

Melissa Sweet

From: Kathleen Wilcox <wilcoxkathleen1@gmail.com>
Sent: Monday, May 4, 2020 1:36 PM
To: Melissa Sweet
Subject: Written Testimony for May 6 Judiciary Committee Hearing on HB 5679

Hello Ms. Sweet:

I had hoped the Judiciary Committee Hearing would be rescheduled this Wednesday in light of this serious health pandemic across our state so we could fully participate. Therefore, please share with committee members my written testimony. I also shared with Chairperson Filler in March 2020.

Thank you very much!

Kathleen Wilcox, Ph. D.

We are writing you on behalf of our nephew, Andy Frazier. As Andy's aunt, I am his legal guardian. We heard about the recent ruling by the Sixth Circuit Court of Appeals regarding Michigan's Sex Offender Registry Act (SORA). We would like to describe how this law and its punitive subsequent amendments have impacted Andy as well as our family. Currently, Andy is classified as a Tier Three offender. We appreciate the opportunity to share our experiences and believe Andy's story is unique and deserves consideration when crafting a new law in response to the court's ruling and we welcome the opportunity to have his conviction expunged.

Andy has lived with us since he was two, and he is now 34 years old. Both of his biological parents are cognitively impaired, and Andy also has an intellectual disability, being diagnosed as Microcephalic as an infant. Academically, he was classified as Educationally Mentally Impaired, Attention Deficit Disorder with Hyperactivity and Speech and Language Impaired. He received appropriate educational services throughout his entire school years.

Andy continues to require ongoing support and guidance for financial, medical, and everyday decisions. In fact, in a 2019 psychological evaluation for his ongoing guardianship, he was evaluated by a local psychologist. Andy continues to score *extremely low* on IQ tests including all sub-areas (memory, processing speed, comprehension, reasoning, etc.).

Nevertheless, with much academic and emotional support, Andy was able to graduate from DeWitt High School in 2003. However, given Andy's academic difficulties, we knew traditional college was not an option. Given Andy's passion for landscaping and lawn maintenance, we sought vocational training to secure his future substantial employment opportunities. We were thrilled when his high school counselor recommended MCTI, a state of Michigan owned and operated institution in Plainwell, MI. Mentally and physically challenged students are housed and receive vocational training at the school. At the age of 19, Andy attended MCTI beginning in January 2004.

Within a few months, in March 2004, Andy was dismissed from the facility. Incredulous, for Andy had never been in trouble before, we discovered that there were sexual allegations between Andy and some other young men on the school campus. We were not alerted until after Andy (without a parent or representation) was interviewed at the school and the local police department. Due to his cognitive limitations, Andy is highly suggestible and easily manipulated.

Nevertheless, criminal sexual conduct charges were brought and based upon the recommendation of our attorney, Andy pleaded to attempted criminal sexual conduct felonies to avoid the stress and uncertainty of a jury trial. Andy was in jail for several months in the summer and fall of 2004 and placed upon the MI Sex Offenders Registry. He has lived at our DeWitt home since his release.

For the past 16 years, Andy has faithfully complied, registered and paid all SORA registration fees. Yet, the obligations have continually changed with new amendments in 2006 and 2011. In 2011, he was arbitrarily moved to the Tier III level and with that horrendous distinction, his previous 25-year registry requirement was extended to a lifetime obligation. This new requirement was applied retroactively, without any inquiry, evidence or explanation into Andy's background and current behaviors. There was no individualized determination about the risk level or whether a lifetime registration was warranted...which given Andy's behavior these past 16 years, it is not. Andy is not dangerous yet there is no mechanism that would allow him to have his registration obligation eliminated or reduced.

In addition, he has struggled mightily to locate substantial gainful employment due to his intellectual disability and his placement on the registry. It has been an enormous burden to ensure that any job we have been able to secure for him did not violate safety zones. A few years ago he was the victim of an employer who took financial advantage of him given his several limitations. Yet, Andy had no recourse for it takes so long to locate any maintenance/custodian position that he can perform satisfactorily and adhere to the letter of the law. Hence, as a family, we have suffered great emotional and financial hardship because of his placement on the registry.

We have contacted several MI legislative/executive officials over the years who seemed sympathetic but offered no practical solutions to reconsider Andy's placement or reduce his time on the registry. Andy's record has been pristine over these past 16 years. Nevertheless, neighbors who used to have Andy mow and remove snow from their driveways have inquired about his name on the registry and he has lost many opportunities for work. We are very aware his placement on the registry has severed neighborhood relationships creating a sense of shame for all his family members who have done absolutely nothing wrong. This SORA has deemed the registrants as "moral lepers" and is in fact, a death sentence to innocent family members.

We are hopeful that Andy will be removed from the registry, given the length of time on the registry and his spotless record. He has proven himself to be a compliant and a responsible citizen and has obeyed all laws. Several areas of the registry are unconstitutional and offer no due process or evidence-based practices. For example, Andy was to register for 25 years originally and now arbitrarily, it has been revised to a lifelong registration without a shred of evidence to support this change.

As legislators grapple with revising this law and creating a fairer and evidence-based system, we are hopeful you will consider individuals such as Andy. As a family, we have lived in chronic fear and anxiety these past 16 years of Andy keeping all facets of the SORA mandate impeccably. We ask you keep in mind individuals such as Andy when crafting a new law and look forward to the opportunity to have his conviction expunged. Moreover, we hope you are mindful unconstitutional and over-zealous lifelong sentences do nothing to protect the greater public and essentially ruin citizens' lives.

Sincerely,

James & Kathleen Wilcox, Ph. D

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