

Remarks of

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The Adam Walsh Child Protection and Safety Act of 2006

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I'm pleased to be here to talk about a topic that is such a high priority for the Attorney General and for me and my office.

We're very pleased Congress enacted the Adam Walsh Child Protection and Safety Act of 2006, much of which was proposed by the Department of Justice. The Act strengthened our ability to deal with sex offenders at the federal, state, and local levels. I'm going to give an overview of some of the Act's most significant provisions.

One of the Act's provisions is an explicit statutory authorization of Project Safe Childhood. I won't go into detail about that provision now since the entire conference addresses it.

I'll focus on the portions of the Adam Walsh Act that involve the tracking, monitoring, and restraint of sex offenders. The provisions I'll outline fall into three general categories: First, the Act revised the national standards for state sex offender registration and notification programs. Second, it enacted complementary measures at the federal level to increase assistance to states in strengthening their registration systems and in enforcing registration requirements. Third, the Act authorizes other types of sex offender monitoring or restraint, including civil commitment.

National standards for sex offender registration and notification have existed since the Wetterling Act was enacted in 1994. [42 U.S.C. 14071] These standards have provided a national baseline for sex offender registration programs in all of the states.

Congress enacted many incremental changes to these standards since 1994, but the Adam Walsh Act went back to the drawing board and created a comprehensive new set of stronger standards that provide more nationwide consistency and eliminate gaps and loopholes. These improvements fall into five areas:

First, the Act fills gaps in the jurisdictions in which registration of sex offenders is required. The new standards require sex offenders to register in the jurisdictions in which they reside, are employed, or attend school [§ 113(a)]. The old standards were less consistent about registration in non-residence jurisdictions.

In addition, the old standards did not address registration in tribal jurisdictions, creating a risk that tribal authorities and communities would be unaware of sex offenders living in their midst, and that sex offenders convicted in other jurisdictions could evade registration requirements by moving into Native American communities. The Walsh Act fills this gap by providing for registration of sex offenders either directly by tribal authorities, or, if the tribe chooses, by arrangements with or delegation to the states in which the tribes are located. [§ 127]

Second, the new standards are more consistent about the crimes for which registration is required. For example, the old standards did not require registration based on child pornography

possession and generally did not require registration for attempted (but not completed) sexual assaults. The new standards do require registration for persons convicted of such crimes. [§ 111(5)-(8)]

Third, the Act changed the requirements for the duration of registration. The old standards required a minimum of 10 years of registration, and lifetime registration for persons convicted of the most serious sexually assaultive crimes and recidivists. The new standards require registration for 15 years, 25 years, or life, depending on the seriousness of the offense and whether the offender is a recidivist. [§ 115]

Fourth, the old Wetterling Act standards required periodic verification that a registered sex offender continues to live at the registered address, but did not require face-to-face contact between sex offenders and the officials responsible for their tracking after the initial registration. The new standards require that sex offenders periodically appear in person to verify and update their registration information. [§ 116]

Fifth, the new law requires states to keep more extensive information about registrants and promotes more sharing and dissemination of this information among jurisdictions and to the public. For example, under most circumstances, states will be required to post information about registrants on the states' public sex offender websites, and the websites will be required to allow searches by criteria such as name, zip code, municipality, and geographic radius. [§ 118] A user will be able to access information from all these state websites through the new National Sex Offender Public Website [www.nsopr.gov] maintained by the Justice Department. [§ 120] In comparison, the old standards required that states maintain publicly accessible sex offender websites, but provided no minimum requirements about the classes of sex offenders for whom information should be posted or how the information could be searched.

The Act gives the states three years to implement the new standards, with the possibility of up to two one-year extensions from the Attorney General. Since many states went beyond the minimum required by the old standards, some of the new features of the Act will already be implemented in some jurisdictions. In others, more extensive changes will be required. The overall effect will be more effective tracking of sex offenders and better availability of information to law enforcement and the public.

The Adam Walsh Act also included new requirements at the federal level:

The Act establishes a new office in the Justice Department's Office of Justice Programs – the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, or the “SMART Office,” for short. [§ 146] The President recently announced that Laura Rogers will be appointed to head that office. The Office's responsibilities include administering the new national standards for sex offender registration and notification and helping the states implement them.

The Act directs the Attorney General to commit federal resources to the apprehension of

sex offenders who fail to register. [§ 142] Director Clark, who will be speaking next, will discuss the Marshals Service's efforts along these lines, including the recent FALCON III operation.

The Act also creates a new federal crime of knowingly failing to register in certain circumstances supporting federal jurisdiction, such as where the sex offender moves from one state to another in an effort to evade his registration obligations. This crime carries a sentence of up to ten years of imprisonment. [§ 141(a), enacting 18 U.S.C. 2250] This criminal provision took effect immediately. I believe Director Clark will give specifics about cases already brought under it. We are working on a regulation that will eliminate any possible uncertainty about whether the new crime applies to sex offenders who were convicted of their registration offenses prior to the enactment of the Walsh Act.

Finally, I'd like to mention several provisions of the Act that don't relate to sex offender registration. First, the Act provides for court-ordered civil commitment of "sexually dangerous persons" – defined to be persons who have engaged or attempted to engage in sexually violent conduct or child molestation and who are sexually dangerous to others. A person is sexually dangerous to others if he suffers from a mental illness or disorder that would cause him to have difficulty refraining from sexually violent conduct or child molestation upon release from prison. [§ 302]

The Bureau of Prisons can certify that an inmate is a "sexually dangerous person," which will result in a judicial proceeding to determine whether the inmate will be civilly committed. The BOP has already begun to consider making certifications in a number of cases, and we are working on guidelines to clarify the process for doing so.

Prior law did not adequately protect the public from sex offenders who had a mental disorder that might not technically be defined as mental illness but that made him dangerous to the public.

Second, the Act imposes conditions of for pre-trial release, including electronic monitoring, for defendants facing certain federal sex abuse charges.

Third, the Act authorizes several grant programs. At present, these are only authorizations without supporting appropriations. Some of these grant programs, if funded, would include:

- grants to law enforcement agencies to combat sexual abuse of children, including investigating the use of the Internet for sexual abuse of children [§ 625];
- grants to states, local governments, and other public and private entities to help enforce sex offender registration requirements [§ 623];
- grants to help states establish effective civil commitment programs for sexually dangerous persons [§ 301]; and

- grants to state, local, and tribal governments for pilot programs concerning electronic monitoring of released sex offenders. [§ 621]

I hope this has been helpful in understanding some of the Adam Walsh Act's major provisions and how they will assist in our common efforts to protect children from sexual abuse and exploitation.

Thank you.