

POSITION STATEMENT ADAM WALSH ACT

The United States Congress enacted the Adam Walsh Act (AWA) in 2006. This act requires that states participate in a national sex offender registry and it establishes standards for states to follow regarding the community management of adult and juvenile sex offenders. The act requires states to register more offenders and monitor them for longer periods of time without substantial additional funding. States have been given until mid-2009 to comply with these standards or lose ten percent of their Byrne Grant Funds. In 2006, in Oklahoma, a ten percent loss of these funds would have amounted to \$279,047. Undoubtedly, the Byrne funding is important for our state. It provides important monies to law enforcement, public defenders and the judiciary as well as providing for other criminal justice needs. However, Oklahoma should carefully consider whether our state should comply with AWA or forego ten percent of this funding.

AWA requires that states develop a tier system placing registered sex offenders in tiers representing high, moderate or low risk for re-offense. High risk offenders must register as sex offenders for life, moderate risk offenders for twenty-five years and low risk offenders for fifteen years. AWA then requires that the tiers be based on the offense of record. Crimes such as Rape are placed in the high risk tier; crimes such as Soliciting Sexual Contact with a Minor are placed in the moderate risk tier and crimes such as Indecent Exposure are placed in the low risk tier. This offense based classification is problematic as it will cause both over and under estimation of probable risk. For example, an eighteen-year-old male who is convicted of Rape II due to having sexual intercourse with a willing fifteen-year-old female may have little risk for sexual reoffense, yet he is placed in the high risk tier and will have to register as a sex offender for life. At the same time, the plea bargains that these guidelines will most likely engender will potentially cause more serious offenders to be placed in the low risk category or escape sexual charges completely. While type of offense is certainly a variable to consider, other important factors including previous legal history, relationship to victim, sex of victim, relationship stability, social support, negative emotionality, impulsivity, sexual preoccupation and cooperation with supervision/ treatment are much more predictive of recidivism risk.

The AWA classification system has been applied to Oklahoma registered sex offenders. Approximately seventy-eight percent of such offenders are classified as high risk offenders by the Department of Corrections. Since seventy-five percent of sexual offenders in the most complete meta-analysis to date did *not* reoffend during a fifteen year period, AWA would require Oklahoma to dedicate immense resources to the community management of sex offenders, the overwhelming majority of whom pose little threat to the community.

The second concern is AWA requires states to include children as young as fourteen on registries, often for the rest of their lives. Again, AWA disregards research documenting the low risk of recidivism for the majority of juvenile sexual offenders. Oklahomans are aware that AWA as applied to our juvenile offenders is contrary to the core function of our juvenile justice system in that it erodes the confidentiality and rehabilitative emphases that form the basis of effective supervision and treatment. Publicly identifying juvenile sex offenders and their families will do little to enhance public safety but may undermine the benefits of our juvenile justice system.

Oklahomans support efforts to hold sex offenders accountable and improve public safety. The Adam Walsh Act is not researched based and is unlikely to classify an appropriate level of risk to sex offenders. Some sex offenders will repeat their crimes and it is vital to attempt to correctly classify those offenders. Resources can then be used to appropriately manage those found to be high risk. Intensive supervision of offenders who pose little risk to the community diminish the resources needed to supervise higher risk offenders. The financial burden of implementing AWA may far outweigh the funding available from the Byrne Funds and the cost to our juvenile justice system may be far greater than money.