

STRICT STANDARDS | Law faces legal challenges

States fault sex-offender tracking law

GOAL WAS TO PREVENT CRIMES BY FELONS WHO DON'T REPORT MOVES

By ABBY GOODNOUGH AND MONICA DAVEY
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An aggressive federal effort to keep track of sex-crime offenders is at risk of collapse because of objections from states and legal challenges from sex offenders and others. The effort, approved by Congress three years ago, requires all states to adopt strict standards for registering sex offenders and is designed to prevent offenders from eluding the authorities, especially when they move out of state.

The law came after several heinous crimes by sex offenders on the run, including Joseph E. Duncan III, who fled North Dakota, where he had been registered, in 2005 and committed sex crimes and murder in three states, ending with the torture and killing of a 9-year-old boy in Montana. An estimated 100,000 sex offenders are not living where they are registered, according to the National Center for Missing and Exploited Children, an advocacy group which collects the data from the states and provides it to the U.S. Marshals Service and other federal agencies.

But officials in many states

complain about the law's cost and, in some instances, contend that their laws are more effective than the federal edict. The states also suggest that the federal requirements violate their right to set their own policies and therefore could be unconstitutional, at least in part.

In California, officials have estimated that even an "incomplete list" of costs to meet the federal act would total more than \$38 million for efforts that include additional records checks, more frequent reporting to local law enforcement agencies and reclassifying current offenders. The legal backlash has also been widespread. In Nevada, which passed sweeping legislation in 2007 to bring the state into compliance, the public defender's office in Clark County filed suit on grounds that the juvenile requirements went too far. The case is pending in the state Supreme Court.

Despite a looming July deadline, no state has been deemed compliant, and some are leaning toward ignoring major requirements of the law. As a result, one of the toughest child-protection initiatives in the nation's history is languishing. "We support the intent, and

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I'm sure every one of my attorney general colleagues supports the intent," said Mark J. Bennett, the attorney general of Hawaii. "But we believed we couldn't follow every single provision because, legally and practically, some of the provisions didn't make sense."

Some sex offenders and civil liberties groups have also taken court action to block the law's provisions. In Ohio, a man convicted 15 years ago of "gross sexual imposition" involving a teenage girl is challenging the requirement that he remain on the state's registry for the rest of his life, instead of the 10 years previously required by Ohio law. "That's not what I want my

children to grow up with," said the man, Darren L. Coey, 35. Members of Congress say they may try to address some of the problems with the law.

Sen. Patrick J. Leahy, D-Vt., chairman of the Senate Judiciary Committee, said through a spokeswoman that he planned "to determine whether revisions and improvements can strengthen compliance, and then to quickly make whatever changes may be needed."

While some backers acknowledge that the states have legitimate concerns, they remain fundamentally committed to the law, and suggest that the delays have resulted in a patchwork of differing state laws that keep children, needlessly vulnerable to predators. Even with the spotty compliance and shortcomings, supporters say, the law has reaped benefits. Since its passage, the marshals service has brought charges against 615 sex offenders for failing to register or update their registration, an agency spokesman said.

"The single most important thing about it was creating a more consistent, uniform process across the country," said Ernest E. Allen, president of the missing children's center. "There are a lot of states that really don't know where these guys are."

The law, the Adam Walsh Child Protection and Safety Act - named for a 6-year-old boy whose abduction and murder in 1981 changed how law enforcement agencies look for missing children - makes it a federal felony to fail to re-register as a sex offender after moving to another state and requires states to toughen their penalties, now often misdemeanors, for failing to register. It also requires offenders deemed especially dangerous to register for life and to renew their registration, usually in person, four times a year. In addition, the law adds to the number of crimes for which sex offenders must register and requires states to collect more of their personal information and post much of it publicly.

But legal challenges have risen over requirements that juvenile sex offenders appear on public registries, possibly for life, despite research suggesting they are less likely to commit sex crimes later in life than older offenders. Other lawsuits have challenged the requirement that adults whose crimes were committed before the law's passage appear on public registries for longer than they had been led to expect. Some lawyers say that amounts to changing an offender's penalty after the fact, a potential constitutional breach.