

2017 HOUSE JUDICIARY

HB 1334

2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1334
1/25/2017
27381

- Subcommittee
 Conference Committee

Committee Clerk Signature

Donna Whelan

Explanation or reason for introduction of bill/resolution:

Relating to prohibiting high-risk sexual offenders from residing near schools; and to provide a penalty.

Minutes:

Attachments 1-6

Chairman K. Koppelman: Opened the hearing on HB 1334.

Rep. Lisa Meier: District 32 Introducing the bill. This is a very important bill for safety. I thought we have a law prohibiting offenders from residing near school. I ask the city consider this important issue. (See Attachment #1). 0:50-01:40

Representative Paur: I can see the logic of this except for child care facility or provider? Isn't that often an individual in their home providing that service. I can't see how that could be enforced reasonably.

Rep. Meier: That is for this committee to determine, we felt it was important to include Licensed Day Care facilities as well in the bill.

Representative Paur: It doesn't say licensed.

Rep. Meier: We will probably have to put that in the bill, I noticed it had been omitted.

Representative Satrom: Is it possible for someone to be rehabilitated?

Rep. Meier: I have not looked into this issue enough to make a determination on that.

Representative Satrom: This has struck a nerve with me. I am wondering when we segregate these people are we causing more of a problem. Where should they live? I have a lot of questions about this. I have seen changed lives after rehabilitation. I do realize there is some bad people out there but there is also some good. How do we make this work?

Rep. Meier: It is really important to realize that this is high risk repeat offenders and these are children. So I really want to emphasize this is high risk sex offenders.

Chairman K. Koppelman: It is important to note there are different levels of sex offenders. They are ranked based upon their evaluations in treatment. I did ask the question if they can be rehabilitated of the person who ran the State Hospital. When are these people cured and his answer was, never. On the other hand, the low level sex offenders there is evidence to show that there has been a complete turn- around.

Representative Magrum: I would ask you not to put licensed day care in the bill because we have a day care in our community that is not licensed but I sure wouldn't want sex offenders to move in beside them because those children run and play in the summer. I would ask you to leave it as it is if we can.

Rep. Meier: That is up to the committee to decide.

Representative Vetter: Where it says a sex offender as defined in section 12.1- 32-15 that definition is the highest risk?

Rep. Meier: Correct.

Representative Nelson: Are licensed day cares required to be signed in some way or is there a simple database I can access or a map or something? How do I know if I am 500' from a licensed daycare?

Rep. Meier: Licensed Day Care providers go through a licensing process through the State. There is a list through your county which are registered daycare.

Representative Nelson: So really what you are doing is requiring the high risk sex offenders to get a list of the daycares in the county.

Rep. Meier: If they would need to do that, I would think that would be provided because all sex offenders have to register.

Representative Johnston: What if you are a sex offender living in an apartment complex and the downstairs neighbors gets licensed as a day care provider in the apartment building? What would be the provision for that? Would he have to move out?

Rep. Meier: That is something to consider when you deliberate this legislation.

Chairman K. Koppelman: We saw a bill similar to this years ago and none of us want the registered high risk sex offenders near children and I know that is what you are striving for here. At that time some of the law enforcement folks in various cities brought maps where they drew circles around each of the entities that would qualify under the bill and it took most of the city. Then there were only little sex offender ghettos where they could live. The unintended consequence was pressing these people into small areas where there were also families there. Did you contemplate that at all?

Rep. Meier: The reason we brought it down to 500' was for this reason. I did work with law enforcement on this bill.

Katie Kelsch, Student at Light of Christ Academy, Bismarck: In support of HB 1334. (See Attachment #2). 11:00-13:22

Rachel Rush, Student at Light of Christ Academy, Bismarck: In support of HB 1334. (See Attachment #3) 13:50-17:21

Chairman K. Koppelman: Any further support for HB 1334. Seeing none, is there any opposition to HB 1334?

Barb Breiland, Program Manager, Sex Offender Unit for parole and Probation NDDOCR: In opposition to HB 1334. (20:00-(29:00). (See Attachment #4)

Representative Paur: If residential restrictions will not stop sex offenders; why did you have restrictions or conditions on his release to stay away?

Barb Breiland: We have a number of conditions, when they go through the court system we have approximately 43-45 conditions for sex offenders. Not to have contact with minor children, not to date women with minor children, not to have any alcohol or drugs, there are many notes. What we are trying to do is to lay out that restriction, if the probation officer does give permission and it is a safe place. They would be allowed in conjunction with the therapist and probation officer may decide on the conditions and that may be an approved place. Generally, we set up rules so it is safe for the community as we possibly can.

Jaclyn Hall, Executive Director of Ruth Meiers in Bismarck: In opposition to HB 1334. (See Attachment #5). (32:00-34:46)

Ryan Sanburn, Attorney, Lobbyist for ND Association of Criminal Defense Lawyers: In opposition of HB 1334. I think there needs to be some clarification on this bill. They say this is a bill for High risk offenders but when you look at the statute it says on line 8, page 1 a sexual offender defined in section 12.1-32-15, when you look at that statute, it incorporates a wide range of sex offenders. When you go to the four options that apply, at the bottom of c. it says "or" so any one of those four apply, then looking at a. it says has pled guilty or been found guilty or has been adjudicated delinquent of a class A misdemeanor or felony sexual offense against a minor. That doesn't say high risk. Down below on c. it says the person is a sexually dangerous individual or has been assessed a high risk sexual offender. If you would pass it right now it would apply to a kid who happens to be 15 and sleeps with a 14 year old, then the problem is how does the 15 year old go to school? Because by passing the law right now it would be difficult for a 15 year old, who pled guilty and is being monitored by a probation officer doing everything he is told, how can he go to school if this law is in place?

Chairman K. Koppelman: Which of the four a through d would they be violating?

Ryan Sanburn: It would be A.

Chairman K. Koppelman: Because he would have pled guilty or been found guilty or adjudicated delinquent of a class A or felony offense. What you described is one of those two penalty levels?

Ryan Sanburn: Yes, if you have some type of sexual activity with a 14 year old it is basically what they call statutory rape. So even if you are 15 years old that would be a crime.

Chairman K. Koppelman: Are there some ranges of ages in those statutes?

Ryan Sanburn: It only applies from 15 to 17, so once you are down to 14 that doesn't apply. When the age difference is 3 years but it is between a 15 year old and an eighteen year old and it would be adjudicated in a juvenile court. there is (40:00-41:30) Discussed an example of unintended consequences about a client that was 70 years old that touched his granddaughter that pleaded guilty and accepted his punishment. Did go to jail and was given a probation officer, and one of his conditions of his probation was that he couldn't live near a school. This client lived within a block of the school in a house that they had lived in for many years. I understand if you want to make him move with this bill but what is his wife supposed to do after they lived there so many years.

Chairman K. Koppelman: How was that resolved?

Ryan Sanburn: The judge did grant that exception. I always talk to probation officers and ask them if it is hard for sex offenders to find a job but they say no it is to find housing for them You are going to say where they can live and it will be very difficult for the probation officers to find a house for them. I did a map to incorporate the schools and the day care facilities to show the sex offender housing radius's. Handed out copies. (See Attachment #6). I did not include the 20 child care facilities or Central Campus in Minot so there are more area's that are missing. When you add in these places there are nowhere for these people to go.

Representative Paur: Generally, on patrol probation there is restrictions placed on these offenders?

Ryan Sanburn: Yes, during the time frame of probation they might place that in there. Sometimes they can't go within a thousand feet of the school or 500 feet. Yes, they do add that in there sometimes.

Chairman K. Koppelman: Any other testimony for HB1334? Any neutral testimony on HB 1334. Seeing none.

Hearing closed.


2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1334
2/6/2017
27948

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prohibiting high-risk sexual offenders from residing near schools; and to provide a penalty.

Minutes:

1

Chairman K. Koppelman: Opened the meeting on HB 1334.

Rep. Karls: This dealt with high risk sex offenders living near schools and day care centers. Seemed to be a lot of concern with the child care facility. (#1) Proposed by Rep. Meier. (1:32-2:10)

Representative Vetter: You did that because it classified all the sex offenders into one group? Now this just has to do with the high risk now?

Rep. Karls: In the title it talks about high risk sex offenders. In the body it really didn't.

Chairman K. Koppelman: So it would only apply to high risk sex offenders and take out the lower level crimes.

Representative Hanson: The amendment removed child care facilities too.

Representative Klemin: Title on line 7; should it say high risk sex offender?

Representative Vetter: I like what she did with this now. Line 11 I have a note?

Motion made to move the amendment by Rep. Karls numbered .01001 with the additional change that on line 7 the words high risk would be inserted in the title in front of sexual offender: Seconded by Representative Vetter

Discussion:

Representative Vetter: I like what she did with the bill because now it makes it law.

Representative Paur: (mike not on)

Chairman K. Koppelman: I think the amendment does deal with all the concerns.

Representative Klemin: Rep. Roers Jones is loitering defined in other sections of law?

Representative Roers Jones: (mike not on)

Chairman K. Koppelman: Discussed loitering problems.

Representative Jones: I like that law; if someone is loitering there are protection now on the books.

Voice vote carried.

Representative Klemin: Representative Roers Jones made a good point about a constitutional issue with the word loitering?

Representative Paur: I would feel more comfortable seeing the courts handling each individual case as they saw fit. I am going to vote against the bill.

Representative Vetter: So it is discretionary.

Do Pass as amended by Rep. Maragos; Seconded by Rep. Magrum.

Discussion:

Representative Klemin: I don't like residing in there. Loitering is a problem.

Roll Call Vote: 5 Yes 10 No 0 Absent Failed

Motion made to amend by Representative Roers Jones to remove the words or loiter from line 8 and remove lines 21 & 22. Seconded by Representative Klemin:

Discussion:

Voice vote carried.

Do Pass as Amended by Representative Maragos: Seconded by Representative Roers Jones:

Discussion:

Representative Satrom: We heard testimony I am curious if we still have a problem? Are we creating another problem?

Chairman K. Koppelman: The bill does talk about the 500 feet and that is wise. The amendments have improved the bill by limiting it to high risk sex offender. All we are left with high risk sex offenders living within 500 feet of the school.

Representative Roers Jones: Based on the testimony of Ms. Breiland from the sex offender unit. It does sound like most of these restrictions including probably walking or being by the schools is most likely part of their probation condition. That is why I took out the term loitering.

Roll Call Vote: 10 Yes 5 No 0 Absent Carrier: Representative Maragos

Closed.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1334

Page 1, line 8, replace "A sexual offender, as defined in section 12.1-32-15" with "An individual assessed as a high-risk sexual offender in accordance with subsection 12 of section 12.1-32-15"

Page 1, line 9, remove "childcare facility or provider, or a"

Page 1, line 10, remove "if the sexual offender:"

Page 1, remove lines 11 through 16

Page 1, line 17, remove "subsection 12 of 12.1-32-15"

Renumber accordingly

February 6, 2017

2/6/17
Done
18/

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1334

Page 1, line 7, replace "Sexual" with "High-risk sexual"

Page 1, line 8, replace "A sexual offender, as defined in section 12.1-32-15" with "An individual assessed as a high-risk sexual offender in accordance with subsection 12 of section 12.1-32-15"

Page 1, line 8, remove "or loiter"

Page 1, line 9, remove "childcare facility or provider, or a"

Page 1, line 10, remove "if the sexual offender:"

Page 1, remove lines 11 through 16

Page 1, line 17, remove "subsection 12 of 12.1-32-15"

Page 1, line 18, remove the underscored colon

Page 1, line 19, replace "a. 'Reside'" with "reside"

Page 1, remove lines 21 and 22

Renumber accordingly

Date: 2-6-17
Roll Call Vote 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 1334

House Judiciary Committee

Subcommittee

Amendment LC# or Description: 01001, + line 7 high risk

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Karls Seconded By Rep. Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman			Rep. Hanson		
Vice Chairman Karls			Rep. Nelson		
Rep. Blum					
Rep. Johnston					
Rep. Jones					
Rep. Klemin					
Rep. Magrum					
Rep. Maragos					
Rep. Paur					
Rep. Roers-Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

*voice
vote
carried*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO 1334**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: 01001, line 7 the words high risk in the title & lowering

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Magrum

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman	✓		Rep. Hanson		✓
Vice Chairman Karls	✓		Rep. Nelson		✓
Rep. Blum	✓				
Rep. Johnston		✓			
Rep. Jones		✓			
Rep. Klemin		✓			
Rep. Magrum	✓				
Rep. Maragos	✓				
Rep. Paur		✓			
Rep. Roers-Jones		✓			
Rep. Satrom		✓			
Rep. Simons		✓			
Rep. Vetter		✓			

Total (Yes) 5 No 10

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Failed

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO 1334**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: Remove or delete from line 8
+ lines 21 + 22 delete

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep Roers Jones Seconded By Rep Klemin

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman			Rep. Hanson		
Vice Chairman Karls			Rep. Nelson		
Rep. Blum					
Rep. Johnston					
Rep. Jones					
Rep. Klemin					
Rep. Magrum					
Rep. Maragos					
Rep. Paur					
Rep. Roers-Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-6-17
Roll Call Vote

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 1334

House Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0629.01002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended 2 Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Roers-Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman	✓		Rep. Hanson		✓
Vice Chairman Karls	✓		Rep. Nelson	✓	
Rep. Blum	✓				
Rep. Johnston	✓				
Rep. Jones	✓				
Rep. Klemin	✓				
Rep. Magrum		✓			
Rep. Maragos	✓				
Rep. Paur		✓			
Rep. Roers-Jones	✓				
Rep. Satrom		✓			
Rep. Simons		✓			
Rep. Vetter	✓				

Total (Yes) 10 No 5

Absent 0

Floor Assignment : Rep. Maragos

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1334: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1334 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "Sexual" with "High-risk sexual"

Page 1, line 8, replace "A sexual offender, as defined in section 12.1-32-15" with "An individual assessed as a high-risk sexual offender in accordance with subsection 12 of section 12.1-32-15"

Page 1, line 8, remove "or loiter"

Page 1, line 9, remove "childcare facility or provider, or a"

Page 1, line 10, remove "if the sexual offender:"

Page 1, remove lines 11 through 16

Page 1, line 17, remove "subsection 12 of 12.1-32-15"

Page 1, line 18, remove the underscored colon

Page 1, line 19, replace "a. "Reside"" with "reside"

Page 1, remove lines 21 and 22

Renumber accordingly

2017 SENATE JUDICIARY

HB 1334

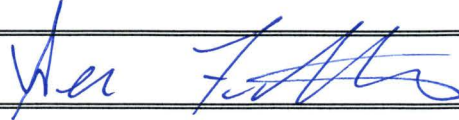
2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1334
3/7/2017
28809

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prohibiting high risk sexual offenders from residing near schools; and to provide a penalty.

Minutes:

Testimony attached #

1,2,3

Chairman Armstrong called the committee to order on HB 1334. All committee members were present.

Lisa Meier, North Dakota State Representative District 32, introduced and testified in support of the bill. (see attachment 1)

Chairman Armstrong (2:30): "On line 13 it makes it a Class A Misdemeanor but my question would be is that the right crime, and if we passed this, wouldn't that be a violation of registration conditions? Rather than creating a new crime why don't we make this part of registrations conditions?"

Representative Meier: "That is certainly something that this committee could consider."

Katie Kelsch, 8th grade student of North Dakota, testified in support of the bill. (see attachment 2)

Rachel Rusch, 8th grade student of North Dakota, testified in support of the bill. (see attachment 3)

Aaron Birst, Association of Counties (11:55), came up to podium to answer some questions for Chairman Armstrong.

Chairman Armstrong: "We are talking about the 500 feet part from a school in the bill. My question is does it make sense to at least have the discussion that this should be just a condition of registration for a high risk sex offender as opposed to creating a Class A Misdemeanor? Why do we need to create a new crime and not just a violation of registration conditions?"

Aaron Birst (12:33): “Just for the record the Association of Counties did not take a position on this. It makes more sense, we as prosecutors typically will review a sex offender’s violations of any conditions and that is what triggers whether we want to file a petition for revocation. So opposed to creating a new crime, I think you could get at it from the probation side.”

Senator Myrdal (13:42): “What is failure to comply with registration? What is the crime?”

Aaron Birst: “First time is a Class A Misdemeanor with minimum mandatory of 90 days in jail. The 2nd time it is a Class C Felony that can be up to 5 years in jail.”

Representative Meier came back up to the podium to answer some questions.

Senator Osland: “Why is it 500 feet as opposed to 1000 feet?”

Representative Meier: “We actually researched a 1000 feet. I think that has been introduced before in previous legislation and I think it failed. I think in a drawing we discovered that 1000 feet would make it nearly impossible for a sex offender to live somewhere.”

Senator Luick (16:29): “Is that why daycare is left out of this also? Because it would make it hard for them to find a place to live?”

Representative Meier: “Yes. There was some concern that that would cause a lot of anxiousness.”

Chairman Armstrong: “They can always add conditions to this during probation. The original probation can always add stricter regulations.”

Senator Luick (17:30): “We had a bill relating to drug enforcement and being near a school, and I think day care was taken out because they move around a lot, whereas schools stay in the same area.”

Senator Nelson: “My question is what do we do about home schools?”

Representative Meier: “I don’t believe we mentioned home school in the bill.”

Aaron Birst, Association of Counties, came back to the podium to correct the record: “I forgot that last session we got rid of the Class A misdemeanor, they are all Class C Felonies, but the first mandatory minimum is still 90 days.”

Chairman Armstrong closed the hearing on HB 1334.

No motions were made.

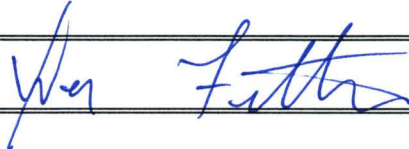
2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1334 Committee Work
3/13/2017
29080

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to prohibiting high risk sexual offenders from residing near schools; and to provide a penalty.

Minutes:

Attachments

1

Chairman Armstrong began the discussion on HB 1334. All committee members were present.

Senator Myrdal went over the proposed Amendment. (see attachment 1)

Senator Myrdal motioned to Adopt the Amendment. **Senator Larson** seconded.

Discussion followed:

Chairman Armstrong: "I think this does exactly what they want done and in a more efficient way. This isn't creating a new crime either."

Senator Luick (2:50): "Are homeless individuals registering as they are supposed to?"

Chairman Armstrong: "Well the question is how do you prove a negative and that's a tough question. The best part about that question is that when you bring up what this bill is doing, you always bring up a public policy argument about obviously protecting citizens against high risk sex offenders. But if you make the restrictions so draconian that they can't function, then all you do is push them into homelessness and you push them in an area where it's harder to protect society from them because nobody knows where they are. Recidivism is directly related to homelessness, ostracizing, etc. This is not moderate and this is not low-risk. This is the worse of the worst. But yes, they are supposed to register every three days."

Senator Luick (4:50): "What if they're out of state?"

Chairman Armstrong: "The real issue is: do they ever register the first time? Because if they don't do it the first time how do you get them next time?"

Senator Larson: “I’ve learned a lot in my career regarding this, and homeless sex offenders do register, and if they are living in a car or under a bridge, they have to still say where they are living.”

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.
The motion carried.

Senator Myrdal motioned for Do Pass as Amended. **Senator Luick** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0.
The motion carried.

Senator Myrdal carried the bill.

Chairman Armstrong ended the discussion on HB 1334.

March 8, 2017

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3/13/17
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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1334

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to registration requirements for sexual offenders; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.

1. As used in this section:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
- b. "Department" means the department of corrections and rehabilitation.
- c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
- d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
- e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
- f. "Reside" means to live permanently or be situated for a considerable time in a home or a particular place.

CU
3/13/17
2 of 8

- g. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.
 - g.h. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.
 - h.i. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.
2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:
- a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
 - b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the

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offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

- e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.
3. If a court has not ordered an individual to register in this state, an individual who resides, is homeless, or is temporarily domiciled in this state shall register if the individual:
 - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
 - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
 - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.
 4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.
 5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or

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work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.

6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the biometric data and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized database of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, biometric data, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the

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change, the law enforcement agency with which that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with which the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the biometric data portion of the registration if that agency has a set of biometric data on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
 - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;
 - b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
 - c. For the life of the individual, if that individual:
 - (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
 - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or
 - (3) Is assigned a high risk by the attorney general as provided in subsection 12.

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9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.
10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.
12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:
 - a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.
 - b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
 - c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.
 - d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that

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determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

- 13. An individual assessed as a high-risk sexual offender in accordance with subsection 12, may not reside within five hundred feet [152.4 meters] of a public or nonpublic preschool or elementary, middle, or high school.

- 14. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:
 - a. Is required to register for a lifetime under subsection 8;
 - b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
 - c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

- ~~14-15.~~ A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.

- ~~15-16.~~ If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

- ~~16-17.~~ If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before

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August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.

17-18. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying."

Renumber accordingly

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1334**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0629.02001

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Senator Myrdal Seconded By Senator Larson

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1334

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 17.0629.02001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Senator Myrdal Seconded By Senator Luick

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Nelson	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Myrdal

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1334, as engrossed: Judiciary Committee (Sen. Armstrong, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1334 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to registration requirements for sexual offenders; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.

1. As used in this section:
 - a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
 - b. "Department" means the department of corrections and rehabilitation.
 - c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
 - d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
 - e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
 - f. "Reside" means to live permanently or be situated for a considerable time in a home or a particular place.
 - g. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, subdivision b of

subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.

g-h. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.

h-i. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.

2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:
 - a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
 - b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

- e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.
3. If a court has not ordered an individual to register in this state, an individual who resides, is homeless, or is temporarily domiciled in this state shall register if the individual:
 - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
 - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
 - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.
 4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.
 5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.

6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.
7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the biometric data and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized database of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, biometric data, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with which that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with which the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the biometric data portion of the registration if that agency has a set of biometric data on file for that individual and is

personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
 - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;
 - b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
 - c. For the life of the individual, if that individual:
 - (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
 - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or
 - (3) Is assigned a high risk by the attorney general as provided in subsection 12.
9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.
10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.

12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:
 - a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.
 - b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
 - c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.
 - d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.
13. An individual assessed as a high-risk sexual offender in accordance with subsection 12, may not reside within five hundred feet [152.4 meters] of a public or nonpublic preschool or elementary, middle, or high school.
14. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:
 - a. Is required to register for a lifetime under subsection 8;
 - b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
 - c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies

may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

- 44-15. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.
- 45-16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.
- 46-17. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.
- 47-18. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying."

Renumber accordingly

2017 TESTIMONY

HB 1334

#1
1334
1-25-17

HB 1334

Good Morning Mr. Chairman and members of the House Judiciary Committee.

For the record my name is Rep. Lisa Meier of District 32.

HB 1334 is a very important bill for safety. What this bill does is prohibits high risk sex offenders from living or loitering 500 feet from a school or licensed child care facility.

Last year I had learned from a constituent that a high risk sex offender was living right next to a school in Bismarck. When I had heard of this situation I thought we had a law, already prohibiting, high risk sex offender from living near a school or day care facility. I learned that we don't and that is why HB1334 is before you today.

Currently over 30 states have restrictions in law that apply to sex offenders residing at least 500 feet away from a schools and child care facilities and many over 1000 feet. I ask that this committee consider this important issue and forward HB 1334 with favorable consideration.

Thank you for your time Mr. Chairman and members of the House Judiciary committee. This concludes my testimony.

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#2
HB 1334
1-25-17

Thank you Mr. Chairman. Hello, my name is Katie Kelsch, I am 14 years old and I am an 8th grader at Light of Christ Academy here in Bismarck. I am here today in regards to House Bill 1334. Approximately 1 year ago my school alerted parents and students that a high risk sex offender named Allan Richardson had moved into the neighborhood of my school. I was nervous for the safety of myself **and** my fellow students. Because of his presence so close to us, the school declared some new restrictions to protect the students before and after school. Even though I **understood and agreed** that we needed to be safe I didn't understand why **this man** was able to take away some freedoms that I had even though I did **nothing** wrong while **he** is the **criminal**.

After discussion with family and friends about him living there I wanted to better understand why he was able to live so close. After additional research I discovered there was **no law** in the state of ND that limited the distance that any sex offender could live near a school. I. WAS. SHOCKED. I was grateful to learn there was protection from them going onto school property, but that simply was **not enough** to make me feel secure. I wanted to do something, not only for myself but for **every** student in North Dakota.

I reached out to Lisa Meier, my district legislative representative, to discuss a solution to this problem. We discussed potential distances that could be proposed. Lisa did research of what other states have in place for restrictions we also discussed the tracking of offenders and the potential limitations law enforcement may have with that system.

In recent months the school was **again alerted** that **3 more** sex offenders moved in near my school. Additionally I think it is important to point out that Allan Richardson, the offender that I previously mentioned, is again in custody. I believe this simply reinforces my initial fear of his presence.

I would like you to consider this bill on a personal level. **Are you** comfortable continuing to send **our** students (**your children, grandchildren or other loved ones**) with **no protection** from the **peering** eyes of a high risk sex

offender that could watch their **comings and goings** from the window **simply across the street** from their school **everyday**? If your answer to that is no...then I encourage you to support House Bill 1334. Thank you for your time.

HB 1334 #3
1-25-17

Thank you Mr. Chairman. Hello, my name is Rachel Rusch and I am 13 years old. I am an 8th grader at the Light of Christ 7th and 8th grade Academy. I am here to talk to you about House Bill 1334. About 1 year ago, my parents, along with all of the parents in my school and Saint Mary's Central High School were notified about a sex offender that had moved in across the street from my school. My parents wanted to tell me about this to know I would stay away from this man. Right when I found out, I was terrified. I thought, what is going to happen? Will my classmates and I be safe? I didn't know what to do. When my classmate Katie Kelsch told me about this hearing, I was happy that I could help to change this. I believe that sex offenders, or criminals of that sort should not be allowed to live near a school. I am not comfortable knowing that someone right across the street could be watching my classmates, friends, and I arrive at school, leave school, or even walk across the street to the grocery store. I can't even imagine the kids who walk to and from school, they must be scared that something could happen to them. This is something that I believe needs to happen for the safety of kids and adults in the state of North Dakota. This is a very important House Bill that I strongly believe should be a law in the state of North Dakota. My school has had to change some rules for before and after school, for our safety. I would assume the faculty and parents are even more worried than me, because they are in charge of us and need to keep us safe. If this bill was passed, I would feel much safer about going to school and being outside when waiting for a ride, or talking to my friends, etc. I hope that you will consider this and pass House Bill 1334.

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HB 1334
1-25-17

HOUSE JUDICIARY COMMITTEE
Chairman Representative Kim Koppelman

Barb Breiland
Program Manager, Sex Offender Unit for Parole and Probation
North Dakota Department of Corrections and Rehabilitation
Presenting Testimony on House Bill #1334
Wednesday, January 25, 2017

Mr. Chairman and members of the Committee, my name is Barb Breiland, Program Manager for the Sex Offender Unit for the State. I am here on behalf of the Department of Corrections and Rehabilitation to provide testimony on House Bill 1334. There have been other bills over the course of years that have tried to have restrictions on the locations allowed for sex offenders to live. Whether the distance is 1,000 feet or 500 feet, research remains the same—laws may be formulated with the main and honorable goal of preventing future sexual victimizations; however, there is no evidence that residential restrictions are effective but may actually cause undesirable outcomes.

According to the January 23rd information from BCI/SORAC, there are currently 1,522 sex offenders registered in North Dakota, of which 579 are high risk. North Dakota Parole & Probation supervises 597 sex offenders. And, of course, with what North Dakota has experienced in the western part of the state and oil companies hiring again, our numbers are sure to increase. Registration risk levels are determined by the SORAC (Sex Offender Risk & Assessment Committee) committee. Registration is 15 years for a low risk sex offender, 25 years for moderate risk, and lifetime for the high risk and those who have more than one sex offense or where violence was present.

If you are like many of us, just the word “sex offender” brings negative emotions and fear. And, because sex offenders are probably the most reviled criminal, we want to put

something in place to protect the community and our loved ones. HB 1334 is an example of trying to do something—to put something in place—to ensure safety by establishing “sex offender free zones.”

The Department of Corrections has had to move from emotion-driven to evidence-based policies. Over the years we’ve found that some programming we thought would be effective and deliver a good product, proved not to be the case. The DOCR depends on evidence based practices and that means research and implementing proven policies and programming. And that is the reason I’m here as a representative of the DOCR to oppose House Bill 1334.

Residence Restrictions have become popular in other states and communities, however, research indicates residential restrictions of sex offenders is ineffective. Placing an imaginary fence of 500 feet around all childcare facilities or schools will not keep children living within that invisible boundary safe. Depending on the research, 76% to 95% of minor victims knew or were acquainted with their perpetrator. Many times they were living in the same home as the person who sexually assaulted them. Many were related to them—a father, brother, uncle or neighbor. As many sex offenses as are reported and go through our legal system many, many more are not reported out of fear and concern for breaking up or causing hardship for the family.

Residential restrictions will not stop sex offending or sexual recidivism. It will, however, provide a false sense of security for those who believe the restriction of 500 feet will promote safety. There has been no proof whatsoever that there is a “relationship between

a sex offender's residential proximity to schools and his likelihood of recidivism." (CO Dep't of Public Safety and MN DOC)

Keeping in mind that all sex offenders are not supervised by Parole & Probation Officers (we are supervising 597 as of 1/24/17) and that once the offenders have completed their parole and/or probation, the DOC has no contact with them. Monitoring and enforcing sex offender residential restrictions would fall into the jurisdiction of local law enforcement for many years to come (keeping in mind that registration is for 15 years to an offender's lifetime).

With residential restrictions what you may find is:

- An increase in homelessness of sex offenders causing more instability and an increase in risk to reoffend.
- Greatly diminish housing options.
- Many would not be able to live with supportive or dependent family members.
- They would be forced to live farther away from employment opportunities, public transportation, social services and mental health treatment
- An increase in use of drugs, alcohol, unemployment and to abscond probation or parole and failure to keep their registration active and accurate
- An increase in new crimes – namely, Failure to Register (Class C Felony). This could have a negative domino effect on our criminal justice system, including increasing populations in both jails and prisons and an increase in those supervised by Parole & Probation.

- To effect a 500 foot radius from every school and/or day care, could eliminate any opportunity of housing in a community and drive sex offenders basically undercover so they are undetected.
- Families that have reunited and become established in the community—and the spouse is still required to register—may force the removal of the bread-winner to live elsewhere without his family or face a new charge (A Misdemeanor).

Will there be any grandfathering in of those offenders?

- Day care operations could start in the proximity of an offender that has lived in a particular place with his family and been abiding by the laws, would he need to move to be outside the 500 foot radius?

Parole & Probation has 11 Sex Offender Specialists with another 6 officers supervising a mixed caseload that includes sex offenders. I did send a copy of the proposed bill to these officers to get their input. The responses I received were unanimous. Not one officer could see residential restrictions, even 500 feet, as a law that would have positive results and provide for the safety of those in the community.

This law would not only affect those sex offenders currently on supervision, but those who have served their sentences, reunited with their families or started a new life for themselves. A Bill that started out with the goal of protecting the community from victimization could have some serious, long lasting negative results for the offender and the community as a whole. House Bill 1334 would be a law that would keep on punishing and not achieve the good intentions of the authors.

Based on the information presented and current research, it would be our (DOCR) recommendation that this be a “do not pass.”

Articles:

- “Managing the challenges of Sex Offender Reentry”, Center for Sex Offender Management
- “Examining the Impact of Sex Offender Residence Restrictions on Housing Availability”, Jill Levenson, Kristin Zgoba, and Tracy McKee. Criminal Justice Policy Review, Vol 20, Num 1, March 2009, Sage Publications.
- “Community Management of Sex Offenders” – 2014 National Alliance to End Sexual Violence

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HB 1334
1-25-17



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Chairman Koppelman and members of the House Judiciary Committee, my name is Jaclyn Hall and I am the Executive Director of Ruth Meiers in Bismarck. Ruth Meiers provides emergency and transitional shelter and supportive services to the homeless and those at risk of homelessness in Bismarck, ND. Our men's emergency shelter provides emergency shelter and affordable housing for sex offenders.

HB 1334 creates concern for our agency as it restricts the offenders we support to fully integrate into the community. When offenders are working and living in the community they work through a rigorous schedule of reporting to law enforcement, working through treatment programs and providing for themselves and their family. This bill will also dictate where they can live. This can potentially cause undue hardship of transportation costs and other expenses for the individual and their family.

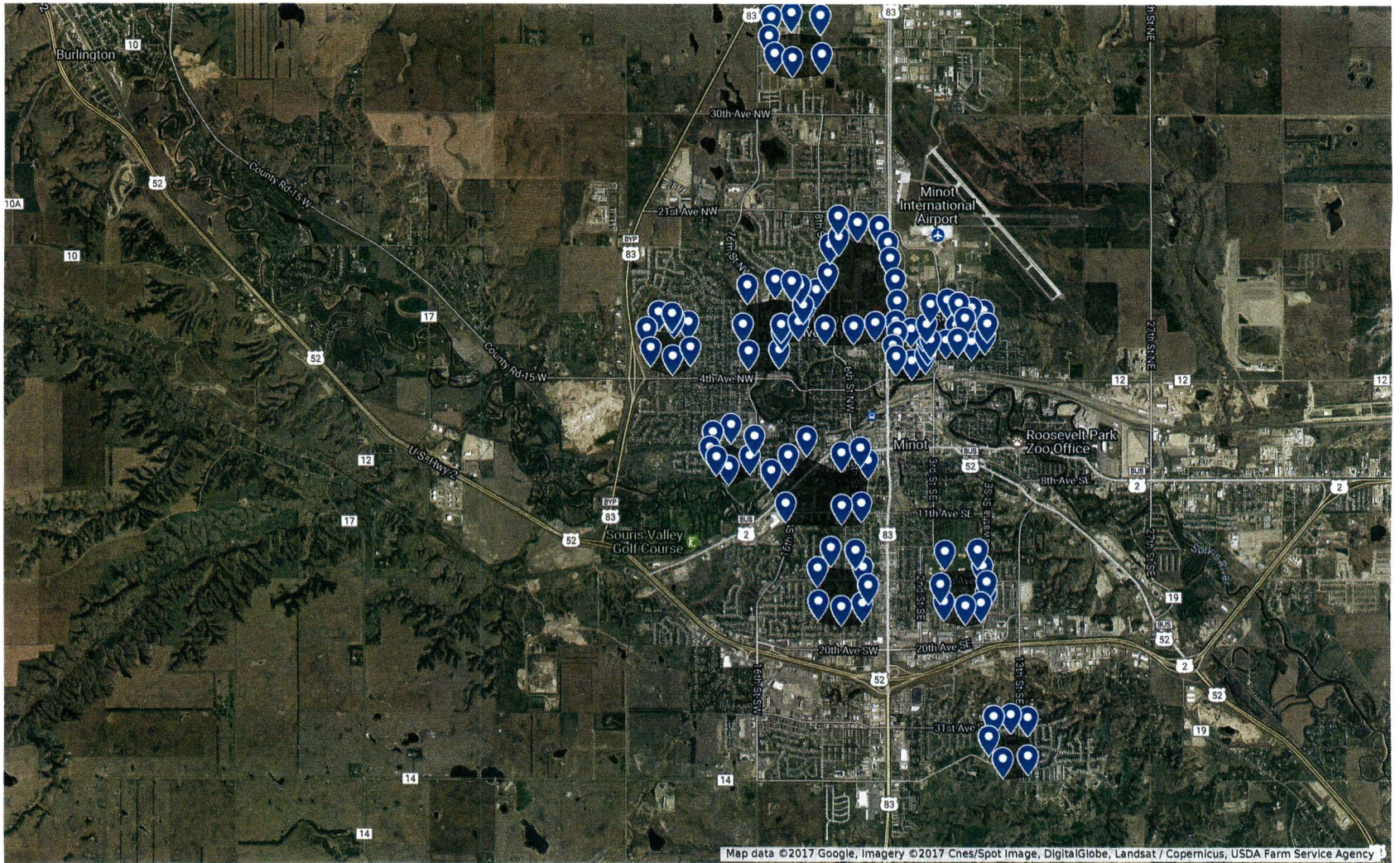
This bill does not set a precedent if the offender is living in an established permanent residency and a child care facility opens nearby, or a school is placed in their area? Does the offender now have to move? If a judge places a restriction on an offender when they are sentenced, which takes precedent?

Today I ask for the committee to not vote on this bill and allow us to work with Representative Meier to amend this bill so it works for both groups. Thank you for your time and I will stand for questions.

Sex Offender- Housing Radius

500 foot radius-Sex offenders

- 📍 Point 1-500
- 📍 Point 2-500 feet
- 📍 Point 3- 500 feet
- 📍 Point 4
- 📍 Point 5
- 📍 Point 6
- 📍 Point 7-500 feet
- 📍 Point 9-500 feet
- 🏫 Edison Elementary School
- 📍 Point 11- 500
- 📍 Point 12
- 📍 Point 13
- 📍 Point 14
- 📍 Point 15
- 📍 Point 16
- 📍 Point 17
- 📍 Point 18
- 📍 Point 19
- 🏫 Jim Hill and Minot High School
- 📍 Point- 500
- 📍 Point 22-500
- 📍 Point 24- 500
- 📍 Point 25-500
- 📍 Point 26- 500
- 📍 Point 27- 500
- 📍 Point 28- 500
- 📍 Point 29- 500
- 📍 Point 30- 500
- 🏫 Our Redeemers and Washington
- 📍 Point 30- 500
- 📍 Point 31- 500
- 📍 Point 32- 500



HB 1334
1-25-17
ATL

#1
1334
2-6-17

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1334

Page 1, line 8, replace "A sexual offender, as defined in section 12.1-32-15" with "An individual assessed as a high-risk sexual offender in accordance with subsection 12 of section 12.1-32-15"

Page 1, line 9, remove "childcare facility or provider, or a"

Page 1, line 10, remove "if the sexual offender:"

Page 1, remove lines 11 through 16

Page 1, line 17, remove "subsection 12 of 12.1-32-15"

Renumber accordingly

HB 1334

Good Morning Mr. Chairman and members of the Senate Judiciary Committee.

For the record my name is Rep. Lisa Meier of District 32.

HB 1334 is a very important bill for safety. What this bill does is prohibits high risk sex offenders from living 500 feet from a school.

Last year I had learned from a constituent that a high risk sex offender was living right next to a school in Bismarck. This situation has created a lot of anxiousness amongst the students and parents. When I had heard of this situation I thought we had a law, already prohibiting, a high risk sex offender from living near a school. I learned that we don't and that is why HB1334 is before you today.

Currently over 30 states have restrictions in law that apply to sex offenders residing at least 500 feet away from a schools and many over 1000 feet. I ask that this committee consider this important issue and forward HB 1334 with favorable consideration.

Thank you for your time Mr. Chairman and members of the House Judiciary committee. This concludes my testimony.

Thank you Mr. Chairman. Hello, my name is Katie Kelsch, I am 14 years old and I am an 8th grader at Light of Christ Academy here in Bismarck. I am here today in regards to House Bill 1334. Approximately 1 year ago my school alerted parents and students that a high risk sex offender named Allan Richardson had moved into the neighborhood of my school. I was nervous for the safety of myself **and** my fellow students. Because of his presence so close to us, the school declared some new restrictions to protect the students before and after school. Even though I **understood and agreed** that we needed to be safe I didn't understand why **this man** was able to take away some freedoms that I had even though I did **nothing** wrong while **he** is the **criminal**.

After discussion with family and friends about him living there I wanted to better understand why he was able to live so close. After additional research I discovered there was **no law** in the state of ND that limited the distance that any sex offender could live near a school. I. WAS. SHOCKED. I was grateful to learn there was protection from them going onto school property, but that simply was **not enough** to make me feel secure. I wanted to do something, not only for myself but for **every** student in North Dakota.

I reached out to Lisa Meier, my district legislative representative, to discuss a solution to this problem. We discussed potential distances that could be proposed. Lisa did research of what other states have in place for restrictions we also discussed the tracking of offenders and the potential limitations law enforcement may have with that system.

In recent months the school was **again alerted** that **3 more** sex offenders moved in near my school. Additionally I think it is important to point out that Allan Richardson, the offender that I previously mentioned, is again in custody. I believe this simply reinforces my initial fear of his presence.

I would like you to consider this bill on a personal level. **Are you** comfortable continuing to send **our** students (**your children, grandchildren or other loved ones**) with **no protection** from the **peering** eyes of a high risk sex

offender that could watch their **(comings and goings** from the window **simply across the street** from their school **everyday?** If your answer to that is no...then I encourage you to support House Bill 1334. Thank you for your time.

Thank you Mr. Chairman. Hello, my name is Rachel Rusch and I am 13 years old. I am an 8th grader at the Light of Christ 7th and 8th grade Academy. I am here to talk to you about House Bill 1334. About 1 year ago, my parents, along with all of the parents in my school and Saint Mary's Central High School were notified about a sex offender that had moved in across the street from my school. My parents wanted to tell me about this to know I would stay away from this man. Right when I found out, I was terrified. I thought, what is going to happen? Will my classmates and I be safe? I didn't know what to do. When my classmate Katie Kelsch told me about this hearing, I was happy that I could help to change this. I believe that sex offenders, or criminals of that sort should not be allowed to live near a school. I am not comfortable knowing that someone right across the street could be watching my classmates, friends, and I arrive at school, leave school, or even walk across the street to the grocery store. I can't even imagine the kids who walk to and from school, they must be scared that something could happen to them. This is something that I believe needs to happen for the safety of kids and adults in the state of North Dakota. This is a very important House Bill that I strongly believe should be a law in the state of North Dakota. My school has had to change some rules for before and after school, for our safety. I would assume the faculty and parents are even more worried than me, because they are in charge of us and need to keep us safe. If this bill was passed, I would feel much safer about going to school and being outside when waiting for a ride, or talking to my friends, etc. I hope that you will consider this and pass House Bill 1334.

March 8, 2017

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1334

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to registration requirements for sexual offenders; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.

1. As used in this section:
 - a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or section 14-09-22, subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
 - b. "Department" means the department of corrections and rehabilitation.
 - c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
 - d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
 - e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
 - f. "Reside" means to live permanently or be situated for a considerable time in a home or a particular place.

- g. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.
- g.h. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.
- h.i. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.
2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:
- a. Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
 - b. Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - c. Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - d. Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the

offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.

- e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.
3. If a court has not ordered an individual to register in this state, an individual who resides, is homeless, or is temporarily domiciled in this state shall register if the individual:
 - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
 - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
 - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.
 4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.
 5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or

work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.

6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.
7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the biometric data and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized database of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, biometric data, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the

change, the law enforcement agency with which that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with which the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the biometric data portion of the registration if that agency has a set of biometric data on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
 - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;
 - b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
 - c. For the life of the individual, if that individual:
 - (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
 - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or
 - (3) Is assigned a high risk by the attorney general as provided in subsection 12.

9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.
10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.
12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:
 - a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.
 - b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
 - c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.
 - d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that

determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.

13. An individual assessed as a high-risk sexual offender in accordance with subsection 12, may not reside within five hundred feet [152.4 meters] of a public or nonpublic preschool or elementary, middle, or high school.

14. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:

- a. Is required to register for a lifetime under subsection 8;
- b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
- c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

~~14.~~15. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.

~~15.~~16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

~~16.~~17. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before

August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.

- ~~17.18.~~ A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying."

Renumber accordingly