



Key Quote

“The result, convincingly documented, is that these laws actually undermine public safety, the exact opposite of what lawmakers and the public so confidently assume they accomplish.”

Recidivism:

- Even accounting for low rates of reporting for sexual offenses, those convicted of a sex offense have some of the lowest recidivism rates compared to individuals convicted of a non-sex offense.
 - o This is also true for individuals convicted of sex offenses against children. Even after accounting for low reporting, research suggests recidivism rates for these offenses are as low as or lower than for other sex crimes.
- Sex offenses are “distinctively unsettling and injurious” justifying exceptional prevention efforts, but punishments like registration, public access, community notification, and residency restrictions conclusively do not reduce recidivism rates.
- Reduced reintegration, social support, stable living, steady employment, all undermines rehabilitative efforts and may actually increase registrant recidivism.

Community notification/Self-protection

- Public access to registry and community notification rarely leads individuals to take meaningful precautions to protect themselves.
- These systems create a false sense of security and divert attention from more significant sexual dangers, increasing risk to the public.
- Background checks serve as a sufficient check on schools, day-care centers, and other organizations that serve children or vulnerable populations.
 - o Background checks more reliable – registries omit non-sex criminal histories

Costs

- Registration laws expensive to implement. Including registry management, GPS monitoring, website technology, etc.
 - o Estimated to cost several millions of dollars per year to run and maintain a registry.
- Reduces available police resources for responding to emergencies and investigating crime.

Unintended consequences:

- Homelessness resulting from restricted housing
- Overbroad limits on employment and residency due to misunderstanding information from public registries.

Public perception/political will: Registries have overwhelming public support despite the evidence showing they are not effective, so a policy to abolish registries is unlikely in the foreseeable future.

Other Countries: Most Western Nations do have registries, but they are limited to use by law-enforcement agencies or very limited need-to-know access; they are not public.

Post-Conviction Reforms

Sex offense registries should be reserved exclusively for the use of law enforcement and community notifications should be prohibited.

- Provide locally relevant information police can't obtain from other criminal-history databases if a specific suspect is not yet identified.
- Registries help identify high-priority investigations of serious sex offenses.
- See Section 213.11H along with Annex to sections 213.11-213.11J
- Section 213.11I(3) bars proactive notification to community organizations and individuals in the area where a registrant resides, works, or studies in the area.

The number of offenses requiring registration should be restricted to offenses that "most strongly arouse public concern."

- This includes eliminating registration for nearly all juveniles
- Offenses qualifying for registration should include only:
 - o Sexual assault by aggravated physical force or restraint
 - o Sexual assault by physical force or restraint
 - o Sexual assault of an incapacitated or vulnerable person
 - o Aggravated offensive sexual contact when it involves the use of physical force, physical restraint, or an incapacitated or vulnerable victim
 - o Sexual assault of a minor, but only when the actor is more than 10 years older than the minor, or the actor is 18 or older and the minor is younger than 12
 - o Incestuous sexual assault of a minor but only when the minor is younger than 16
 - o Exploitative sexual assault of a minor
 - o Fondling a minor but only when the actor is more than 10 years older than the minor, or the actor is 18 or older and the minor is younger than 12
 - o Aggravated offensive sexual contact with a minor
 - o Sex trafficking.

Updating registry information: registrants should be able to update required information by email or other easily accessible means instead of requiring in person appearances.

Length of registration should be restricted.

- Limit of 15 years maximum for registration
- Provide for automatic termination prior to end date if registrant meets specified rehabilitative goals
- Allow registrants to apply for early removal with an "appropriate showing of rehabilitation."

Other "burdens" and restrictions directed specifically towards individuals convicted of a sex offense should be eliminated.

- Strong presumption against GPS monitoring, residency restrictions, limits on Internet access, etc.
- Restrictions permitted only on a case-by-case basis if risk assessment shows strong need for restrictions, "to an extent that outweighs its potential for costly, counterproductive, and criminogenic effects."

- Restrictions should be as narrow as possible to meet public safety needs.
- This applies both to courts and agencies who have authority to impose restrictions post conviction.
- Any terms of probation, parole, or post release supervision must be eligible for early relief.

Sentencing Recommendations

MPC echoes the newly adopted principles for assigning punishments to individual offenses in the Sentencing Articles of the Model Penal Code, Articles 6 and 7. These **four principles** are:

1. Punishments should be “within the range of severity proportionate to the gravity of offenses, the harms done to crime victims, and the blameworthiness of offenders.”
 - o Incarceration should be used only “when necessary to incapacitate dangerous offenders,” or “when other sanctions would depreciate the seriousness of the offense.”
 - o Sentence lengths “shall be no longer than needed to serve the purposes for which it is imposed.”
2. Punishment should, “when reasonably feasible, also serve utilitarian goals, such as offender rehabilitation, general deterrence, incapacitation of dangerous offenders, restitution to crime victims, preservation of families, and reintegration of offenders into the law-abiding society.”
3. Any individual sentence, “should be no more severe than necessary” to achieve the first two objectives.
4. Sentences should avoid criminogenic consequences.

MPC strictly recommends against: imposition of mandatory-minimum prison sentences for all offenses, general use life without parole sentences, permanent elimination of the right to vote, collateral consequences shown to be unnecessary and unduly burdensome.

MPC defines **seven offense classes** with associated maximum terms of incarceration:

- 1st degree felony: life imprisonment
- 2nd degree felony: 20 years
- 3rd degree felony: 10 years
- 4th degree felony: 5 years
- 5th degree felony: 3 years
- Misdemeanor: 1 year
- Petty misdemeanor: 6 months.

In determining the grading of offenses, the MPC notes:

“Article 213 must not permit a sentence that replicates the excesses current American penal practices. To do so would perpetuate the inequities, injustice, and inefficiency of the current system. Article 213 therefore must choose the path of restraint, and authorize less extreme maximums. But that approach must not be misunderstood. The recommended sentences are not intended to minimize the trauma and seriousness of sexual crimes. To the contrary, the penalties authorized for Article 213 are set at a level that fully accommodates the need for expressive condemnation, deterrence, incapacitation, and other appropriate goals, while also applying contemporary knowledge and experience, in order to ensure that

penalty provisions are framed with due regard for the oft-overlooked imperatives of parsimony and restraint.

One result of this approach, which is necessarily confined to Article 213, is that some of the sentences authorized for the sexual offenses may be less severe than the sentences a jurisdiction permits for equally serious non-sexual misconduct. The intention is not to depreciate the seriousness of these sexual offenses. Rather, the maximums authorized under Article 213 reflect the desire to recalibrate society's understanding of what constitutes a severe sanction. To the extent that a jurisdiction punishes equally serious conduct more severely, the penalties outlined in Article 213 should inspire reevaluation of the propriety of those severe sentences."

Article	Offense description	Recommended Felony Grade	Associated Max in Years	Associated Max in Months	Registration Requirements
213.1(2)	Sexual assault by enhanced aggravated physical force or restraint (deadly weapon, gang rape, causing SBI)	2	20 years	240	YES
213.1(1)	Sexual assault by aggravated physical force or restraint	3 (+5 years)	15 years	180	YES
213.2	Sexual assault by physical force or restraint	3	10 years	120	YES
213.3(1)	Sexual assault of an incapacitated person (sleeping, unconscious, drugged)	3	10 years	120	YES
213.3(2)	Sexual assault of a vulnerable person (mental disability, passing out, substantial incapacity, disrobed for professional services)	4	5 years	60	YES
213.3(3)	Sexual assault of a legally restricted person (custodial abuse)	5	3 years	36	NO
213.4	Sexual assault by extortion (coercive nonphysical threats)	4	5 years	60	NO
213.5	Sexual assault by prohibited deception	5	3 years	36	NO
213.6	Sexual assault in the absence of consent	5	3	36	NO
	Sexual assault in the absence of consent IF a) the other person has by words or actions expressly communicated unwillingness to perform the act or the act is so sudden they cannot adequately express unwillingness before the act occurs AND the actor is aware of, but disregards the risk that the aforementioned circumstances existed at the time.	4	5	60	NO

213.7(1)	Aggravated offensive sexual contact by physical force or restraint or by surreptitious incapacitation (physical force, drugging)	5	3 years	36	YES
213.7(2)	Offensive sexual contact	PM	6 months	6	NO
213.8(1)	Sexual assault of a minor when victim is younger than 16 and defendant is more than 5 years older than the other person.	5	3 years	36	YES if the actor is more than 10 years older than the minor OR at least 18 when the victim is a child younger than 12
213.8(1)	Sexual assault of a minor when victim is younger than 16 and defendant is more than 5 years older than the other person and 21 or older.	4	5 years	60	YES if the actor is more than 10 years older than the minor OR at least 18 when the victim is a child younger than 12
213.8(1)	Sexual assault of a minor when victim is younger than 12 and defendant is 21 or older.	3	10 years	120	YES
213.8(2)	Incestuous sexual assault of a minor	3	10 years	120	YES if the victim is younger than 16
213.8(3)	Exploitative sexual assault of a minor	5	3 years	36	YES
213.8(4)	Fondling a minor, when victim is younger than 12 and actor is more than 5 years older, or the victim is younger than 16 and actor is more than 7 years older.	5	3 years	36	YES if the actor is more than 10 years older than the minor OR at least 18 when the victim is a child younger than 12
213.8(4)	Fondling a minor, when the actor is 21 or older and the victim is younger than 12	4	5 years	60	YES if the actor is more than 10 years older than the minor OR at least 18 when the victim is a child younger than 12
213.8(5)	Aggravated offensive sexual contact with a minor	4	5 years	60	YES

213.8(6)	Offensive sexual contact with a minor when the victim is younger than 12 and the actor is more than 5 years older or the victim is younger than 16 and the actor is more than 7 years older.	M	1 year	12	NO
213.8(6)	Offensive sexual contact with a minor when the victim is younger than 12 and the actor is 21 or older.	5	3 years	36	NO
213.9	Sex trafficking	3	10 years	120	YES