



## Newsletter August 2019

### From the Executive Director

Hello everyone. Here is our summer newsletter. In this edition, we highlight the current legislative session and present some useful information. If you haven't seen our website for a while, please take a tour. Ben, our webmaster, has been hard at work with tweaks and improvements. It is located at [ok-rsol.org](http://ok-rsol.org).

Also, I want again to issue a warning about scammers targeting registrants. If this hasn't happened to you, it just might, so be prepared. The basic scenario is that there is something irregular with your registration status, a judge has issued a bench warrant for your arrest, and the nice detective (officer, deputy) can make it all go away for a "bond" payment. The give-away is that you are called on the phone. If the above were true, the officer would be at your front door with a dozen of his closest friends.

This happened to me last year when these calls were first coming into vogue and so far, twice this year. I wasn't home for the last two, so the scammer left messages. I deleted them and never was called back.

### House and senate bills 2019

The first regular session of the 57<sup>th</sup> legislature is now history. We identified 7 bills of interest to us that we followed. Only one was signed into law.

### SB 163

SB163 was a technical change to the DHS reporting requirements for registrants. It changed the existing relationship-specific wording to requiring *any* registrant living with a minor to report this to DHS. Senator Pugh, the bill's author, stated that this change was born out of an unfortunate event where the reporting protocol was somewhat murky and was not followed, and that ambiguity resulted in a victim. This bill passed both houses and was signed by the Governor. OKRSOL opposed this bill but there was virtually no legislative opposition.

These bills listed below died in their respective legislative committees. Three would have created registries.

### HB1275

HB 1275 would have created a child safety registry in which all allegations of child abuse made after 7/1/21 which were substantiated by DHS would be listed.

### HB2048

This bill would have created a sexual assault database. We were concerned that once created, it could be used to create additional residency restrictions and who knows what else.

### HB2604

HB2604 mandated that DHS create a new perpetrator registry beginning January 1, 2020. This registry would contain records of all substantiated (as determined by DHS) reports of child abuse, sexual abuse, sexual exploitation,

**Oklahoma Reform Sex Offender Laws, Inc.**

Post Office Box 1527, Noble, OK 73068

405-294-4299

<https://ok-rsol.org>

and neglect made after that date. Information from this registry could be disclosed to employers or volunteer organizations where there would be contact with children. This act was known as the "Harris Richardson Act".

We opposed these bills because the registry we have now isn't needed let alone a second (third, fourth) one. We are also concerned that DHS tends to do its own thing with little oversight and transparency. DHS actions seem to vary from office to office and from one worker to another. Finally, they have a significant potential to be abused.

#### **SB864**

This horrible bill, known as the Human Trafficking and Child Exploitation Act, would have required any company that made internet content available to anyone install a blocker to prevent access to obscene material. It was introduced in a number of state legislatures with help by a guy with a pornography addiction.

#### **HB1450**

This bill would allow people reporting sex abuse allegations to be kept confidential. It appeared that an accused could lose the right to face their accuser.

#### **SB42**

This bill established a pilot program relating to reentry. It could have been a good bill, but it prohibited offenders with violent and sex-related offenses from participating.

So, as you can see, it could have been worse. Any of these bills could be reintroduced into the second session next year.

### **Positive statement at coalition meeting**

Before an enthusiastic crowd of 150 advocates and prison reformists at a Feb. 28 forum at the Norman, OK, library, a positive statement that could be expanded for those with sex offenses was made by one of the panelists in her closing

remarks with four other participants who represented Together OK, a new coalition to promote change in Oklahoma's archaic criminal justice practices. ([www.togetherok.org](http://www.togetherok.org))

Criminal Justice Forum, hosted by Together OK and coordinated in Norman by co-sponsors League of Women Voters and Women in Action for All, mainly emphasized the importance of attendees to contact their lawmakers and updates on the bills in the Oklahoma legislature related to non-violent charge improvements already approved in state questions in 2016.

But Nicole McAfee, the ACLU Smart Justice Campaign Manager, after hearing other panelists promote the importance of the proposed changes for non-violent offenses be successful, stated as she made her closing statement that those with violent charges cannot be forgotten as the work for change in Oklahoma prisons and criminal justice moves forward.

Nothing else was said but it was enough to show there is an ally in Oklahoma who is willing to challenge the extensive long sentences, continued increase in 85% mandatory minimum in sentences supported much by use of private prisons, and so many other ways those who feel tough on crime is the answer, and is being shown that mentality is fruitless.

Other panelists were Damion Shade, Criminal Justice Policy Analyst, OK Policy Institute; Kris Steele, Oklahomans for Criminal Justice Reform, TEEM; Andrew Speno, state director, Right on Crime, and Todd Gibson, Cleveland County Sheriff.

Working together, Together, OK seeks the best ways to provide prosperity for all Oklahomans in a thriving economy and with safe, healthy, equitable, and prosperous communities. They connect Oklahomans who share this mission to the facts and to each other.

They insist on transparency and accountability from elected leaders, and they commit themselves to fulfilling their responsibilities as active citizens. They focus on our home state because policy decisions made here are what affect us most and what has to have the most power to affect.

Together OK is primarily staffed and funded by Oklahoma Policy Institute, [www.okpolicy.org](http://www.okpolicy.org), a non-profit, non-partisan Oklahoma think tank.

## **NARSOL in action**

Our parent organization, the National Alliance for Rational Sex Offense Laws, has summarized the status of litigation on the registry and other matters affecting residents. Here is a summary. Some of the larger affiliates as well as NARSOL itself has litigated these issues. Reprinted from [narsol.org](http://narsol.org), by Sandy

From Aurora, Illinois comes good news: Thanks to litigation filed, the city is backing off its threat to force nineteen registrants to leave Wayside Cross Ministries. Furthermore, [a federal judge has ordered the men be registered as living at Wayside](#). Even though the city insists that the actual threat of the registrants having to leave the ministry comes from the State Attorney's office, the suit maintains that the impetus for the situation originated with the city of Aurora, and they have responded to the suit by saying they will not take action.

The [Wayside Cross/distance restrictions](#) suit is [one of several](#) filed in **Illinois** by NARSOL affiliate Illinois Voices' attorneys Nicholas and Weinstein. Growing out of the Wayside case is one challenging the way the state defines a [playground as opposed to a park](#) for the purposes of establishing restricted living areas for registrants. Others still pending are cases involving presence and residency restrictions, mandatory supervised release which can keep a person in prison indefinitely, prohibiting contact with one's own minor children, internet restrictions, and prohibiting a name change.

Other registry-related suits have been filed independent of Illinois Voices. Illinois appears to be one of if not the most prolific state in challenging the registry and sexual offense related issues.

Each year sees a marked increase in litigation that challenges the registry, its scope and outreach, and its effect in the lives of everyone it touches. NARSOL and its affiliates are involved in a significant number of these cases, and we welcome cases being brought against the registry in all states.

The [oldest pending NARSOL-involved case](#) is a residency restrictions case in **Rhode Island**. The statute being challenged is especially onerous as it would be applied retroactively and remove registrants from the homes where they have lived prior to the statute being enacted. The plaintiffs' attorneys sought and were granted from the outset a restraining order which will remain in place until the case is resolved. Initiated in 2015, this case has stalled due to the state's handling of discovery, which is fine with NARSOL as long as no registrants are forced from their homes in the interim.

Another case (2017) that has been pending for a while in the Tenth Circuit Court of Appeals due to the plaintiffs submitting supplemental authorities is a case in **Colorado** challenging the registry [on the basis of ex post facto and cruel and unusual](#) in regard to enhanced restrictions. NARSOL submitted an amicus in support of the plaintiffs.

In **North Carolina** NARSOL has three active cases filed by NARSOL's attorney Paul Dubbeling. Two of the cases are [ex-post facto challenges](#), and the third is a premises restrictions case. North Carolina is notable in the sexual offense litigation arena for taking the [Packingham case](#) to the U.S. Supreme Court and winning.

**Texas** has [an active case](#) filed by NARSOL affiliate Texas Voices and attorney Richard Gladden. This case claims the registry as it is applied in Texas

violates the Substantive Due Process Clause of the U.S. Constitution as interpreted by the U.S. Supreme Court in *Santobello v. New York*, 404 U.S. 257 (1971).

One of the [most critical current cases](#) is in **Tennessee** in response to legislation that stripped the rights of parents convicted of certain sexual crimes to live with and parent their own children. The legislation is applied indiscriminately to anyone with a conviction against a child under twelve regardless of how long ago, the age of the registrant at the time, the victim not being related to or living with the registrant, or the needs of the registrant's children. As in Rhode Island, [a restraining order is in place](#) and will remain so until the resolution of the case.

**Georgia** is another battleground state for NARSOL-initiated litigation. We are bringing suit against the sheriffs of two counties there for requiring signage be placed on registrants' homes (Spalding County) or [in their yards](#) (Butts County) for Halloween in the absence of any statute authorizing this. A victory was won in Georgia earlier this year when the Georgia Supreme Court struck down a law requiring those who are classified as "dangerous sexual predators" who have completed their sentences to wear [electronic monitors for the rest of their lives](#).

A new case just filed in **Missouri** seems promising as some of the plaintiffs are the children of registrants who have suffered due to their parents' inclusion on the registry. The basis for the suit is that the registry is [unconstitutionally cruel](#).

And while not sexual offense specific but certainly applicable, in **Florida** two suits have been filed against the correctional system. In one, a [First Amendment violation](#) in regard to prison circulation restrictions on printed materials, NARSOL has submitted an amicus. In the other, the Florida Correctional System is

being sued in regard to their [solitary confinement practices](#).

Litigation in **Michigan** – two cases – drew attention from all over the country earlier this year when [Attorney General Dana Nessel submitted amicus briefs](#) in support of the cases and the claim that Michigan's sexual offense registry as it is applied in some cases is punishment and in violation of constitutional protection. These suits were brought by the ACLU there working with NARSOL's affiliate organization CUR.

**Pennsylvania** appears to be as prolific as Illinois in registry-related suits. NARSOL's affiliate there, PARSOL, reports following a total of twenty cases that are currently in the appeal process, some already scheduled to be heard by the PA Supreme Court (PASC). Most of these challenge the constitutionality of SORNA II (the "legislative fix" that was adopted after the PASC opinion that SORNA I was unconstitutional). Others challenge the constitutionality of having to disclose computer passwords, sharing information from mandated group treatment with the SOAB without a waiver from the client to do so, and SVP designation. PARSOL submitted an amicus brief for one of the cases challenging SORNA II.

In **New Mexico** no suits have been filed yet, but one is pending – due process for registrants with out-of-state convictions moving into New Mexico – and several others are being planned.

**California**, which has had success there with suits from ACSOL regarding residency restrictions and Halloween restrictions, continues, under ACSOL, to bring [residency restrictions suits](#) where needed.

There are almost certainly other cases of which I am unaware. Our biggest successes thus far have been in the legal arena and fighting for the constitutional and human rights of those with sexual crime convictions is rewarding, challenging, and expensive.

However, as long as there is a wisp of breath in our bodies, a drop of blood in our veins, and a dollar in our bank accounts, we will continue to fight.

**OKRSOL**

Our mission is to educate Oklahomans about sex offender laws, change or repeal existing laws that are detrimental to society, and pass

beneficial laws. We survived the current legislative session relatively unscathed. It could have been much worse. If you are dubious, re-read the article on what could have passed.

If you are not a member of our organization, please consider joining. We are here for you. Go to [ok-rsol.org](http://ok-rsol.org) and click the JOIN button or call us at 405-294-4299.

**OKRSOL staff**

Andy O, Executive Director, [okrsol.info@gmail.com](mailto:okrsol.info@gmail.com)  
Ben, Outreach and Webmaster, [okrsoloutreach@gmail.com](mailto:okrsoloutreach@gmail.com)  
Wayne, Communications, [info@cure-sort.org](mailto:info@cure-sort.org)  
Kelsey, Legislative, [okrsollegislative@gmail.com](mailto:okrsollegislative@gmail.com)  
Mary, Board Chairman, [redsilo@pldi.net](mailto:redsilo@pldi.net)