

IMPOUNDED

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

MIDDLESEX COUNTY

NO. SJC-12790

COMMONWEALTH
Appellee

v.

JUVENILE
Appellant

BRIEF OF MICHAEL CALDWELL, PSY.D., UNIVERSITY OF
WISCONSIN AND
ELIZABETH LETOURNEAU PH.D., JOHNS HOPKINS
BLOOMBERG SCHOOL OF PUBLIC HEALTH, ET AL.
AS AMICI CURIAE

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INTEREST OF AMICI CURIAE

Michael F. Caldwell, Psy.D, author of the most comprehensive national studies on youth sexual recidivism, is Senior Staff Psychologist at the Mendota Youth Treatment Center in Madison and Senior Lecturer in psychology at the University of Wisconsin in Madison. Dr. Caldwell has published over 40 peer-reviewed articles and book chapters related to risk assessment and treatment of violent adolescent delinquents and adolescent sexual offenders.

Elizabeth J. Letourneau, Ph.D, is a nationally and internationally recognized expert on child sexual abuse prevention whose work is published in more than 100 research-based articles and chapters in leading journals and high-impact books. Dr. Letourneau is the founding director of the Moore Center for the Prevention of Child Sexual Abuse, Johns Hopkins Bloomberg School of Public Health. She has served as a governor-appointed member of Maryland's State Council on Child Abuse and Neglect, member of the World Health Organization Group to develop guidelines for responding to the sexual abuse of children and adolescents, and currently serves on the National

Academy of Sciences' Forum on Global Violence Prevention.

Pathways for Change, Inc. (Pathways) is a victim advocacy agency and one of the leading rape crisis centers in Massachusetts. Pathways provides assistance in the aftermath of sexual violence while at the same time building community competency to prevent such violence.

The **Massachusetts Society for a World Free of Sexual Harm by Youth (MASOC Inc.)** is a professional organization whose mission is to ensure that children and adolescents displaying problematic or abusive sexual behaviors are provided with the necessary resources, supports, and evidenced-based interventions to ensure healthy, safe and productive lives.

The **Association for the Treatment of Sexual Abusers (ATSA)** is a non-profit, international, multi-disciplinary professional association of more than 3,000 specialists dedicated to the research and prevention of sexual abuse and sexual violence.

The **Massachusetts Association for the Treatment of Sexual Abusers (MATSA)** is a non-profit, professional organization whose specific focus is on

the prevention of sexual abuse through the effective treatment and management of sex offenders.

Frank DiCataldo, Ph.D., is Professor of Psychology at Roger Williams University and the current Chair of the Certified Youth Court Clinician Committee for the Massachusetts Department of Mental Health. Dr. DiCataldo is the author of *Perversion of Youth: The Assessment and Treatment of Youth Sexual Offenders* (2009).

Robert Kinscherff, Ph.D, J.D., is a clinical/forensic psychologist and attorney. He serves as Professor at William James College (Doctoral Clinical Psychology Program) and Associate Project Director (Juvenile and Young Adult Justice) for the Center for Law, Brain & Behavior at MGH. Dr. Kinscherff is the former Director of Juvenile Court Clinic Services for the MA Trial Court and Assistant Commissioner for Forensic Mental Health for MA Department of Mental Health. He was a Member (subject matter expert with adolescents) for the MA legislative Commission on Sexual Offender Recidivism. He has published extensively on issues regarding youth sex offenders.

Raymond A. Knight, Ph.D., is Professor Emeritus of Human Relations at Brandeis University. Dr. Knight

has been doing research on sexual aggression for more than four decades and has published more than 150 articles in professional journals.

Tom Leversee, LICSW is a nationally recognized expert on the prevention, treatment and supervision of youths with problematic sexual behavior. He is a member of the Colorado State Sex Offender Management Board.

Phil Rich, Ed.D, LICSW, has 20 years of experience in the assessment and treatment of youth with sexually problematic behavior. He is a member of the advisory board for the Department of Justice Sex Offender Management and Assessment Planning Initiative, the outgoing Chair of ATSA's Juvenile Practice Committee, and the author of several books and multiple chapters and articles addressing the evaluation and treatment of adolescents who have engaged in sexually abusive behavior.

Ryan T. Shields, Ph.D., is an assistant professor in the School of Criminology and Justice Studies at the University of Massachusetts Lowell. His published work has examined policies aimed at youth with problematic sexual behavior.

Each of the above-referenced *amici* is committed to the prevention of sexual abuse. *Amici* submit this brief to describe how the scientific findings of the research community do not support the inclusion of youth on sex offender registries.

DECLARATION PURSUANT TO MASS. R. APP. P. 17(c)5

No party, party's counsel, or person or entity other than amici curiae and its counsel, authored this brief in whole or in part, or contributed money intended to fund its preparation or submission. Neither amici curiae nor its counsel contributed money intended to fund preparing or submitting the brief. Neither amici curiae nor its counsel has either represented any of the parties to this appeal in another proceeding involving similar issues, or been or represented a party in a proceeding or legal transaction at issue in the present appeal.

SUMMARY OF ARGUMENT

Registering youth as "sex offenders" inhibits their growth and development and fails to enhance public safety. This is especially true because young people are inherently unlikely to reoffend sexually. Uncontradicted research shows that 97 percent of youth

who were adjudicated for a sexual offense did not recidivate, even when they were initially evaluated as high risk. (Pp. 15-17)

Identifying this small group of young people who are likely to reoffend is almost impossible. Risk assessment methods capable of accurately identifying adolescents at risk for sexual recidivism simply do not exist, nor have any risk factors been identified that reliably predict recidivism in this population. In fact, studies have shown no significant difference between the sexual recidivism of youth required to register as "sex offenders" and those with no history of sexual misconduct. Registration and notification of youth fail to produce the outcomes intended by registry laws, namely the reduction of sexual recidivism. (Pp. 18-25)

Registration has a "scarlet letter" effect, increasing the risk of a young person on the registry of being charged with, but not convicted of, new offenses. Youth labeled as sex offenders are more likely to become targets of sexual abuse by adults and to suffer from depression, anxiety and harassment. Registered youths are **four** times more likely to attempt suicide than their peers. At the same time,

youth are remarkably responsive to treatment.

Sexually problematic behavior in adolescence should be addressed by evidence-based interventions rather than by registration as a sex offender. Registration and notification fail to support victims, fail to prevent harm, and fail to improve public safety. (Pp. 25-42)

**I. Sexual Recidivism Rates for Youth
who Sexually Offend are Low.**

As a group, youth adjudicated or convicted of sex crimes have been found to pose a very low risk to sexually reoffend, particularly as they age into young adulthood. Studies conducted during the past 15 years have reported an average sexual recidivism rate of 2.75% over 5 years. **That is, more than 97% of youth who were adjudicated for sex crimes did not reoffend with new sex crimes.** This figure is definitive and aligns with Letourneau and colleagues' research utilizing data on more than 1,200 male youth adjudicated for sex crimes in South Carolina. Letourneau, Bandyopadhyay, Sinha & Armstrong, The Influence of Sex Offender Registration on Juvenile Sexual Recidivism, 20 Criminal Justice Policy Review, 136-153 (2009) (hereinafter "Letourneau et al., 2009"). The rate of new adjudications or convictions

for sex crimes in that study was just 2.5% across an average 9-year follow-up period.

The most extensive review of adolescent sex offender recidivism rates reviewed 106 studies involving 33,783 youth and found an average sexual recidivism rate of 4.92% over an average 5-year follow-up. Caldwell, Quantifying the Decline in Juvenile Sexual Recidivism, 22(4) Psychology, Public Policy and Law 414-426 (2016), <https://doi.org/10.1037/law0000094> (hereinafter "Caldwell, 2016"). The Caldwell 2016 study also documented a 73% decline in adolescent sexual recidivism over the past 30 years.

Many people will argue, correctly, that sexual offense reconviction rates do not account for all sexual offenses, because many sexual offenses are not reported. Although reconviction rates will not identify all sexual reoffense *incidents*, or even all sexual offense victims, they will identify the majority of sexual *reoffenders*. This is true for two reasons: First, adolescents who were once caught and adjudicated of a sex crime are unlikely to be highly skilled at evading detection for a second one. Second, it only takes one disclosure to identify a

reoffender. With a sufficiently long follow-up period (most experts recommend at least 3 years), the likelihood that at least one victim or bystander will come forward increases, thereby increasing the validity of recidivism research findings.

When rare sexual recidivism events do occur, it is nearly always within the first few years following the original adjudication (or release from secure confinement). Moreover, even youth initially evaluated as "high risk" are unlikely to reoffend, particularly if they remain free of offending within the first few years following initial adjudication (or release from secure confinement). Thus, it is *recent* past behavior that best predicts future behavior and not merely any past behavior. Perhaps surprisingly, but again based on thousands of cases, after about three years and in the absence of new sexual offenses, the fact that a youth once engaged in problematic sexual behavior no longer predicts doing so again in the future. Caldwell, Sexual Offense Adjudication and Recidivism Among Juvenile Offenders, 19(2) Sexual Abuse: A Journal of Research and Treatment 107-113 (2007) (hereinafter "Caldwell, 2007"); Letourneau et al., 2009.

**II. It is Extremely Difficult to Identify
the Small Subgroup of Adolescents who
Will Reoffend.**

Adolescents who sexually abuse have more in common with other adolescents who engage in other types of criminal behavior than with adult sex offenders. The major difference between these teens and other teens is that they are more likely to themselves have been sexually abused. Seto & Lalumiere, What is so Special about Male Adolescent Sexual Offending? A Review and Test of Explanations Through Meta-analysis, 136 Psychological Bulletin 526-575 (2010) (hereinafter "Seto & Lalumiere, 2010"). For example, youth with sex crime adjudications were no more likely to sustain new sex crime charges or convictions than youth with assault adjudications or youth with robbery adjudications. Letourneau et al., 2009. That is, the sexual reoffense rates of these three groups did not differ in a meaningful or statistically significant manner. Likewise, another study indicated that the risk of sexual recidivism was statistically similar for youth being treated in a residential facility for either sexual or nonsexual delinquent offenses. Caldwell, 2007. A subsequent

study found no significant difference in new sexual offense charges between youth adjudicated for a sexual offense and subject to registration and a group of similar youth who had no history of sexual misconduct. Caldwell, Zempke & Vitacco, An Examination of the Sex Offender Registration and Notification Act as Applied to Juveniles: Evaluating the Ability to Predict Sexual Recidivism, 14(2) Psychology, Public Policy, and Law, 89-114 (2008) (hereinafter "Caldwell et al., 2008"). Thus, distinguishing between youth likely to sexually reoffend or not involves more than simply knowing that a youth has a history of such offending.

A substantial body of research has attempted to identify specific and stable factors that will identify the very small percentage of youth sexual offenders who are at high risk of sexual recidivism. The most common finding is that there is no significant relationship between specific risk factors and youth sexual recidivism. **The extant research has not identified any stable, offense-based risk factors that reliably predict sexual recidivism in adolescents.** Caldwell, 2016. In addition, despite diligent and concerted efforts, researchers have failed to produce a valid and reliable risk-assessment

method that can identify youth who pose a significant risk of sexual recidivism. A recent National Institute of Justice solicitation for research proposals in this area noted "the [available] instruments do not perform in a manner that suggests or shows their ability to predict youth sexual recidivism accurately" and concluded "[t]here is a lack of consistent, independently corroborated empirical evidence concerning both the inter-rater reliability and predictive validity of youth risk assessments available for use at this time." Basic Scientific Research to Assess Youth with Sexual Offending Eligibility, United States Department of Justice, 2013, <https://nij.ojp.gov/sites/g/files/xyckuh171/files/media/document/NIJ-2013-3614.pdf>. **As a result, there are no risk assessment methods that can accurately identify those adolescents who are at risk for sexual recidivism.**

III. Guidelines for Classifying Youth Recidivism Risk are Flawed.

Numerous researchers have demonstrated that federal standards for youth sex offender registration fail to distinguish between youth who will reoffend or

not. Batastini, Hunt, Present-Koller & DeMatteo, Federal Standards for Community Registration of Juvenile Sex Offenders: An Evaluation of Risk Prediction and Future Implications, 17(3) Psychology, Public Policy, and Law, 471-474 (2011) (hereinafter "Batastini et al."); Caldwell et al., 2008. Similarly, state-specific standards for establishing youth registration requirements in New Jersey, Texas, and Wisconsin do not distinguish youth who will reoffend from those who will not. Caldwell & Dickinson, Sex Offender Registration and Recidivism Risk in Juvenile Sexual Offenders, 27 Criminal Justice and Behavior 1 (2009) (hereinafter "Caldwell & Dickinson, 2009"); Caldwell et al., 2008. The basis for these federal and state policy failures might lie, in part, with the low sexual recidivism rate of youth adjudicated for sex offenses and policy failures to correctly distinguish between youth risk levels. Caldwell, What We Do Not Know About Juvenile Sexual Reoffense Risk, 7 Child Maltreatment 291 (2002) (hereinafter "Caldwell, 2002"); Letourneau & Miner, Juvenile Sex Offenders: A Case Against the Legal and Clinical Status Quo, 17 Sexual Abuse: A Journal of Research and Treatment, 313-331 (2005),

<https://doi.org/10.1177/107906320501700304>; Vandiver,
A Prospective Analysis of Juvenile Male Sex Offenders:
Characteristics and Recidivism Rates as Adults, 21
Journal of Interpersonal Violence, 673-688 (2006),
<http://dx.doi.org/10.1177/0886260506287113>.

In one study Caldwell and his colleague studied general risk and recidivism patterns among 172 adolescents who had been adjudicated for a sexual offense, 66 of whom were required to register and 106 who were not. Caldwell & Dickinson, 2009. The results showed that the factors that predicted which youth had been required to register were associated with lower reoffense rates for general, violent and sexual offenses. Thus, the registration criteria failed to identify higher risk youth.

IV. Youth Sex Offender Registration and Notification Policies Fail to Enhance Public Safety.

Youth sex offender registration and notification policies fail to improve or enhance public safety in any way. Modern registration policies were implemented in the 1990s to improve public safety from the threat posed by adult sexual offenders at high risk of recidivism. There are two principal ways in which registration policies might improve public

safety. First, these policies could be associated with reduced sexual recidivism rates. Second, these policies could be associated with deterrence (or primary prevention) of first-time sex crimes. Neither is true when it comes to youth registration.

A. Registration and notification fail to reduce youth sexual or violent recidivism rates.

Five studies examine the impact of federal and state youth registration policies on sexual and violent recidivism. None of these studies found that state registration policies when applied to adolescents resulted in reduced sexual or violent recidivism rates.

Using youth and criminal justice data from South Carolina, Letourneau and Armstrong compared the reoffense rates of 111 registered youth with 111 nonregistered youth who were matched on type of index sexual offense and the year that offense occurred, age at index offense, race, and prior violent and nonviolent offenses. Letourneau & Armstrong, Recidivism Rates for Registered and Nonregistered Juvenile Sexual Offenders, 20 Sexual Abuse: A Journal of Research and Treatment, 393-408 (2008). These two groups were as similar as possible except for the fact

that one group was subjected to registration and notification requirements and the other group was not. Over an average 4-year follow-up period, the sexual offense reconviction rate was less than 1%. There were only two sexual recidivism events for these 222 youth, with no differences between groups. Likewise the groups did not differ on nonsexual recidivism rates. Thus, registration and notification were not associated with reduced sexual or nonsexual recidivism.

In a subsequent study, Letourneau and colleagues examined the recidivism rates of all male youth with sexual crime adjudications in South Carolina between 1991 and 2004 (sample size = 1,275), across an average 9-year follow-up period (Letourneau et al., 2009). This study is important because the investigators studied the entire *population* of male youth offenders, and not a subsample. Population-level research carries more weight in science because it avoids problematic selection effects. The investigators used survival analysis to examine factors that might have influenced recidivism rates, including whether or not the youth was registered. Registration was not associated with reduced sexual or nonsexual

recidivism. Rather, results indicated that being registered increased the risk of youth being *charged with*, but not convicted of, new offenses. This is an interesting pattern of findings. It suggests that adults viewed registered youth as more dangerous than nonregistered youth and were more likely to report registered youth for behaviors that ultimately were not deemed criminal. The investigators interpreted this pattern of results as indicating that registration exerts a surveillance or "scarlet letter" effect on youth, subjecting them to greater scrutiny even when their behavior is fundamentally the same as nonregistered youth.

A third study used data from 108 youth adjudicated for sex crimes in Pennsylvania. Batastini et al. Batastini and colleagues reported a sexual reoffense rate of less than 2% across a 2-year follow-up. Moreover, these researchers examined the federal Adam Walsh Act system of placing offenders (including adolescents) into one of three tiers, which are supposed to indicate lower, medium, and higher recidivism risk. Batastini and colleagues found that children who met federal "Tier III" sex offender registration and notification requirements (that is,

youth purported to be highest risk for reoffending) were no more likely to reoffend than youth who did not meet federal tier III requirements.

A fourth study used data from 172 youth adjudicated for sex crimes in Wisconsin. Caldwell & Dickinson, 2009. These investigators reported no differences in the recidivism rates for registered and unregistered youth across a 4-year follow-up period.

A fifth study used data from 91 youth adjudicated for sex crimes and 174 youth adjudicated for violent non-sex crimes. Caldwell et al, 2008. Caldwell and colleagues found that neither the federal tier designations nor the state risk measures from three states - New Jersey, Texas, and Wisconsin - accurately distinguished between youth who sexually reoffended and youth who did not. In fact, youth whose initial offense was violent but nonsexual were just as likely to commit a future sexual offense as youth whose initial offense was sexual.

B. Registration and notification fail to prevent first-time sex crimes by youth.

Registration clearly fails to produce the principal outcome it is intended to produce: reduced sexual recidivism. The only other way registration

and notification policies could improve public safety is if they exerted a general deterrence or primary prevention effect. That is, these policies could, conceivably, reduce the likelihood that a youth would commit a sexual offense in the first place. They do not. A series of studies by Letourneau and colleagues evaluated the effects of registration on the prevention or deterrence of first-time sex crimes and found no evidence supporting this effect.

Their first study used data from the entire population of first-time youth sexual offenses in South Carolina, including more than 3,000 youth sexual offense cases from 1991 through 2004. Letourneau, Bandyopadhyay, Armstrong & Sinha, Do Sex Offender Registration and Notification Requirements Deter Juvenile Sex Crimes? 37 Criminal Justice and Behavior, 553-569 (2010) (hereinafter "Letourneau et al., 2010"). They compared first-time sex crime rates for the years prior to implementation of South Carolina's youth registration and notification policy (1991-1994) and the years following policy implementation (1995-2004). There was no evidence that these policies exerted any general deterrence/primary prevention effects. Specifically, after the registration and

notification policy was enacted, there was no significant change in the likelihood that a youth would commit an initial sexual offense.

A second study used national data on tens of thousands of youth sex crime reports from four states - Idaho, South Carolina, Utah, and Virginia. Sandler, Letourneau, Vandiver, Shields & Chaffin, Juvenile Sexual Crime Reporting Rates are not Influenced by Juvenile Sex Offender Registration Policies. 23 Psychology, Public Policy and the Law, 131 (2017) (hereinafter "Sandler et al."). In this study, Letourneau and colleagues compared rates of reports of youth sex crimes prior to versus following policy implementation and again found no evidence for a general deterrence/primary prevention effect of these policies.

In their most recent study, Letourneau and colleagues used data from the entire population of first-time youth sex crime charges or adjudications in Oregon and in Maryland. Letourneau, Shields, Nair, Kahn, Sandler & Vandiver, Juvenile Registration and Notification Policies Fail to Prevent First-time Sexual Offenses: An Extension of Findings to Two New States, 30 Criminal Justice Policy Review 7 (2018).

Data included nearly 19,000 youth charged with sex crimes and more than 7,000 youths adjudicated for sex crimes from these two states. Rates of first-time sex crimes did not decline in either state following implementation of youth registration and notification policies, indicating no deterrent or preventive effects.

In summary, the entire available body of published research fails to support any public safety effect of registration and notification on sexual recidivism or first-time sex crimes. This research includes empirically and methodologically rigorous evaluations of the federal Adam Walsh Act tiering system and the registration and notification policies of eight states; it comprises tens of thousands of youth sex crime cases. Despite variation between federal and state policies and despite examining policy effects on three different outcome effects (sex crime reports, charges, adjudications/convictions), results were completely consistent across studies: Youth sex offender registration and notification are failed policies that do nothing to improve public safety.

V. Sex offender registration and notification policies are associated with severe harm to youth on the registry.

There is a growing evidence base that youth sex offender registration and public notification requirements are associated with significant harmful consequences for youth and their families. These harms include increased risk of unwarranted charges; increased risk for mental health problems and problems with peers, school, and living stability; and increased risk for suicide attempts and for sexual assault victimization. As described in detail below, subjecting youth to registration and notification requirements is associated with increased risk of those youth being sexually assaulted. Thus, youth registration and notification policies are associated with the very type of harm they were supposed to prevent.

A. Registration and notification of youth increase their risk of sustaining new nonviolent charges.

Registered youth are more visible to law enforcement, and in some instances the public, which makes them more likely to be arrested. Letourneau and colleagues found that South Carolina's registration and notification policy was associated with increased

risk of new charges but not new convictions, particularly for nonviolent offenses. Letourneau et al., 2009. Specifically, registered youth were significantly more likely than nonregistered youth to be charged with relatively minor misdemeanor offenses (e.g., public order offenses). Although it is possible that the burdens related to registration actually increase youth misbehavior, it is more likely that this increase in the detection of low-level delinquent behavior reflects a surveillance or scarlet letter effect. That is, youth who are known as “registered sex offenders” are likely to be viewed (inaccurately) as more dangerous than youth with the same history of sexual offending but without the registration label. This perception may cause members of the public to report registered youth and/or law enforcement agents to arrest registered youth for behaviors that do not trigger reports or arrests of nonregistered youth engaged in the same behaviors and that ultimately do not result in new convictions.

Requiring youth to register annually or more frequently with law enforcement has significant negative consequences for youth and is not merely inconvenient.

The process of identifying oneself as a registered sex offender and of being arrested and possibly charged with new offenses due in part to this label seems likely to cause registered youth to view themselves as "delinquent" even when they are law-abiding. Ample evidence indicates that youth who view themselves as delinquent or outside the mainstream are less likely to change patterns of offending behavior. Policies that promote youth's concepts of themselves as lifetime sex offenders will likely interrupt the development of a healthy self-identity as a valued member of society. Chaffin, Our Minds are Made Up - Don't Confuse us with the Facts: Commentary on Policies Concerning Children with Sexual Behavior Problems and Juvenile Sex Offenders, 13 Child Maltreatment, 110-121 (2008).

B. Registration and notification of youth has been shown to increase their risk for attempting suicide, being approached by adults for sex, and being victims of sexual assault.

According to treatment providers across the nation, youth subjected to registration or notification are much more likely than their peers to experience negative mental health outcomes, harassment from peers and adults, difficulty in school, and

trouble maintaining stable housing. All of these effects - increased depression and anxiety, verbal and physical harassment, problems concentrating in school, and frequent disruptions caused by having to change caregivers - are known to negatively impact the educational attainment of adolescents. Letourneau, Harris, Shields, Walfield, Buckman, Kahn & Nair, Effects of Juvenile Sex Offender Registration on Adolescent Well-Being: An Empirical Examination, 24 Psychology, Public Policy and Law 105-117 (2018), <https://doi.org/10.1037/law0000155> (hereinafter "Letourneau et al., 2018") (Survey of 265 front-line practitioners in 48 states who provide mental health services to youth adjudicated or reported for sexual offending).

It is no surprise that those who have committed sexual offenses are perceived as the worst of the worst offenders. Registration purposely signals to others that an individual is especially dangerous, even if the registrant is a minor child. Accordingly, reactions to youth labeled as registered sex offenders can be severe. For example, there are reports of adolescents who committed suicide after being threatened with registration and reports of registered

youth who were verbally harassed, physically assaulted, and targeted by gunfire. Raised on the Registry: The Irreparable Harm of Placing Youth on Sex Offender Registries in the United States, Human Rights Watch (2013),

<https://www.hrw.org/report/2013/05/01/raised-registry/irreparable-harm-placing-children-sex-offender-registries-us>.

Letourneau and colleagues conducted the first empirically rigorous evaluation of the collateral consequences of registration on youth. They surveyed 251 male youth ages 12-17 years, all of whom were in treatment for problematic sexual behavior. Letourneau et al., 2018. These youth were recruited from 18 different states, and about 30% of them were subjected to registration policies. What they found was shocking. Compared to unregistered youth who were in treatment for problematic sexual behaviors, registered youth were:

- four times more likely to report having attempted suicide in the past 30 days. That is, they reported not only thinking about suicide more often, but actually **attempting to kill themselves**;
- five times more likely to report having been approached by an adult for sex in the past year; and

- twice as likely to report having sustained a hands-on sexual assault victimization in the past year.

In sum, Letourneau and colleagues found evidence that youth registration and notification is associated with the very type of harm it purports to prevent. It is difficult to imagine worse outcomes associated with a state policy for youth.

C. Families of registered youth also face significant collateral consequences.

Most adolescents sexually abuse other teens or children in their families or circle of friends. When the sexual abuse is within the family, registration and notification will also affect the child who has been victimized -- in essence notifying the entire community of their victimization. This unintended consequence adds harm to the victim's experiences and also puts families in the untenable position of trying to protect *both* children from family or community backlash.

In Michigan, investigators interviewed four parents whose children were listed on the state sex offender registry. Comartin, Kernsmith & Miles, Family Experiences of Young Adult Sex Offender Registration, 19 Journal of Child Sexual Abuse, 204

(2010). Parents reported feeling powerless to protect their children from harm and hopeless about the negative consequences of registration and notification on their children. They reported expending enormous resources trying to ensure their children's safety and help their children develop a positive self-identity despite the constant sex offender label. The shame and stigma of the label kept these young people from achieving their full potential, according to their parents. In particular, the shame and stigma increased the isolation of these youth, made it difficult to find and maintain employment, and increased their emotional and financial dependence upon their parents.

D. Other collateral consequences are triggered by downstream policies that affect only registrants.

Dozens of localities and states have enacted residence, education, and employment restrictions, limiting where registrants may live, work, and play. These effects are especially harmful to youth, who may be unable to return to school or may be removed from school when a parent calls to complain about the presence of a "registered child" in the school. Adolescents thrive when provided appropriately

monitored access to social, sporting, recreational, cultural and religious activities with peers. Registration and notification requirements limit and even remove access to these developmentally critical opportunities. Moreover, what is often overlooked is the fact that the sex offender's parents, cohabitants, neighborhood, and school are often effectively "registered" along with the youth, in that the addresses of registrants' housing, schools, and employment are often listed on the registry. The collateral damage to the parents and siblings of a registered youth is enormous.

**VI. Youth Convicted of Sex Crimes
are Responsive to Proven Treatments.**

Studies show that (1) adolescents with problematic behavior are remarkably responsive to treatment services, and (2) advances in appropriate treatment programming have produced methods that are highly effective at reducing illegal sexual behavior. These results can be put into perspective by comparing how effectively adolescent sex offender treatment programs prevent future sexual offending to the effectiveness of widely used medications for the prevention of heart attacks. The results of multiple

meta-analytic studies of the effectiveness of statin medications, the most widely prescribed non-psychotropic medications in the United States, have documented that the effectiveness of adolescent treatment programs is consistently greater than the effectiveness of statins on preventing heart attacks.

Chan, O'Rourke, Shen, Mark & Hung, Meta-Analysis of the Cardiovascular Benefits of Intensive Lipid Lowering with Statins, 124 *Acta Neurologica Scandinavica*, 188 (2011)

<https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1600-0404.2010.01450.x>; He & Vupputuri, Effect of Statins on Risk of Coronary Disease: A Meta-analysis of Randomized Controlled Trials, 282 *Journal of American Medical Association*, 2340 (1999)

[https://doi.org/10.1016/S1053-0770\(00\)70022-X](https://doi.org/10.1016/S1053-0770(00)70022-X);

Lingsma, Steyerberg, Scholte, et al., Treatment After a Recent TIA or Stroke: Is Effectiveness Shown in Randomized Clinical Trials Also Observed in Everyday Clinical Practice? 122 *Acta Neurologica Scandinavica*, 15-20 (2010).

<https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1600-0404.2009.01247.x>.

The effectiveness of treatment of adolescents adjudicated for sexual offenses has been studied using meta-analytic methods to combine the results of several other studies of treatment effectiveness to determine the overall effect of treatment. A limitation of this approach is the steady improvement in treatment approaches over recent decades, which means that studies that include older treatment methods likely underestimate the impact of more recent proven methods.

An early summary study completed by Reitzel and Carbonell examined the results from 9 studies with a combined sample of 2,986 youth adjudicated for sexual misconduct. Reitzel & Carbonell, *The Effectiveness of Sexual Offender Treatment for Juveniles as Measured by Recidivism: A Meta-analysis*, 18 *Sexual Abuse: A Journal of Research and Treatment*, 401 (2006). They found that every study yielded positive effects and the overall results indicated that treatment reduced the risk of sexual recidivism by more than 60%.

Other studies using a variety of methods have reported similar positive results for treatment effectiveness. St. Amand, Bard & Silovsky, *Meta-Analysis of Treatment for Child Sexual Behavior*

Problems: Practice Elements and Outcomes, 13 Child Maltreatment, 145 (2008); Walker, McGovern, Poey & Otis, Treatment Effectiveness for Male Adolescent Sexual Offenders: A Meta-analysis and Review, 13 Journal of Child Sexual Abuse, 281 (2004).

Silovsky and colleagues recently extended their intervention for child problem sexual behavior to adolescents with illegal sexual behavior. In a study involving 301 youth and their caregivers, Problem Sexual Behavior - Cognitive Behavioral Therapy ("PSB-CBT") resulted in significant reductions in parent-reported sexually abusive behaviors as well as reductions in non-sexual harmful behaviors and trauma symptoms. Silovsky, Hunger & Taylor, Impact of Early Intervention for Youth with Problematic Sexual Behaviors and their Caregivers, 25(1) Journal of Sexual Aggression, 4 (2019). Studies have also demonstrated that family-based community treatment (Multisystemic Therapy) can significantly reduce problematic sexual behavior in addition to a host of other negative outcomes. Borduin and his colleagues reported the results of a randomized clinical trial of a family-based community treatment compared to the usual community services. The youth were followed for

an average of 8.9 years following treatment. The rate of new sexual offenses was six times lower among the treated youth compared to the youth receiving generic community services. Borduin, Schaeffer & Heiblum, A Randomized Clinical Trial of Multisystemic Therapy With Juvenile Sexual Offenders: Effects on Youth Social Ecology and Criminal Activity, 77 Journal of Consulting and Clinical Psychology 26 (2009).

In a similar study, Letourneau and her colleagues reported the results of a randomized clinical trial of Multisystemic Therapy ("MST") provided to a group of 67 youth and their families compared to a group of 60 youth treated in the usual services. Both the youth and their caregivers reported that problematic sexual behaviors declined between 49% and 77% in the MST treatment program, compared to declines of 4% to 23% in problematic sexual behaviors in the comparison group. In addition, the treatment group significantly improved with respect to substance abuse problems, mental health symptoms, and general delinquency and required significantly fewer out-of-home placements. Letourneau, Henggeler, Borduin, Schewe, McCart, et al., Multisystemic Therapy for Juvenile Sex Offenders: 1-year Results from a Randomized Effectiveness Trial,

23 Journal of Family Psychology, 89 (2009). Both PSB-CBT and MST-PSB have been found to be clinically effective treatments for youth. Aos, Leib, Mayfield, Miller & Pennucci, Benefits and Costs of Prevention and Early Intervention Programs for Youth, Washington State Institute for Public Policy (2004).

CONCLUSION

In the professional opinions of the below-signed amici, and based on the research conducted by amici and others, amici find no scientific evidence that demonstrates any public safety benefit of subjecting youth to sex offender registration or notification requirements. There is no indication that subjecting youth to sex offender registration or notification schemes improves public safety. Moreover, significant harm is caused to the youth and their families as a result of these registration and notification policies.

Such laws are associated with the worst possible outcomes for youth, including increased suicide attempts, increased solicitations by adults for sex, and increased sexual assault victimization. Youth subjected to these policies face increased risk for other serious mental health problems, risks to their

physical safety, peer problems, and problems at school. The parents of youth subjected to these policies also indicate emotional distress and fear for the lives of their children, with good reason.

These risks are in no way offset by any improvement in public safety. Youth who engage in illegal sexual behavior are unlikely to repeat their offenses and are likely to respond well to evidence-based interventions. There is simply no good argument for subjecting them to registration and notification, and many arguments against such a decision.

Without question, it is important to recognize the harm caused to victims by such behaviors, and to ensure that such behaviors are not repeated. There are several well-validated, evidenced-based interventions for youth with problematic sexual behaviors. However, sex offender registration and notification are not among these effective interventions. Rather, sex offender registration and notification are failed policies that have been shown to be unnecessary, wasteful, and harmful. Youth who are labeled as sex offenders are at increased risk for the worst possible outcomes, including suicide and sexual predation by adults, and will face innumerable

barriers to successful prosocial development. None of this supports the recovery of victims or the prevention of harm. None of this improves public safety.

Respectfully submitted,

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January , 2020

CERTIFICATE OF COMPLIANCE

We, the undersigned, hereby certify that the foregoing brief complies with the rules of court that pertain to the filing of amicus briefs, including, but not limited to Mass.R.A.P. 17 (Amicus Briefs) and Mass.R.A.P. 20 (a)(2)(c) (Form and Length of Briefs). The brief is produced using the monospaced Courier New 12 font with 10 characters per inch, and contains 32 pages of non-excluded text.

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