OPPOSITION Response to HB 4750

Prohibiting sex offenders from living within 1000 feet of any school, park, or playground.

January 22, 2026

House Judiciary Committees:

West Virginians for Rational Sexual Offence Laws (WVRSOL) is a West Virginia non-profit association and an affiliate of the National Association for Rational Sexual Offence Laws (NARSOL), which advocates for society's segment that is adversely affected by the sex offender registry. We strive to assist families affected by the registry, explore ways to enhance and maintain public safety, recommend prudent use of state funding in this area, and work to ensure that proposed legislation is constitutional.

WVRSOL **opposes** HB 4750 because it is NOT supported by the "Adam Walsh Child Protection and Safety Act of 2006" (Sensenbrenner, 2006) and is entirely unnecessary. Moreover, it is unconstitutional on several grounds, e.g., Ex post facto, void for vagueness, void for overbreadth, etc.

1. HB 4750 is NOT supported by the "Adam Walsh Child Protection and Safety Act of 2006" (Sensenbrenner, 2006), and is entirely unnecessary.

    a. There is also no empirical evidence that the presence or distance restrictions make anyone safer. In fact, they do the opposite.

        i. In its decision, the Sixth Circuit Court of Appeals not only agreed but went on to declare that adding geographic exclusionary zones, among others, made Michigan's SORNA, post its 2006 and 2011 amendments, punishment and therefore could not be applied retroactively (Does #1-5 v. Snyder, 834 F.3d 696, 704 (6th Cir. 2016))

        ii. Moreover, the Sixth Circuit Court of Appeals found that geographic exclusionary zones and in-person reporting requirements constitute onerous restrictions unsupported by evolving research and best practices on recidivism, rehabilitation, and community safety. (Does #1-5 v. Snyder, 834 F.3d 696, 704 (6th Cir. 2016))

        iii. Additionally, Human Services professionals and nationally recognized experts on sexual abuse and sex offender legislation agree that distance restrictions are counterproductive. According to Gina Puls (Puls, 2016), residency restrictions, which prevent sex offenders from living within an established distance of various places where children gather, have created enormous hardship for released sex offenders as they attempt to reintegrate into society, and the effectiveness of these laws has increasingly been rejected.

    b. Establishing presence or distance restrictions expands the use and impact of registry law in West Virginia. It invites litigation if passed, as it shifts the WV registry from a "civil regulatory schema" to a "criminal punishment schema," which violates the Ex post facto clauses of the West Virginia and U.S. Constitutions.

        i. Article III, Section 4 of the West Virginia Constitution prohibits "No bill of attainder, ex post facto law, or law impairing the obligation of a contract, shall be passed." (West Virginia Constitution, n.d.) There is little doubt that this bill could be anything other than a retroactive increase in punishment, ex post facto, because it seeks to place retroactive restrictions and punishment on registrants who have completed their court-ordered sentences.

        ii. WV §15-12-2 (a) makes the WV registry retroactively and prospectively adding a presence or distance restriction to the code, coupled with the above clause, would make the presence or distance restriction retroactive, and, as already established

above would therefore transition the WV registry schema from a "civil regulatory schema" into a "criminal punishment schema," which violates the Ex post facto clauses of the West Virginia and U.S. Constitutions.

1. Under ex post facto principles of the United States and West Virginia Constitutions, a law passed after the commission of an offense which increases the punishment, lengthens the sentence or operates to the detriment of the accused, cannot be applied to him. (Hensler v. Cross - West Virginia - Case Law - VLEX 895334483, n.d.)

c. Other jurisdictions have attempted to impose similar restrictions, only to have them struck down on constitutional grounds – most recently in Does v. Snyder, where the Sixth Circuit Court of Appeals held that Michigan's SORNA constitutes punishment and may not be applied retroactively. (Does #1-5 v. Snyder, 834 F.3d 696, 704 (6th Cir. 2016))

2. HB 4750 violates the Void for Vagueness Doctrine.

   a. It would be difficult for registrants to know with certainty how to comply with this language. It would not likely survive a "void for vagueness" challenge. The "void-for-vagueness doctrine" requires first that a statute must be clear enough for those subject to it to understand what conduct would render them liable to its penalties. The standard for determining whether a statute provides fair notice is "whether persons of common intelligence must necessarily guess at [the statute's] meaning." (Galloway v. State, 781 A.2d 851)

   b. With the current language, "… prohibited from residing within 3,000 feet of the real property comprising a public or nonpublic elementary or secondary school, a childcare facility, a residential child-caring agency, a children's group care home or any playground, ballpark or other recreational facility" registrants would have to guess at what constitutes "reside"; does this include periods of time visiting friends or family, for how many days, is this a permanent residency or temporary, and does it matter, etc? How to measure 3,000 feet; is that door-to-door, property line to property line, etc? What constitutes a "playground, ballpark, or other recreational facility"? Is the GoMart ballpark in Charleston, WV, a restricted park? Does their neighbor's backyard swingset and monkey bars constitute a playground, etc?

   c. With the current language, each jurisdiction would have to unilaterally decide what constitutes "reside," "3,000 feet", and "playground, ballpark, or other recreational facility." This interpretation violates the second criterion that criminal statutes provide "legally fixed standards and adequate guidelines for police, judicial officers, triers of fact and others whose obligation it is to enforce, apply and administer the penal laws." (Bowers v. State, 389 A.2d 341)

   d. With the current language, there are no provisions addressing pre-existing residences, no provisions for the financial implications of forcing registrants and their families from their privately-owned property should it fall into the 3,000-foot restriction, and no provisions for what should happen if there is a pre-existing residence and a new restricted facility is open/built thereafter.

3. HB 4750 violates the Void for Overbroad Doctrine.
    a. A law is considered "overbroad" when it is "not sufficiently restricted to a specific subject or purpose." (FindLaw Legal Dictionary)
    b. HB 4750 applies to "All registrants," not just those whose offense involved a minor or who are on parole, probation, or supervised release.

WVRSOL is committed to legislation that measurably reduces sexual offenses, protects families, and enhances public safety. HB 4750 does none of these things. Consequently, WVRSOL opposes HB 4750, and we respectfully urge the House Judiciary Committee and the House to vote 'No' on HB 4750.

Sincerely,

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