



Registering Harm

A BRIEFING BOOK ON THE ADAM WALSH ACT

Justice Policy
INSTITUTE

After slapping a FIRST-GRADE GIRL on the bottom on the playground, a 6-YEAR OLD BOY from Woodbridge, Virginia, was written up in an incident report by school officials who called it “SEXUAL TOUCHING Against Student, OFFENSIVE,” which will remain on his student record PERMANENTLY. Then school officials called the POLICE. A KINDERGARTNER in Hagerstown, Maryland, was ACCUSED of SEXUAL HARASSMENT after pinching a female classmate’s bottom. The charge will remain on his record until he enters middle school. A 4-YEAR-OLD in Texas was given an in-school SUSPENSION after a teacher’s aide accused him of SEXUAL HARASSMENT for pressing his face into her breasts WHEN HE HUGGED HER. School officials later agreed to remove sexual references but refused to expunge the “INAPPROPRIATE physical contact” charge from the boy’s school record.

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Congress passed the Adam Walsh Act, a federal law that requires states to include children as young as age 14 on registries — often for the rest of their lives — in an attempt to protect our children from sexual violence.

But the Adam Walsh Act won't keep our children safe.

Instead, this law will consume valuable law enforcement resources, needlessly target children and families, and undermine the very purpose of the juvenile justice system. Thankfully, states can opt out of compliance with this law, and make smart investments in programs and policies that will actually protect our children and our communities.



President Bush shakes hands with “America’s Most Wanted” host John Walsh, as Walsh’s wife Reve Walsh, left, looks on, Thursday, July 27, 2006, after Bush signed the Adam Walsh Child Protection and Safety Act in the Rose Garden at the White House. The bill was named for John Walsh’s 6-year-old son Adam who was abducted and killed 25 years ago. Standing behind Bush is Sen. Arlen Specter, R-Pa., left, and Rep. James Sensenbrenner, R-Wis., right. (AP Photo/Ron Edmonds)

The Adam Walsh Act explained

Enacted by Congress in 2006, the Adam Walsh Act (AWA) requires that states participate in a national sex offender registry and establishes comprehensive minimum standards for registration and community notification. The AWA explicitly requires lifetime registration of children for certain offenses. States that choose to comply with the requirements of the AWA risk losing a percentage of federal funding. But states will have to pay far more to implement the Adam Walsh Act than they will receive in federal funds. Sex offender registries have existed for decades, but before the Adam Walsh Act, none placed such an enormous fiscal burden on state budgets or specifically targeted children for inclusion on a national, public registry. Among other measures, the Adam Walsh Act does the following:

- ➔ Requires the registration of children who are age 14 or older for certain offenses
- ➔ Increases the number of offenses for which an individual must register
- ➔ Requires people to provide more extensive registration information, including photos
- ➔ Expands the amount of information available to the public regarding people on the registry
- ➔ Makes the registry retroactive – under certain conditions, individuals convicted of sex offenses prior to the AWA’s passage will be required to register even though the Act was not in effect at the time of their conviction

- ➔ Requires states to criminalize a failure to register and provide a criminal penalty for a “maximum term of imprisonment greater than one year”

The AWA also establishes the federal Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART) Office to set guidelines for registering people convicted of sex offenses, develop software for the registry, and assist state, local and tribal governments in implementing their registries. The SMART Office also helps states enact registry provisions that are far more restrictive than those required by AWA. A communication from SMART makes this clear: “jurisdictions should consider AWA minimum requirements as a floor, not a ceiling. Jurisdictions are free to implement regulations that are stricter than what AWA requires.”¹

The Adam Walsh Act requires states to comply with these requirements by 2009. If state’s fail to do so they will lose 10 percent of their Byrne Grant funds.

The Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program (Byrne Formula Grant Program) is a federal program established by the Anti-Drug Abuse Act of 1988 that awards grants to state and local governments for “personnel, equipment, training, technical assistance, and information systems for more widespread apprehension, prosecution, adjudication, detention, and rehabilitation of offenders who violate such state and local laws.”² In the past, Byrne grants have funded questionable crime fighting tactics like drug task forces and SWAT-style raids.

Why did Congress pass the Adam Walsh Act?

During the past two decades, policy aimed at preventing sexual violence has been driven by sensationalized media accounts of crimes that have a sexual component. As a result, millions of dollars of state and federal

1 Laura L. Rogers, “Sex Offender Registry Laws: From Jacob Wetterling to Adam Walsh” (Washington, D.C.: U.S. Department of Justice, SMART Office, 2007). www.ojp.usdoj.gov/smart/pdfs/so_registry_laws.pdf

2 Bureau of Justice Assistance, “Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program,” October 7, 2008. www.ojp.usdoj.gov/BJA/grant/byrne.html.

resources support registries despite the fact that there is no evidence that public registries reduce sex crimes. What we do know, however, is that these registries consume public safety resources, and may be funded at the expense of alternative approaches that research suggests would reduce sexual violence in our communities.

The Adam Walsh Act's legislative history reveals that several members of Congress based their support of this bill on inaccurate data. In their efforts to protect children, lawmakers often argued that individuals convicted of sex offenses must register because these people are most likely to reoffend. The data tells a different story: individuals — and especially children — convicted of sex offenses have one of the lowest recidivism rates of any group.³

Why expanding registries won't protect our children

Congress' well-intentioned effort to protect our children by expanding sex offender registries won't work because registries fail to recognize the complex realities of sexual offending.

A large percentage of sex offenses are committed by people known to the victim — including family members. A U.S. Department of Justice study shows that, among youth who were victims of sexual violence, almost half (49 percent) of youth under age six and 42 percent of children ages six to 11 in the study were sexually assaulted by a family member. Overall, the study concluded that 34 percent of youth victims (0–17 years old) were sexually assaulted by a family member and 59 percent were assaulted by acquaintances. In other words, only 7 percent of youth victims in this study were assaulted by strangers.⁴

Since most people who commit sex offenses are “first-time offenders,” meaning that they have never been convicted of a sex offense, the majority of people committing sex offenses would not already be

3 One review of 25 studies concerning juvenile sex recidivism rates reveals that youth who commit sex offenses have a 1.8 - 12.8 percent chance of re-arrest for another sex offense. Michael F. Caldwell, “What Do We Not Know About Juvenile Sex Reoffense Risk,” *Child Maltreatment* 7, no. 4 (2002): 291-302.

4 Howard N. Snyder, *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident and Offender Characteristics* (Washington, D.C.: Bureau of Justice Statistics, 2000). www.ojp.usdoj.gov/bjs/abstract/saycrle.htm

on the registry.⁵ Having a registry can therefore create a false sense of security within families and communities, who might rely on the registry to identify people who may be a threat to their safety.

Being on a registry can hinder a person's ability to access rehabilitative services needed to lead a productive life and engage in appropriate, legal behavior. Registries can impede access to employment, housing and education, which have been shown to be an integral part of the re-entry process and a necessity for young people who are trying to turn their lives around.⁶

Instead of funding preventative programs, registries burden our already over-taxed law enforcement resources and create public safety hazards.

The Adam Walsh Act consumes resources that should be spent on programs proven to protect our children and communities

The Adam Walsh Act⁷ requires states to register more people and keep track of them for even longer periods of time, without the availability of substantial additional federal funding. All states currently have some form of registry and community notification, but fully implementing AWA poses significant financial and logistical challenges. As an unfunded mandate, the AWA provides little federal funding for implementation and stands to cost states more than they will receive in federal funding.

AWA requires states to participate in a national registry and to disseminate the registry widely throughout communities. States that intend to comply with AWA should be prepared to finance new software and technology costs to fully implement the registry.

5 Lawrence Greenfield, *Sex Offenses and Offenders: An Analysis of Data on Rape and Sexual Assault* (Washington, D.C.: Bureau of Justice Statistics, 1997). www.ojp.usdoj.gov/bjs/pub/pdf/soo.pdf, Table 5.

6 Robert G. Zevitz, and M.A. Farkas, “Sex Offender Community Notification. Managing High-Risk Criminals or Exacting Further Vengeance?” *Behavioral Sciences and the Law* 18 (2000): 375–391; Justice Policy Institute, *Housing and Public Safety* (Washington, D.C.: Justice Policy Institute, 2007); Justice Policy Institute, *Education and Public Safety* (Washington, D.C.: Justice Policy Institute, 2007); Justice Policy Institute, *Employment, Wages and Public Safety* (Washington, D.C.: Justice Policy Institute, 2007)

7 Title 1 of the Adam Walsh Act, the Sex Offender Registration and Notification Act (SORNA), specifically addresses the sex offense registry.

Additionally, the onerous registration requirements will require significant law enforcement related expenditures — including training, additional personnel and court related costs.

Several states have calculated the tremendous fiscal impact of the AWA on state budgets. Virginia estimated that expanding the list of registry-eligible offenses will likely increase the number of state prison beds needed for people who violate the registry provisions.⁸ Increasing the frequency with which the state police and probation officers must verify registration information may also result in the additional detection of violations. In addition, increasing penalties for first-time registry violations for people who are not defined as “sexually violent” could increase state bed requirements. Based on these facts, Virginia estimates an additional cost of \$351,376 to the state.

In order to comply with the Adam Walsh Act, states should plan to budget for the following expenses annually:

- ➔ New personnel to register more people more often, collect information, make updates, etc.
- ➔ Software, including installation, maintenance, and technical support
- ➔ Additional jail and prison space for people who fail to register
- ➔ Court and administrative costs related to reclassification due to the retroactivity clause of the AWA
- ➔ Law enforcement costs related to tracking down people who fail to register
- ➔ Legislative costs related to adopting and crafting state law

The Adam Walsh Act needlessly targets children and families

In the push to target people that may actually pose a significant danger to the public, youth convicted of sex offenses have been swept up in legislation that publicly brands them as sexual predators. Research has shown, however, that juvenile sexual offending is very different from adult sexual offending, and that youth are not committing the majority of sex offenses.

8 Virginia Criminal Sentencing Commission, *Fiscal Impact Statement for Proposed Legislation, Senate Bill No. 590—ID# 08-0244806* (Richmond, VA: Virginia Criminal Sentencing Commission, 2008).



Homecoming King, Football Star, Honor Student, Sex Offender?

On New Year's Eve 2003 in Douglasville, Georgia, **Genarlow Wilson**, 17, and five friends engaged in consensual oral sex with a 15-year-old girl at a party. The whole thing was video-taped. Wilson was convicted and sentenced to 10 years in prison for felony aggravated child molestation, plus lifetime registration as a sex offender. According to jurors, the tape clearly showed that the 15-year-old girl involved in the oral sex episode had consented, but Georgia law at the time made any oral sex with a partner under 16 a felony, regardless of consent.

According to Marie Manigault, the jury forewoman in Wilson's case, “He didn't do a single thing that was physically aggressive toward either of the girls, and he wasn't vocally intimidating. This whole thing was a bunch of kids who decided they wanted to try A, B, C and D and it got totally out of control. It was a night of stupidity and not one of them had any idea that what they were doing was illegal. There should never have been a charge of aggravated child molestation in the first place.”¹

Wilson refused to plead guilty for the offense, because he did not want to be labeled a sex offender and forced to be on the registry. In his words, “I wouldn't be able to stay with my mother because I have a little sister. You know, when you're a sex offender you can't be around kids. Basically, I can't even have kids myself, you know, so what is the point of life?”²

There was a multitude of public outcry related to the case which led to the passage 2006 of a “Romeo and Juliet” law, which made most consensual oral sex between minors a misdemeanor, rather than a felony. But the law didn't help Wilson, since it included language that specifically barred its application to those who had already been convicted. If this law was made retroactive, more than 1,100 young people's cases could be reopened.³

On October 26, 2007, Wilson was released from prison at age 21 after serving two years, after the Georgia Supreme Court ruled that his 10-year sentence for having consensual oral sex with a 15-year-old girl was “cruel and unusual punishment.”⁴ He is now a student on full scholarship at Morehouse College.

1 Michael Lindenberger, “Should a Teen Sex Offender Go Free?” *Time*, February 20, 2007, www.time.com/time/nation/article/0,8599,1591688,00.html.

2 CNN, “Genarlow Wilson: Plea deal would have left me without a home,” CNN News, October 19, 2007, <http://edition.cnn.com/2007/US/law/10/29/wilson.released/>

3 Michael Lindenberger, “Should a Teen Sex Offender Go Free?” *Time*, February 20, 2007, www.time.com/time/nation/article/0,8599,1591688,00.html

4 CNN, October 19, 2007

There have been numerous stories publicized in the media of youth as young as age six being labeled a sex offender for behaviors such as hugging or kissing other youth.⁹ Slapping children with a “sexual predator” label will not increase public safety, but will instead alienate youth and disconnect them from communities, education, and jobs — and therefore actually increase the chances that a youth will engage in delinquent acts. While the Adam Walsh Act does not mandate registration for consensual sex acts or for minor offenses that have a sexualized component, expanding registries could result in life time consequences for the behaviors described below:

“SORNA as applied to youth is contrary to the core purposes, functions, and objectives of our nation’s juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis that forms the basis of effective intervention and treatment for youthful offenders.”

— ASSOCIATION FOR THE TREATMENT OF SEXUAL ABUSERS
Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA), (Beaverton, OR: Association for the Treatment of Sexual Abusers, 2007) www.atsa.com/pdfs/SORNA.pdf

- ➔ After slapping a first-grade girl on the bottom on the playground, a 6-year-old boy from Woodbridge, Virginia, was written up an incident report by school officials who called it “Sexual Touching Against Student, Offensive,” which will remain on his student record permanently. Then school officials called the police.¹⁰
- ➔ A kindergartner in Hagerstown, Maryland, was accused of sexual harassment after pinching a female classmate’s bottom.¹¹ The charge will remain on his record until he enters middle school.
- ➔ A 4-year-old in Texas was given an in-school suspension after a teacher’s aide accused him of sexual harassment for pressing

9 Brigid Schulte, “For Little Children, Grown-Up Labels as Sexual Harassers,” *Washington Post*, April 3, 2008.

10 Brigid Schulte, April 3, 2008.

11 Yvonne Bynoe, “Is That 4-Year-Old Really a Sex Offender?,” *The Washington Post*, October 21, 2007. www.washingtonpost.com/wp-dyn/content/article/2007/10/19/AR2007101901544.html?referrer=emailarticle

his face into her breasts when he hugged her. School officials later agreed to remove sexual references but refused to expunge the “inappropriate physical contact” charge from the boy’s school record.¹²

In most states, intercourse with a child under the age of 14, 15, or 16 is considered sexual assault regardless of consent. But, according to the National Longitudinal Survey of Youth, a survey of 9,000 youth between the ages of 12 and 16, slightly more than three-quarters of youth in the survey reported having had sexual intercourse. Of those youth, more than 80 percent reported having had sex by age 15.¹³ Adolescent sexuality is a complicated issue — if it is widely criminalized our juvenile prisons will overflow with teenagers.

The Adam Walsh Act undermines rehabilitation

The AWA requires public registration for youth who are adjudicated in juvenile court of sex offenses, thus undermining a system which is designed to protect youth from the lifelong penalties carried by the adult criminal justice system. The Adam Walsh Act requires some youth to be placed on a public registry under the same conditions and timelines as adults, including possible lifetime registry. This mandate contradicts everything we know about youth development and undermines the very purpose of a juvenile justice system.

“[Notification] laws are likely to increase the already common public misperception that child sexual abuse is mostly a ‘stranger’ problem. When this occurs, parental attention is focused toward the nonfamilial offender and away from the familial environment where the majority of sexual abuse occurs.”

— WILLIAM EDWARDS AND CHRISTOPHER HENSLEY,
“Contextualizing Sex Offender Management Legislation and Policy: Evaluating the Problem of Latent Consequences in Community Notification Laws,” *International Journal of Offender Therapy and Comparative Criminology* 45, no.1 (2001): 83-101. Page 92

12 Yvonne Bynoe, October 21, 2007.

13 Michael F. Caldwell, “What We Do Not Know About Juvenile Sexual Reoffense Risk,” *Child Maltreatment* 7, no. 4 (November 2002): 291-302.

“Sex offender registries are popular, and it’s easy to see why. People don’t want to see their loved ones become victims. It stands to reason we can better protect ourselves and our children if we know where predators live. But there’s a danger that registries can make us feel safer without necessarily making us more safe.”

—EDITORIAL, *BIRMINGHAM NEWS*
Editorial, “To Find a Sex Offender,”
Birmingham News, June 6, 2007.

Placement on a registry can be extremely detrimental to a young person’s development, making it difficult to progress through school. Youth who are labeled “sex offenders” often experience rejection from peer groups and adults and are therefore more likely to associate with delinquent or troubled peers and are less likely to be attached to social institutions such as schools and churches.¹⁴ Youth without connections to these important institutions are far more likely to engage in illegal behaviors.

There is no evidence that registries and notification systems for people convicted of sex offenses are effective ways of improving public safety

or deterring future sex offenses. For youth, registries and notification systems are particularly damaging to developing brains,¹⁵ increase the risk of suicide, alienate a youth from school and community, and raise barriers to successful participation in society.¹⁶ Additionally, home and school addresses and personal information of youth on public registries are displayed for everyone to see, including those who may wish to prey on youth.

The juvenile justice system was founded on the premise that youth are different from adults and need to be held accountable in appropriate ways. Juvenile court judges are well-equipped to assess the culpability and rehabilitative potential of young people. Youth involved in the juvenile justice system typically receive more treatment and rehabilitative

services than they would if they were treated as adults.¹⁷ The registry undermines rehabilitation by labeling a young person a “sex offender,” thereby stigmatizing the youth and closing available doors for treatment and involvement in the community.

The Adam Walsh Act compromises public safety

Reliance on registries creates the illusion that parents can protect their children from sexual violence simply by checking an online database. A survey of mental health professionals found that 70 percent of those surveyed felt that “a listing of sex offenders on the web would create a false sense of security for parents who might feel that they can protect their children simply by checking a web site.”¹⁸ Despite registry requirements and stiff penalties for not registering, registries are often inaccurate and out of date.¹⁹ The result is misdirected apprehension and the alienation of people who live at an address listed on the database, but who have never been convicted of any crime.

A study by Richard G. Zevitz, Ph.D. at Marquette University found “negligible support for sex offender community notification having any kind of measurably deterrent effect on sex offender recidivism patterns. If anything, these findings call into question the utility of this practice and the

“Experts say the data disaster is attributable to an unwieldy and ever-growing sex offender registry, one driven more by state politics in recent years than by scientific evidence. Legislators are calling on local police departments to track more sex offenders — many of them low-risk — than ever before, without including the money necessary to do so.”

—DALLAS MORNING NEWS
Emily Ramshaw, “Sex Offender Label Makes No Distinction: For Many Men, Registry Has Lasting and Devastating Effects,” *Dallas Morning News*, October 2, 2006 cited on National Association of Criminal Defense Lawyers webpage: www.nacdl.org/sl_docs.nsf/freeform/sex_offender011?OpenDocument

14 Franklin E. Zimring and others, “Sexual Delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood?” *Criminology and Public Policy* 6, no.3 (2007): 507-534.

15 Franklin E. Zimring and others, 2007

16 Sarah Tofte, *No Easy Answers* (New York: Human Rights Watch, 2007) www.hrw.org

17 MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, *Issue Brief 5: The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Adult Criminal Court*, www.adj.org/downloads/3582issue_brief_5.pdf August 2008.

18 Alvin Malesky and Jeanmarie Keim, “Mental Health Professionals’ Perspectives on Sex Offender Registry Web Sites,” *Sexual Abuse: A Journal of Research and Treatment* 13, no. 1(2001):53-63.

19 Richard Tewksbury and Matthew B. Lees, “Perceptions of Punishment: How Registered Sex Offenders View Registries,” *Crime & Delinquency* 53 (2007): 380-407, page 384.

danger of creating a false sense of security in the communities where notification occurs.”²⁰

The AWA requires local law enforcement agencies and corrections departments to shoulder the burden of registration and notification laws, with little federal funding or technical assistance. Spending so much time tracking down people for failing to register and making sure that information in the registry is accurate overburdens law enforcement and can take away precious time and resources from more effective crime-fighting strategies like educating communities about effective ways to prevent sexual violence.

- ➔ In Texas, the number of registrable crimes has grown from four to 20 since the enactment of the first registration laws in 1991, with approximately 100 new people added to the registry each week.²¹
- ➔ In 2003, San Jose, California spent \$600,000 to dedicate seven staff people to monitoring 2,700 people who are required to register.²²
- ➔ In Michigan, as of August 2004, two full-time employees managed information and records for people convicted of sex offenses, but according to a state audit, the state’s sex offender registries still contain inaccurate and incomplete information that may give the public a false sense of security.²³

Recommendations

20 Richard G. Zevitz, “Sex Offender Community Notification: Its Role in Recidivism and Offender Reintegration,” *Criminal Justice Studies* 19, no. 2(2006): pp. 193–208, Page 205

21 Emily Ramshaw, “Sex Offender Label Makes No Distinction: For Many Men, Registry Has Lasting and Devastating Effects,” *Dallas Morning News*, October 2, 2006 cited on National Association of Criminal Defense Lawyers webpage: www.nacdl.org/sl_docs.nsf/freeform/sex_offender011?OpenDocument

22 Hector Castro, “Sex Offender Registry Failing,” *Seattle Post-Intelligencer*, January 8, 2003. http://seattlepi.nwsource.com/local/103212_register08.shtml

23 David Eggert, “Audit: Michigan sex offender registries contain inaccurate data,” *Associated Press*, July 9, 2005. www.detnews.com/2005/metro/0507/09/-241894.htm

Recommendations

Given the questionable public safety consequences of the Adam Walsh Act and the strain it will place on law enforcement resources, states should refuse to put children on public registries. Because of the tremendous costs of compliance with the AWA — which are born entirely by the state — most states can forgo compliance and actually save taxpayer dollars. Instead of expanding registries for our children, states should invest in proactive strategies to reduce sexual violence in our communities like those suggested below:

- ➔ Research shows that the majority of children who experience sexual violence are abused by family members or other people known to them and their parents. States should fund comprehensive training for teachers, social workers, coaches, and the faith based community so that they can better recognize the signs of sexual abuse in children.
- ➔ Provide parenting classes that help parents learn about topics like internet safety, how to identify suspicious behavior and how to teach children to protect themselves.
- ➔ Fund a comprehensive continuum of interventions for children and families that are at-risk and/or in crisis that include mental health services, youth development programming, vocational and educational programs.

States that are considering whether to comply with the Adam Walsh Act should take the following actions:

- ➔ Calculate the amount your state is currently receiving in Byrne grants and compare that amount to the cost of compliance with the Adam Walsh Act. In your compliance projection, be sure to include the cost of new technology, staff to monitor the expanded registry, additional court costs, and any other related costs.
- ➔ Evaluate whether including children as young as 14 on public registries comports with your state's juvenile justice system. Will publicly identifying these children and their families undermine your state system? Will such a registry foreclose therapeutic and rehabilitative options for that child?

States that have decided to comply with the Adam Walsh Act should take the following actions:

- ➔ Ensure that your state legislature can appropriate significant funding to ensure compliance with the AWA.
- ➔ Ensure that placing children on a public registry does not violate your state constitution, especially with regard to a child's right to treatment, privacy, rehabilitation, and due process.
- ➔ Ensure that no child under the age of 13 is placed on a public registry, for any reason.
- ➔ Pursuant to 18 U.S.C. 16911(8), ensure that no child over the age of 14 is placed on the registry, unless one of the following circumstances exists:

§ The child has been adjudicated of a crime similar or more serious than the federal crime of aggravated sexual assault. This crime, which is punishable by life in prison, is defined by the use of force or threat to cause another to engage in a sexual act and/or impairing the ability of another to cause him or her to engage in a sexual act. 18 U.S.C. § 224.

§ The child's victim is younger than 12 years old.

- ➔ Pursuant to 42 U.S.C. 16911(5)(c), ensure that no individual is placed on the registry for consensual sexual contact, as long as the victim is at least 13 years old and the offender is no more than four years older than the victim.
- ➔ Pursuant to 42 U.S.C. 17915, ensure that your state has developed procedures for children placed on the registry to petition for removal 25 years after the date of their adjudication.
- ➔ Ensure that your state is prepared to meet its legal obligations to provide for the educational, mental health, and rehabilitative needs of children who are publicly labeled as sex offenders.

APPENDIX

In every state, the first-year cost of implementing the Adam Walsh Act outweighs the cost of losing 10 percent of the state's Byrne grant money.

The Justice Policy Institute calculated estimates of the potential costs of coming into compliance with Title I of the Adam Walsh Act based on the fiscal impact drafted by one state. States that complete individual, comprehensive analyses based on their unique statutory and law enforcement characteristics may arrive at different figures. Regardless of individual state differences in statutes, technology, and law enforcement resources, the added staff and technology needed to come into full compliance with the AWA is sure to exceed the Byrne funds that would be lost by not complying.

In the Virginia Criminal Sentencing Commission's Fiscal Impact Statement for Proposed Legislation, Senate Bill No. 590 - ID# 08-0244808, the state found that implementing a registry and notification system that would be in compliance with the Adam Walsh Act would cost \$12,497,267 in the first year of implementation.

To arrive at the fiscal analysis based on Virginia's cost estimate, JPI used the following methodology:

1. Determined the predicted number of people who will reside in Virginia in 2009 by multiplying the number of people in Virginia in 2007 by 1 percent, which is an estimate of the average growth of the population of the United States.
2. Divided Virginia's estimated total cost (\$12,497,267) by the predicted number of people living in Virginia in 2009 to get the cost per person of compliance with the Adam Walsh Act in Virginia. The cost per person is \$1.59.
3. Determined the predicted number of people in each state in 2009 by multiplying the number of people in the state by the projected average increase of 1 percent.
4. Multiplied the predicted number of people in each state in 2009 by \$1.59 (the cost per person of coming into compliance with AWA in Virginia).

To arrive at 2009 state allocations for the Edward Byrne Memorial Justice Assistance Grant, JPI used the allocations allotted for Byrne grants for 2006. In May 2008 the Senate had unanimously voted to authorize the Byrne grant program at fiscal year 2006 levels until 2012.

Although these numbers are estimates, Virginia would have overestimated the cost of coming into compliance with the Adam Walsh Act by a factor of 31 to break even with the Byrne funds that could potentially be lost by non-compliance.

	AWA Implementation Estimate for 2009	Byrne Money Received in 2006	10 Percent of Byrne Money
ALABAMA	\$7,506,185	\$3,178,628	\$317,863
ALASKA	\$1,108,573	\$565,971	\$56,597
ARIZONA	\$10,281,201	\$3,653,881	\$365,388
ARKANSAS	\$4,597,925	\$2,180,442	\$218,044
CALIFORNIA	\$59,287,816	\$21,876,819	\$2,187,682
COLORADO	\$7,885,178	\$2,725,489	\$272,549
CONNECTICUT	\$5,680,602	\$2,189,001	\$218,900
DELAWARE	\$1,402,612	\$1,248,534	\$124,853
DISTRICT OF COLUMBIA	\$954,186	\$1,804,991	\$180,499
FLORIDA	\$29,602,768	\$12,402,693	\$1,240,269
GEORGIA	\$15,481,193	\$5,594,288	\$559,429
HAWAII	\$2,081,603	\$933,732	\$93,373
IDAHO	\$2,431,969	\$1,170,003	\$117,000
ILLINOIS	\$20,846,306	\$8,501,000	\$850,100
INDIANA	\$10,291,799	\$3,696,033	\$369,603
IOWA	\$4,846,488	\$1,881,623	\$188,162
KANSAS	\$4,502,553	\$2,035,999	\$203,600
KENTUCKY	\$6,879,497	\$2,702,451	\$270,245
LOUISIANA	\$6,963,401	\$3,514,704	\$351,470
MAINE	\$2,136,456	\$1,172,583	\$117,258
MARYLAND	\$9,112,724	\$4,320,568	\$432,057
MASSACHUSETTS	\$10,461,238	\$4,353,201	\$435,320
MICHIGAN	\$16,336,082	\$6,793,169	\$679,317
MINNESOTA	\$8,430,328	\$3,061,831	\$306,183
MISSISSIPPI	\$4,734,150	\$2,065,269	\$206,527
MISSOURI	\$9,534,548	\$4,182,382	\$418,238
MONTANA	\$1,553,611	\$1,076,424	\$107,642
NEBRASKA	\$2,878,281	\$1,288,957	\$128,896
NEVADA	\$4,160,944	\$1,808,095	\$180,810
NEW HAMPSHIRE	\$2,134,219	\$1,192,435	\$119,244
NEW JERSEY	\$14,088,206	\$5,160,709	\$516,071
NEW MEXICO	\$3,195,121	\$1,879,901	\$187,990
NEW YORK	\$31,300,125	\$11,279,841	\$1,127,984
NORTH	\$14,696,622	\$5,460,983	\$546,098
NORTH DAKOTA	\$1,037,592	\$554,556	\$55,456
OHIO	\$18,598,869	\$6,223,825	\$622,383
OKLAHOMA	\$5,867,138	\$2,790,472	\$279,047
OREGON	\$6,078,218	\$2,251,312	\$225,131
PENNSYLVANIA	\$20,165,479	\$7,640,322	\$764,032
RHODE ISLAND	\$1,715,760	\$767,292	\$96,729
SOUTH CAROLINA	\$7,149,123	\$3,610,292	\$361,029
SOUTH DAKOTA	\$1,291,426	\$513,858	\$51,386
TENNESSEE	\$9,985,946	\$4,817,782	\$481,778
TEXAS	\$38,771,924	\$14,045,713	\$1,404,571
UTAH	\$4,290,617	\$1,557,034	\$155,703
VERMONT	\$1,007,649	\$630,419	\$63,042
VIRGINIA	\$12,497,267	\$3,943,036	\$394,304
WASHINGTON	\$10,491,519	\$3,538,816	\$353,882
WEST VIRGINIA	\$2,939,046	\$1,679,108	\$167,911
WISCONSIN	\$9,085,630	\$2,982,833	\$298,283
WYOMING	\$848,009	\$584,036	\$58,404

Justice Policy INSTITUTE

The Justice Policy Institute is dedicated to ending society's reliance on incarceration and promoting effective solutions to social problems.

This Briefing Book was produced, designed, and distributed by the Southern Poverty Law Center.

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On New Year's Eve 2003 in Douglasville, Georgia, GENARLOW WILSON, 17, and five friends engaged in CONSENSUAL oral sex with a 15-year-old girl at a party. The whole thing was video-taped. Wilson was CONVICTED and SENTENCED TO 10 YEARS IN PRISON for felony aggravated CHILD MOLESTATION, plus LIFETIME REGISTRATION AS A SEX OFFENDER. According to JURORS, the tape clearly showed that the 15-year-old girl involved in the oral sex episode had CONSENTED, but Georgia LAW AT THE TIME made any ORAL SEX with a partner under 16 a FELONY, REGARDLESS OF CONSENT. According to Marie Manigault, the jury forewoman in Wilson's case, "He DIDN'T do a single thing that was physically aggressive toward either of the girls, and he WASN'T vocally intimidating. This whole thing was a BUNCH OF KIDS who decided they wanted to try A, B, C and D and it got totally out of control. It was a night of stu-

Justice Policy

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