

Dear Michigan House Judiciary Committee Member,

I am a Professor Emeritus of Law at the University of Detroit Mercy School of Law. I taught law school classes related to litigation and legal ethics for 44 years. My recently published book,

Caught in the Web of the Criminal Justice System, published by Jessica Kingsley Publishers reflects my interest in the subject of Sex Registrant Laws. My co-author on that book, Dr. Emily Howowitz is a national expert on this subject.

My understanding is that on May 6 the House Judiciary Committee will be undertaking a review of House Bill 5679. Since it would be against the Governor's Order to leave my home, I would like to make some comments about this proposed bill in this email and before this Committee at a later date.

The reason this bill needs to be amended is due to federal litigation that led to the 6th Federal Circuit Court of Appeals in *Does, et al. v. Snyder, et al* holding the existing Michigan Sex Offender Law to be punitive. This meant that the Sex Offender Statute could only be applied prospectively to those who committed their offense after the passage of the law - and not those who committed their offense before the law was enacted. The reason was that the Ex Post Facto provision of the Constitution prevents a person from being punished by a law enacted after the person committed his/her crime. In addition, there were other more specific reasons for invalidating portions of this law held by the U.S. District Court Judge.

I am attaching a copy of the Federal Court of Appeals decision and some recent editorials. Please read it. You will see that Judge Batchelder, a prominent conservative jurist who is greatly respected, had very harsh words for the injustices caused by this statute on the lives of registrants. Remember, those on the registry have already served their debt to society. Should they be forever be unable to rehabilitate themselves and live a law abiding life? The Sex Offender Registry prevents that from happening. The Court of Appeals stated:

"A regulatory regime that severely restricts where people can live, work and loiter, that categorizes them into tiers ostensibly corresponding to present dangerousness without any individualized assessment thereof, and that requires time-consuming and cumbersome in-person reporting, all supported by -at best- scant evidence that such restrictions serve the professed purpose of keeping Michigan communities safe...SORA (This Law) brands registrants as moral lepers solely on the basis of a prior conviction. It consigns them to years, if not a lifetime, of existence on the margins, not only of society, but often, as the record in this case makes painfully evident from their own families, with whom, due to school zone restrictions, they may not even live. It directly regulates where registrants may go in their daily lives and compels them to interrupt those lives with great frequency in order to appear in person before law enforcement to report even minor changes to their information."

In reading the language of the Court, it is crucial to weigh the burdens placed on the over 40 thousand registrants and their families with the fact that there are no quantifiable benefits to society. In fact the only "benefit" is creating the appearance that lawmakers care about children. Keep in mind the Court made these statements after reading a lengthy trial record which presented substantial testimony from many different types of highly qualified and credible experts whose testimony was not seriously questioned.

If the legislature reviews the research, it will become apparent that the Sex Offender Registry has significant and adverse consequences on over 200,000 Michigan residents including those directly on the registry and those who are deemed collateral damage from the law, e.g., spouses, parents, children, and relatives of the registrants.

Please look beyond the political gains of a law that harms many Michigan residents without in any way protecting children. I strongly believe in having laws that protect children. This law doesn't meet that objective.

If you look at the registry laws that have been enacted, you will notice that no meaningful debate has occurred prior to the passage of these laws. I hope a debate over HB 5679 will occur. One fact to be learned is that those convicted of a sex crime are the least likely to recidivate when compared to any other class of crimes.

I would like the opportunity to appear before this Committee to discuss this proposed law at a later date and therefore request a postponement of hearings on HB 5679.

Sincerely,,

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Professor Emeritus of Law

University of Detroit Mercy.

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