of the juvenile;
 - (iv) the difference in age of the victim and the juvenile;
 - (v) the nature of the relationship between the victim and the juvenile;
 - (vi) the juvenile's prior criminal history; or
 - (vii) any other aggravating or mitigating factor that the court determines relevant to the particular case which may include compliance on probation, progress in treatment, and/or risk assessments and evaluations.

References

- ¹ Craun and Bierie, *"Are the Collateral Consequences,"* 28.
- ² William R. Shadish, Thomas D. Cook, and Donald T. Campbell, *Experimental and Quasi-Experimental Designs for Generalized Causal Inference* (Boston: Houghton Mifflin Company, 2001), 83–93.
- ³ Chaffin, et al. Association for the Treatment of Sexual Abusers Task Force Report on Children with Sexual Behavior Problems. *Child Maltreatment*, 13(2), 2008, pp 199-218
- ⁴ McPherson, *"The Sex Offender Registration and Notification Act,"* 785–86.
- ⁵ MN DOC Predatory Offender Statutory Framework Working Group: Report to the Minnesota Legislature, February 1, 2022