

4-16-2014

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NEW DEVELOPMENTS OR MORE OF THE SAME? A HISTORICAL, SOCIOLOGICAL, AND
POLITICAL LOOK AT MISSOURI'S SEX OFFENDER LAWS FROM 1995 TO 2013

by

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A THESIS

Submitted to the Graduate School of

UNIVERSITY OF MISSOURI-ST. LOUIS

Partial fulfillment of the requirements for the degree

MASTER OF ARTS

in

CRIMINOLOGY AND CRIMINAL JUSTICE

May, 2014

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Abstract

The Republican controlled Missouri General Assembly passed HB 301 in 2013 only to have it vetoed by Democratic Governor Jay Nixon. The bill would have eliminated certain juvenile offenders from the sex offender registry allowing for the removal of first time juvenile offenders. This raises some general questions about legal developments associated with the punishment and surveillance of sex offender in Missouri. What are the general trends of sex offender laws and how does HB 301 fit with these trends? How do current political and sociological theories of policy creation explain the actions surrounding Missouri's HB 301? A historical analysis of bills passed by the Missouri General Assembly, Missouri newspaper articles, the political makeup of the Missouri General Assembly and governor's office, and crime statistics from 1995 to 2013 produced three essential themes in understanding the formation of sex offender laws: the concern over public safety, the perception of sex offenders, and the politics of lawmaking. The governor used public safety to defend his veto, while proponents of HB 301 used the perception of sex offenders to push for HB 301. The politics of the parties involved add another dimension to the understanding of HB 301.

Introduction

Crime rates have declined since the mid-1990s (Rosenfeld, 2011). Despite the decrease in crime rates, many American states continued to incarcerate and punish offenders at rates much higher than other nations and higher than the nation's history (Campbell & Schoenfeld, 2013). Policies such as zero tolerance laws and increasing mandatory sentences for criminals continued to be the common political rhetoric touted (Beckett & Sasson, 2004). Both political parties across the nation jumped on the "tough on crime" bandwagon in recent decades (Campbell & Schoenfeld, 2013; Alexander, 2010). Then in 2013, the Missouri General Assembly passed House Bill 301, which would have removed juvenile offenders from the sex offender registry. Even though it passed with an overwhelming majority in the state legislature, the governor vetoed the bill. Opponents of the bill, including the governor, argued that the bill is "soft" on sex offenders by allowing their names to be removed from the Missouri sex offender registry. Supporters of the bill claimed that sex offender laws have become too broad and that not everyone on the registry should be on the registry for the rest of his or her life. The bill's fate was ultimately linked to partisan dynamics in which Republicans controlled the state's General Assembly while Democrat Jay Nixon was governor. HB 301's trajectory provided an important case for better understanding the current status of partisan dynamics associated with crime policy.

The actions surrounding HB 301 presented unique questions which this paper sought to answer. What are the current trends in sex offender laws and how does HB 301 fit in with those trends? How do current sociological and political theories of policy creation

explain the actions surrounding HB 301? In order answer these questions a historical analysis approach is used. Since the issue with the most contention in HB 301 deals with removing people from the sex offender registry, the period of examination began with Missouri initiating its sex offender registry in 1995. By looking at the bills concerning sex offenders passed between 1995 and the passing of HB 301 in 2013, certain theories concerning the creation of criminal justice policies were brought into play.

The literature pointed out many and various theories about the creation of criminal justice policies and especially those policies dealing with sex offenders. There were many explanations as to why punitive criminal justice policies were implemented. The literature revealed and this manuscript analyzed three major themes that motivate sex offender laws: the concern about public safety, the perception of sex offenders, and the politics of lawmaking. In order to accurately examine these theories and understand the sex offender laws in Missouri, reading the bills and other media outlets at the time the bills passed was important. This study examined bills passed by the Missouri General Assembly from 1995 to 2013 and analyzed newspaper articles from the same time period. Furthermore, the political makeup of the Missouri General Assembly and the governor's office provided further comprehension of the situation. Finally, statistics provided by the Uniform Crime Report and the Missouri State Highway Patrol on the number of rapes, victims, and offenses related to sex offenses offered additional insights.

Several conclusions were made after examining the bills, the newspaper articles, political makeup, and statistics. First, lawmakers emphasized public safety in sex offender legislation. Lawmakers repeatedly used the language of creating safe communities and

keeping children safe to bolster support for punitive bills regarding sex offenders. Second, the perception of sex offenders played an important part. While initially public safety and the perception of sex offenders went hand in hand, these themes seemed to be at odds with each other at the time of HB 301. Finally, the politics of lawmaking added another dimension to the analysis. Evidence showed that prior to the passage of HB 301, national influences created a bipartisan effort to come down extremely tough on sex offenders. However, at the time of HB 301 the traditional beliefs of partisan crime control politicking were called into question. The advancement and progressiveness of sex offender laws were pitted against the traditional punitive attitude in dealing with sex offenders.

Literature Review

The creation of policies in the criminal justice realm may seem to be a very complex ordeal. However, Sample and Kadleck (2008) stated that isolated incidents of crime drive public fear which in turn draws the attention of political figures. Once political figures are aware of a public demand for action, they introduce new laws and reforms to show constituents that lawmakers are willing to address concerns which helps to ensure lawmaker's re-election (Sample & Kadleck, 2008). In support, Galeste, Fradella, and Vogel (2012) found that "public officials' personal perceptions concerning sex offenders were significantly shaped by the media and influenced both the passage and content of legislation," (14). Certain crimes and victims created the greatest public arousal. The sex offender and their offenses were at the top of crimes that elicited the most intense public response. Sometimes the public believes that they have a better idea of how to deal with sex offenders than government officials (Fox, 2013). Understanding the public's moral

outrage gave an indication as to why lawmakers initiate and sponsor various bills. Public outcry for changes make lawmakers accountable to the public (Sample & Kadleck, 2008). Public outrage explained the motivation for laws that established long prison sentences and lifelong stigmas attached to certain offenders. The relevant literature indicated three main explanations for the evolution of sex offender laws: the concern over public safety, the perception of sex offenders, and the politics of lawmaking.

Public Safety

Concern about public safety certainly drove the production of criminal justice policies, especially sex offender policies. Public safety usually revolved around the protection of potential victims. Women and children make up the typical victims for sex offenses. The public views children as innocent thus, creating a strong outcry against those who harm children. Children are considered to be a population that should be protected (Mancini & Mears, 2010). As Zimring (2004) stated, children and youth “lack the capacity to judge the intentions of others or to defend themselves from the sexual aggression of exploitative adults,” (26). Sexual offenses against children elicited a panic sensation among the public which is then translated to policy decisions (Galeste, Fradella, & Vogel, 2012). Pickett, Mancini, and Mears (2013) found that individuals are inclined to be more punitive when they believe that young children make up a large portion of sex crime victims and also that these victims suffer more than victims of other crimes. Some research suggested the public feels sex offenders who molest children are deserving of the harshest penalties (Jung et. al. 2012). Mancini and Mears (2010) again suggested that highly publicized sex offense cases involving child victims make the public push for harsher sentences including the

execution of sex offenders. In a study of North Carolina sex offenders, Page, Hill, and Gilbert (2012) found that “97% of victims were less than 18 years of age and five percent were 5 years old or younger,” (114). There is such general loathing of sex offenders whose victims are children that even prisoners view these sex offenders as the lowest of the low (Ricciardelli & Moir, 2013).

Laws restricting where sex offenders can live resulted from the concern over public safety and the need to protect children. These laws often stated that registered sex offenders cannot live within so many feet of schools, daycares, playgrounds, and other such places. In essence, this limited areas of where registered sex offenders can live and creates clusters of registered sex offenders (Socia, 2013). Socia (2013) showed how proximity of registered sex offenders to each other did not impact recidivism rates, but those counties with an uneven distribution of registered sex offenders did lead to an increase in recidivism against adult victims. There may be some validation for these living restrictions. Keeping registered sex offenders away from children helped keep recidivism down involving child victims, but increased recidivism involving adult victims (Socia, 2013). However, sexual offenders themselves do not feel that residential restrictions prevent reoffending (Page, Hill, & Gilbert, 2012). This finding indicated that if sex offenders are motivated to reoffend, they will find a way to reoffend despite the residential restrictions. Furthermore, Page, Hill, and Gilbert (2012) stated that residential restrictions may not be very effective because most sex offenders know their victims rather than targeting complete strangers. Even the general public does not feel that residential restrictions are very effective in preventing

sexual abuse and in limiting sex offender's access to children (Katz-Schiavone & Jeglic, 2009).

Galeste, Fradella & Vogel (2012) suggested that sex offender registration laws came into effect because of highly sensationalized incidents involving children. On the surface, these laws are thought to make it easier for law enforcement agencies to keep track of convicted sex offenders who have been released from confinement. While that may be true to a certain extent, sex offender registration laws serve another purpose. Registration laws allow communities to protect themselves and their children from sex offenders by knowing where such sex offenders are living (Galeste, Fradella, & Vogel, 2012). Simon (1998) suggested that these registration laws give communities the power to police themselves rather than relying completely on the state to do so. Echoing this sentiment, Page, Hill, and Gilbert (2012) stated that the main goal of sex offender legislation is the protection of communities, especially children.

Perception of Sex Offenders

The perception of sex offenders also contributed to the construction of sex offender policies. One of these perceptions is that sex offenders are incurable and unreformable. Pickett, Mancini, and Mears (2013) found that individuals are more punitive toward sex offenders when they believe sex offenders are unreformable. In fact, Pickett, Mancini, and Mears (2013) found this belief of unreformability to be the most important factor in creating resentment and aggression toward sex offenders. Many of these perceptions come from the media and can play an important role in the formation of policy. Galeste, Fradella, and Vogel (2012) found that sex offender articles in newspapers often reported

the myths of sex offenders as actual facts. These newspaper articles often present sex offenders as “being incapable of benefitting from treatment,” (Galeste, Fradella, & Vogel, 2012: 14). Those who believed that sex offenders are bound to recidivate supported harsher penalties including the possibility of executing sex offenders (Mancini & Mears, 2010).

Another perception of sex offenders is that most offenses, especially those committed against children, are committed by strangers. Yet, this may not be the case because “sex crimes involving child victims are less likely to involve strangers and more likely to involve acquaintances or family members,” (Socia, 2013: 545). Additionally, Page, Hill, and Gilbert (2012) found that less than 25% of sex offender respondents reported victimizing a stranger. While this study only examined North Carolina sex offenders, it provided evidence that sex offenses are rarely committed by strangers. Along with this perception that sex offenders are strangers, there is the belief that if sex offenders are allowed to live near children, schools, daycares, and playgrounds, they will not be able to control themselves leading to the commission of another sex offense (Galeste, Fradella, & Vogel, 2012). Even sex offenders themselves believe that society and the criminal justice system view registered sex offenders as “heinous, violent, and dangerous,” (Tewksbury & Lees, 2006: 327).

The belief that sex offenders are bound to reoffend and incurable led to longer sentences and harsher penalties. These sentencing policies seem to be geared toward the prevention of sex offender recidivism by keeping them behind bars or in some sort of confinement. By believing these perceptions of sex offenders, the public has certain

attitudes toward sex offenders including the feeling that sex offenders do not have rights upon conviction (Katz-Schiavone & Jeglic, 2009). However, these attitudes may vary according to the nature of the crime committed by sex offenders. Jung et. al. (2012) found that “laypersons perceived risk of general recidivism differently among the three types of offenders,” (234). In fact, finding recidivism rates for sex offenders helps determine what type of sex offenders reoffend. In actuality, a majority of sex offenders are not convicted of new sex offenses after release (Bench & Allen, 2013). Similar to other offenders, after turning the age of 44 there is a downward trend in recidivism of sex offenders (Bench & Allen, 2013).

In addition to spurring harsher penalties, the perception of sex offenders helped generate the demand for sex offender registries. Sex offender registries are another way for law enforcement agencies to add an additional level of surveillance on sex offenders. The sex offender registry is the middle ground between locking up sex offenders indefinitely and letting them go free after confinement (Miller, 2013). The public strongly believes that sex offender registration laws make communities safer (Katz-Schiavone & Jeglic, 2009). The 1990s saw an extremely vigorous and speedy movement for states to implement sex offender registries (Galeste, Fradella, & Vogel, 2012). These registration laws led to labeling sex offenders, made sex offenders obvious to the public, and generated a general feeling of loathing by the public toward sex offenders (Tewksbury & Lees, 2006). Katz-Schiavone and Jeglic (2009) found that the public supports registry laws, believing that such laws are not an invasion of privacy. Whether or not the public believes registries reduce recidivism rates, the registries do keep the community informed of where sex offenders live (Katz-

Schiavone & Jeglic, 2009). Knowledge of where sex offenders live allows parents to take necessary steps to keep their children away from sex offenders.

Contrary to the traditional perception of sex offenders, juveniles do commit sex offenses. Laws are designed and instituted in order to deal with these juveniles accordingly. The irony here is that most juvenile sex offender laws are very similar to adult sex offender laws, meaning that those committing sex offenses are from the same group of people the laws are designed to protect (Miller, 2013). Most laws in regard to juveniles are designed to rehabilitate and give them a chance to succeed as adults; whereas juvenile sex offender laws often produce the lifelong stigmatization similar to that of adult sex offender laws (Miller, 2013). However, Miller (2013) pointed out that juveniles with sex offenses often pose no risk for future sexual offending. Zimring (2004) found that only about four to eight percent of juvenile sex offenders recidivate. Similarly, Christiansen and Vincent (2013) found that in their sample of over 39,000 juveniles prior sexual offending is not a positive predictor of another sexual offense. The evidence suggested that juvenile sex offenders reoffend at very low rates in terms of sex offenses.

Politics of Lawmaking

Politicians suggested and promoted certain policies, and it is important to understand their motives. Politicians want to get re-elected and thus, pay attention to public opinion polls. Polls showing public support for certain issues create a mandate for legislative action (Unnever, Cullen, & Fischer, 2005; Erikson, 1976). Stimson, Mackuen, and Erickson (1995) found that “each point in public opinion produces about a third of a point change in the overall policy of the federal government,” (557). However, “some research

suggests that criminal justice policymaking is merely symbolic gestures by lawmakers to appease the voting public and ensure their re-election,” (Meloy, Boatwright, & Curtis, 2013: 617). This gives the public assurance that something is being done in order to control crime. Also, politicians need tangible results in order to proclaim success of the policies they enact. Most of these tangible results are arrest, conviction, and imprisonment rates. Whether these policies are actually reducing crime is not as important as showing that something is being done to control crime.

The desire for re-election by showing tangible results of policies helped create a bipartisan consensus on the crime control issue. Research suggested that conservatives generally tended to be more punitive than liberals (Nicholson-Crotty, Peterson, & Ramirez, 2009; Ramirez, 2013). However, the 1990s saw both political parties trending toward more punitive policies and adopting “tough” on crime stances (Nicholson-Crotty, Peterson, & Ramirez, 2009). While both parties may have adopted tough on crime stances, Smith (2004) found that the “greater percentage of legislative seats held by Democrats, the lower the incarceration rate,” (934). While this study only examined incarceration rates as a measure for punitive criminal justice policies, it may give some indication that Democrats are still slightly more lenient in crime control policies than Republicans. However, Campbell and Schoenfeld (2013) showed a general consensus between the political parties over time instead of during a singular time period. The interaction between national developments with state and local situations helped generate a more punitive consensus on crime control policies (Campbell & Schoenfeld, 2013).

In terms of sex offender laws, some research attempted to understand politicians' motives for the laws they promote. It follows logically that because the protection of victims and the perception of sex offenders often drive sex offender laws, politicians would unanimously sponsor and support punitive sex offender laws. Sample and Kadleck (2008) found that some politicians hold the belief that punitive policies are still the way to go, but other politicians feel that sex offender laws are too broad. Meloy, Boatwright, and Curtis (2013) also found that a majority of the policymakers, in their study, believe that sex offender laws achieved their intended goals, despite their unintended consequences.

Current Study

The literature identified three main factors that play a part in the creation of sex offender laws; the concern over public safety, the perception of sex offenders, and the politics of lawmaking. This transcript next examined as to whether these concepts hold true in the actions surrounding HB 301. Questions are developed in order to explain the actions surrounding HB 301. What are the current trends in sex offender policies, and how does HB 301 fit into those trends? How do current sociological and political theories of policy creation, particularly public safety, perception of sex offenders, and the politics of lawmaking, explain the actions surrounding HB 301?

Missouri presented a unique case study to answer these questions because of HB 301. To recap, in 2013 the Republican controlled Missouri General Assembly passed House Bill No. 301. HB 301 would have removed certain juvenile sex offenders from the registry. However, the Democratic governor vetoed the bill. Certain members of the Missouri General Assembly promised to bring the bill to the veto session late in 2013 in an attempt

to override the governor's veto. However, when it came time for the veto session, these same members decided not to attempt to override the veto for various reasons. Even though HB 301 did not become law in Missouri, its initial passage through the General Assembly provides interesting insight into the sex offender policy making process.

Methodology

This transcript used a historical analysis approach in order to answer the questions posed above. The outcome of HB 301 is known. It did not become law. Therefore, looking back through history was the logical approach needed to understand HB 301. HB 301 cannot be analyzed in isolation and must be understood within the larger context of Missouri's sex offender legislative history. A historical analysis gives the context needed to understand the actions surrounding HB 301. This analysis began with the passage of Missouri's sex offender registry in 1995 and ended with the legislature passing and the governor vetoing HB 301 in 2013. A periodization technique is also used to analyze the twenty years of legislative developments covered in this study. Analyzing developments within the specific time periods that emerged from the historical narrative facilitated a more focused account that emphasized key themes associated with public safety, perception of sex offenders, and the politics of lawmaking. After determining the presence and influence of each of these concepts in each period, the overarching themes from each time period can be established. This helped to understand how HB 301 fit into the history of Missouri's sex offender legislation.

After establishing the time frame of the study, a search was conducted to identify all relevant pieces of proposed and enacted legislation relevant to Missouri's sex offender

registry. The Missouri General Assembly's website lists all bills that are truly passed and agreed upon for each year. After bills were identified they were systematically analyzed for content to determine what the primary purpose of the legislation was and how it corresponded to previous and subsequent legislation. For example, legislation was analyzed to determine whether it criminalized activity, increased punishments, added registry requirements, or added living restrictions. These data were used to determine the degree of punitiveness for each piece of legislation. Table 1 presents the 20 bills that were found and examined (See Appendix A). Additionally, a one or two sentence synopsis of the bill is shown as well. Finally, the official summary for HB 301 was included (See Appendix C).

The next part of historical analysis involved identifying the context in which each of these bills was passed. Media outlets providing information on the bills during the time period produced information for additional context. A Google News search for HB 301 and sex offenders provided some current newspaper articles for examination. However, this did not produce results for media sources with archived information. LexisNexis does make archived newspaper articles available. Searching LexisNexis for newspaper articles in Missouri from 1995 to 2013 produced many results with most newspaper articles coming from *The St. Louis Post-Dispatch*. Additionally, the Missouri Digital News website, www.mdn.org, also provided some archived newspaper articles. However, these newspaper articles often presented the same information and quotes already located within the LexisNexis articles. The Missouri Digital News did provide some information on the voting for some bills by the Missouri General Assembly members. Over 100 newspaper

articles were found and examined that discussed the issues concerning Missouri's changing sex offender laws.

Another layer in the historical analysis was the political makeup of Missouri's lawmaking bodies, the General Assembly and the governor's office. Missouri's General Assembly consists of a House of Representatives and a Senate. Data on the partisanship of these members was collected for the House of Representatives 163 members and the Senate's 34 members. Table 2 shows the number of legislators for each party (See Appendix A). The political parties are Democrat (D), Republican (R), and Independent (I). Sometimes the numbers will not always add up due to vacancies. However, it is not believed that even if these vacancies had been filled they would have changed bill outcomes a great deal. The vacancies were usually only one or two seats. Table 2 also shows the political affiliation of Missouri's governor.

Both the Federal Bureau of Investigation's Uniform Crime Report (UCR) and the National Crime Victimization Survey (NCVS) provided data regarding criminal offense rates. Crimes that are officially reported to the police are then given to the FBI for compilation as part of the UCR statistics. The FBI defines rape as carnal knowledge of a female against her will. Attempted rapes are also included. Figure 1 shows the rape rates for both the U.S. and MO from 1995 to 2012 provided by the UCR (see Appendix B). The NCVS is an annual survey given to households around the nation. The survey uncovers victims who did not officially report their crime to the police. The NCVS changed its methodologies in 2007 but it is not believed that these changes make pre-2007 data incomparable with post-2007 data. The NCVS defines rape as forced sexual intercourse and includes both female and

male victims. Sexual assault is defined as attacks or threats of attacks involving unwanted sexual contact. Figure 2 shows the rape and sexual assault rates for the U.S. from 1993 to 2012 provided by the NCVS (see Appendix B).

Findings

Along with many other states in the mid-1990s, Missouri established a sex offender registry. Commencing on January 1, 1995, Missouri law required anybody convicted of a felony sex offense since July 1979 to file their fingerprints, photo, and address with the local law enforcement agency in the community where they lived. This law included sex offenders that had already been freed and out of prison for any amount of time. Even though police would have this information, the information was not going to be made available to the public. Failing to register was a misdemeanor with a fine of up to \$1,000 and possibly a year in a county jail. At the time, Missouri's prisons held about 2,600 rapists and child sex abusers (Sorkin, 1994).

Public Safety

One of the driving forces behind establishing a sex offender registry in Missouri was for the protection of potential victims. The concern about potential victims came about because of two incidents in Missouri that occurred in 1993. The first incident involved Angie Housman. Angie, age nine, was kidnapped on the way back to her house after being dropped off by the bus, only to be found several days later tortured, sexually molested, and her dead body bound to a tree (Zigman, 2013). The second incident involved ten year old Cassidy Senter. Cassidy was kidnapped and beaten to death attempting to fight off a potential rapist (*The Southeast Missourian*, 1994). Proponents of instituting a sex offender

registry in Missouri stated that had a registry been established prior to these kidnappings, law enforcement agencies may have been able to find and rescue the girls before they were murdered (Browning, 1993). While these incidents caused fear and panic around Missouri, nationally, the movement to start a national sex offender registry was well underway with the 1989 abduction of Jacob Wetterling. Jacob Wetterling was 11 years old when he was kidnapped at gunpoint while walking home (Browning, 1993). Proponents of a sex offender registry used incidents such as these and hoped to stop future incidents by following and tracking sex offenders released from prison. Congress named the bill after Jacob Wetterling which stresses the importance Congress put on remembering these victims.

While the initial registration law prohibited the information from going public, the public voice concerned about not knowing the sex offenders' names. Many people thought the public should know where sex offenders lived and who they were in order to protect children. In fact, even police chiefs stated that the public should have this information in order to prevent similar crimes. Registration alone does nothing to prevent reoffending, but advocates of a registry argued a registry makes it easier to track and potentially find repeat sex offenders quicker.

Perception of Sex Offenders

The enactment of a sex offender registry relies on the belief that sex offenders will commit another sex offense once released from prison. It is especially hard to argue against such a belief when parents of victimized children, such as Patty Wetterling, came out and said that child sex offenders are perpetual offenders (Browning, 1993). Missourians, including state senators and representatives, echoed this sentiment. In fact, the

representative who sponsored the law said, “Many pedophiles can’t stop what they are doing and become repeat offenders,” (Sorkin, 1994).

Politics of Lawmaking

Politics can help explain Missouri’s initiation of a sex offender registry because politicians are the people putting these laws together. As stated above, there was an extremely strong national movement to create a national sex offender registry. This movement came to fruition with Congress passing the Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act. This act required states to establish a sex offender registry. Twenty four other states established a sex offender registry before Congress passed the law. Missouri was not one of these states. However, Missouri’s neighbor to the east, Illinois, did have a sex offender registry before federal law mandated states establish a registry.

Prior to the passage of the federal law mandating states establish sex offender registries, some Missouri politicians were open to the idea of Missouri establishing such a registry. This included Attorney General Jay Nixon, who at the time showed interest in the idea of a sex offender registry (Browning, 1993). As Table 2 shows, Democrats controlled both houses of the Missouri General Assembly. With sponsorship coming from the Democrats, there is no evidence that Republicans wanted to stop the bill from passing. However, with federal law mandating a registry, opponents of any sort of registration bill would have had their hands tied.

1996 – 1999

The late 1990s saw five bills passed by the Missouri General Assembly impacting sex offenders, mostly affecting punishment. In 1996, House Bill 974 established the new term “predatory sexual offender,” and also established new minimum sentence guidelines for certain offenses. In 1997, House Bill 104 allowed for the prosecution of a sexual offenses involving an 18 year old or younger to commence within 10 years of the victim turning 18. House Bill 883, also passed in 1997, clarified registration requirements for sex offenders. Passed in 1998, House Bill 1405 did three things. First, it changed the number of days requiring sex offenders to register and changed the punishment of failing to register a second time as a class D felony. Second, HB 1405 allowed for the civil commitment of sexual predators. Finally, HB 1405 allowed the public to request a sex offender list from law enforcement agencies. Two bills passed during the 1999 legislation year. House Bill 348 required juvenile sex offenders to be put on the sex offender registry. These offenders would be kept confidential and could have their name removed from the registry at the age of 21 unless they were required to register as an adult. House Bill 852 allowed for anyone who had committed a violently sexual offense to be recommitted after release even without committing a new overt act.

Public Safety

The laws passed during this period are purposefully framed and argued toward the protection of victims and future possible victims. Evidence is first presented in 1996’s HB 974 minimum sentencing guidelines. Proponents of these bills inferred that because victims of sex crimes are generally children and females, punishment of the offenders should be

harsh. Similarly, the belief was that potential victims of “predatory sexual offenders” must feel safe; and in order to create such an atmosphere, advocates of the bill argued that these offenders must be locked up. The minimum sentence for these sexual predators mandated life with eligibility of parole. Given other circumstances, the minimum sentence for child molesters was 15 years. Reinforcing this sentiment one state congresswoman stated that lawmakers were not going to allow sex offenders “to prey on communities” (Young, 1996). Echoing this Missouri’s Correction’s director stated that the bills “are aimed at keeping dangerous sex offenders, such as rapists, in prison and off the streets,” (Lhotka, 1996).

This period did not produce the high profile cases similar to the kidnapping and murders of Angie Housman and Cassidy Senter locally. However, on the national level, the public’s attention centered on Megan Kanka. A twice convicted sex offender moved in across the street from Megan’s house unknown to her parents. He eventually raped and murdered Megan (Woo, 1995). Megan’s story spurred the national movement for sex offender registries to be made public, resulting in notification laws. Even though this incident happened in 1994, the United States Supreme Court ruled that public notification laws were legal. Advocates of a safer public included the public notification provision in HB 1405. Advocates argued from the public’s viewpoint, knowing where sex offenders live is supposed to make it easier to protect potential victims. In fact one politician stated that the purpose of these notification laws is the protection of communities and that “knowledge is the most powerful tool to deal with problems,” (Dunklin, 1999).

Perception of Sex Offenders

The language of 1996's HB 974 fed directly into the perception of sex offenders as the term predatory implies an animalistic type of behavior with a predator stalking its prey. The bill itself defines "predatory sexual offender" as anyone previously guilty of certain sexual offenses and are now being tried for similar sexual offenses again (RSMo 558.018.5(1), 1996). In other words, these sex offenders reoffend. While their crimes are very disgusting and revolting, lawmakers could have used other language such as "habitual". However, lawmakers purposefully chose predatory which instills a certain image of a sex offender lurking in every dark area. Echoing this imagery on a national level, one representative stated "No matter what we do, the minute they [sex offenders] get back on the street, many of them resume their hunt for victims," (*St. Louis Post-Dispatch*, May 8, 1996).

1998's civil commitment law also contributed to the perception of sex offenders as being subhuman. Mainly, it played on the belief that these certain sexual offenders will reoffend if let free. In fact one legislator stated, "there are people that are not curable," in referencing sex offenders (Young, 1996). Leading up to the passage of this bill, arguments commenced as to the constitutionality of such a law. However, politicians made very clear the necessity of such a commitment law. The governor stated, "many of these people [sex offenders] have done these crimes before and are a great risk to do them again. And we need more control over them," (Holleman, 1996). HB 852 passed, in 1999, also adds to this perception that sex offenders need to be controlled in the fear of them recidivating.

The perception of sex offenders changed slightly with the advent of 1999's HB 348 requiring the registration of juvenile sex offenders. Normally the perception was that sex offenders are older males preying on young females. Now juveniles were added to the mix. While it may be perceived that these juveniles are only being punished for having sex with a minor, the law made it very clear that these offenses were similar to those of adult sex offenders with the offenses being, "rape, forcible sodomy, child molestation, and sexual abuse," (RSMo 211.425.1, 1999).

Politics of Lawmaking

Democrats controlled both houses of the General Assembly during this period. Despite the slim margin held by the Democrats, the bills passed with support from both parties in both houses with a Democrat governor clearly advocating for tougher laws on sex offenders. However, national politics and influence help explain Missouri's actions. Both members of Congress and President Clinton pushed for tougher sentences on sex offenders. This helped create a national bipartisan trend in dealing with sex offenders. Additionally, with the Supreme Court making notification laws legal, there seemed little reason for Missouri not make its sex offender registry available to the public. Furthermore, both Kansas and Illinois made their registries available to the public before Missouri's went public. Not wanting to become a place where sex offenders could hide from the public, Missouri quickly followed suit. Moreover, Kansas passed their own civil commitment law prior to Missouri's civil commitment bill's passage in 1998. Kansas' civil commitment law also reached the Supreme Court, and again the Court ruled the law constitutional. After this ruling, Missouri politicians moved quickly to draw up and pass HB 1405. The bill's

sponsor admitted that Missouri must “stay as near as possible to the Kansas law because of the close ruling by the court,” (Manning, 1997).

2000 – 2004

The Missouri General Assembly passed the next sex offender bills in 2002. Senate Bills 758 and 1070, passed in 2002, both clarified and revised the laws regarding sex offender registries. 2003’s passage of Senate Bill 184 required the sex offender registry to be posted on the internet. In 2004, House Bill 1055 and Senate Bill 1000 both passed the legislature. HB 1055 increased punishments for sex offenders but more importantly imposed residential restrictions on sex offenders. SB 1000 required DNA samples to be taken from sex offenders.

Public Safety

Even though the period did not produce highly sensationalized cases such as Angie Housman, Cassidy Senter, or Megan Kanka, does not mean that public safety had gone by the wayside. Proponents argued that the posting of the sex offender registry on the internet with HB 184 makes it easier for the public to find information on sex offenders. As discussed previously, the belief is that a better informed public makes communities safer. The argument is that an informed public can keep potential victims away from sex offenders. With the state auditor’s report indicating loopholes in the registry laws allowing for some sex offenders not having to register, fear could have run rampant through communities. However, the legislature moved quickly to rectify these loopholes with HB 758. Attempting to fix these loopholes gives the impression of creating safer

neighborhoods. In fact, the state auditor admitted as much when saying, “This isn’t about tracking down people to catch them. This is about public notification,” (Bryant, 2002).

Supporters of HB 1055 emphasized the need to keep sex offenders away from potential victims, particularly children. The law prohibited sex offenders from establishing “residency within one thousand feet of any public school or any private school giving instruction in a grade or grades not higher than twelfth grade, or child care facility,” (RSMo 566.147.1, 2004). Supporters of the law advocated that protecting children is of the utmost importance and that residential restrictions go a long way toward that goal. Proponents reasoned that combining residential restrictions with the knowledge of where sex offenders live gives the public options in trying to keep their children away from sex offenders.

Perception of Sex Offenders

While the previous period may have changed perceptions regarding who commits sex offenses by adding juveniles to the registry, the laws passed during this period reinforced the perception that sex offenders will reoffend. A driving force behind the passage of HB 1055 centered on sex offenders reoffending by committing crimes against children if given the opportunity. This plays on the perception that not only are sex offenders bound to reoffend, but that they are opportunists. Proponents of living restriction laws argued that living by a school or child care facility creates a temptation that sex offenders will not be able to resist.

Because of the belief that sex offenders will reoffend if given the opportunity, keeping track of them is imperative to communities, law enforcement agencies, and lawmakers. Hence, fixing the loopholes in the registry in order to keep track of them was

imperative in 2002. The addition of DNA samples taken from sex offenders further adds to the tracking mechanism. Now if a sex offender should reoffend, law enforcement agencies have an additional tool to find recidivists. It gives the perception to sex offenders that they are always being watched and will be caught if they stepped out of line.

Politics of Lawmaking

Following the 2000 elections, Republicans took control over the Missouri Senate by a slim margin. Additionally after the 2002 elections, Republicans widened their margin of control in the Missouri Senate while taking control of Missouri's House of Representatives by a significant margin. While Republicans enjoyed this control in the legislative branch, Democrats still controlled the governor's office. These political differences may help to explain why SB 1070 passed through the General Assembly but was vetoed by the governor. While Democrats ushered in punitive policies during the late 1990s, Republicans acted similarly with the passage of 2004's HB 1055, the most punitive bill passed during this period. Despite the shift in party control, there appeared to be little opposition within the General Assembly to the bills passed.

The passage of SBs 758 and 1070 may have been a direct response to political pressure applied by other entities. The Missouri state auditor released a report indicating many loopholes in the laws requiring sex offender registry (Bryant, 2002). These loopholes allowed convicted sex offenders to avoid registration without consequence. The pressure to clean up these loopholes in order to manage sex offenders helped explain the passage and signing into law SB 758. Furthermore, Illinois had already posted its sex offender registry online and thus, Missouri followed suit with SB 184 in 2003. Again Missouri did not

want to be a safe haven for sex offenders from other states because it may be easier to “hide” from the public.

2005 – 2009

The end of the first decade of the new millennium ushered in another barrage of bills aimed at sex offenders. The first in 2005, Senate Bill 73, allowed for county law enforcement officials to have their own registered sex offender websites. Previously, only the Missouri State Highway Patrol had such a website. Passed in 2006, House Bill 1698 included many numerous provisions pertaining to sex offenders. First, it added information that would be available to the public. This information included name and known aliases, date of birth, physical description, photograph, description of offender’s vehicles, nature and dates of offenses, date of which the offender was released, and compliance status of offender (RSMo 43.650.4, 2006). Second, it required life imprisonment without eligibility for parole for persistent sex offenders and sex offenders whose victim was twelve years old or less. Third, the bill prohibited sex offenders from being present in or loitering within five hundred feet of a school. Fourth, it added the crime of exposing the genitals in public as sexually explicit conduct requiring registering as a sex offender. Fifth, it allowed certain offenders, such as parents and legal guardians, to be removed from the registry and allowed others to petition that their name be taken off the registry after ten years. Finally, the law increased the punishment for failing to register. One important impact of 2008’s Senate Bill 714 required juveniles over the age of fourteen to register as adult sex offenders if the juveniles committed certain crimes. Senate Bill 932, also passed in 2008, created the Cyber Crime Investigation Fund in order to investigate internet sex crimes. House Bill 826

and Senate Bill 435 both allowed for the civil confinement of sexually violent predators in county jails and passed in 2009. Finally, in 2009 Senate Bill 36 passed which allowed for the life imprisonment for sexual crimes that were vile and inhuman against children.

Public Safety

Two national incidents involving child victims played an important role in the barrage of bills that came out of this period. The first concerned Adam Walsh. The six year old Adam was abducted and later found murdered. The other incident involved Jessica Lunsford. A convicted sex offender abducted, raped, and murdered the 9 year old Jessica. Both of these incidents influenced the bills passed during this period, especially HB 1698. 2009's SB 36 also evidenced the need to protect children, emphasizing life imprisonment for offenders who commit certain types of crime against children. In fact one legislator put the onus on himself and his colleagues: "I think that it is vitally important that when a parent sends a child off to school that it is the duty of us, as legislators, to do whatever we can to see that they are safe," (Kelly, 2006).

The Adam Walsh case certainly influenced the policies coming out against sex offenders during this time. Congress named an act after the child in so that no one would forget him. While HB 1698's punitive measures can be linked to Adam Walsh's case, other bills such as SB 932 can also be linked to the Adam Walsh case. Proponents argued that the need to protect potential child victims permeated everything, including the internet. With this bill specifically allocating money for such a purpose, stronger arguments for protecting children were made.

The case of Jessica Lunsford played a crucial role in the development of HB 1698. The fact that an already convicted sex offender committed another sex crime enraged both the public and lawmakers. HB 1698's extremely punitive measures might not do anything to actually lower sex offense rates, but the message sent is clear: such acts committed, especially by repeat offenders, will not be tolerated. Lawmakers wanted and succeeded in bringing down the full authority of the law against sex offenders with this bill. They did not see any problem in denying rights to sex offenders in order to protect children (Franck & Rowden, 2006). Opponents of such tough laws argued that residential restrictions clearly indicate a deprivation of rights.

Perception of Sex Offenders

Reaffirming the stereotypical perceptions of sex offenders reasserted itself during this period. Prior to the passage of HB 1698, the general feeling that sex offenders are the lowest of the low returned. Disgust generated the mandate for tougher sentences on sex offenders. Some politicians went as far as to say, "lock the door and throw away the key...the vermin would seduce our kids," (Franck & Rowden, 2006). The image of a sex offender seducing kids changed somewhat with the advancement of technology and the internet. Now sex offenders could lure kids to them by chatting with them online. SB 932 allocated resources to make sure sex offenders would have a much harder time doing so.

Additionally, the feeling that sex offenders will recidivate re-emerged as well. One supporter of HB 1698 did not think sex offenders could be cured (Franck, 2006a). To reinforce the idea, one government official claimed, "We need to face the facts. We have had little success at changing the behavior of child-sex offenders. Too many children have

been permanently scarred for us not to take action to appropriately punish these evil criminals,” (Franck, 2006a). Both HB 826 and SB 435 subtly hint at the notion of incurable sex offenders. Keeping sex offenders in jails rather than some sort of rehabilitative center gives the impression that sex offenders are the same as all the other criminals. It infers that they did not have a disease or psychological problem but are just criminals. Proponents argued that keeping them in jails further instills the idea that sex offenders do not get better and should just stay in prison.

Politics of Lawmaking

The Missouri political scene shifted again during this period. After the 2004 elections, Republicans gained control of the governor’s office and increased their control of the seats in both houses. In the Missouri House, Republicans controlled about 60 percent of the seats while controlling almost 70 percent of the seats in the Missouri Senate. With this much control in both houses and control of the governor’s office, Republicans controlled all facets of the law making body in Missouri by a substantial margin. This control significant because they could have gone in any direction they wanted to concerning sex offenders. However, they kept the trend of becoming increasingly punitive on sex offenders especially with HB 1698.

In addition to Republicans controlling the lawmaking process in Missouri, outside pressures greatly influenced the bills passed by the Missouri General Assembly during this time period. Congress passed the Adam Walsh Child Protection and Safety Act of 2006. The Act expanded the National Sex Offender Registry and started taskforces that were designated to investigate internet sex crimes against children. The Adam Walsh Child

Protection and Safety Act influenced the creation of SB 932, and Missouri had to pass such a law in order to meet federal regulations. Furthermore, Florida passed a new sex offender law which was touted as the toughest law in the nation at the time. Iowa and New Mexico also passed laws viewed as extremely tough on sex offenders. These events and these other state's laws greatly influenced the General Assembly to push for passing HB 1698. In fact one of the Missouri State senator's modeled HB 1698 after the Florida law and took it a step further in order for Missouri to become one of the toughest states on sex offenders (Franck & Rowden, 2006). In describing the legislation, the initial sponsor stated, "I have proposed the most aggressive legislation on child molestation, predator child-sex crimes this session and I think that's a good place to start," (Franck & Rowden, 2006). In terms of creating more punitive bills one legislator put it, "You kind of have one-upmanship in terms of who can be the toughest" (Franck, 2006b).

The Missouri courts played an important role during this time as well. In a 2006 decision, the Missouri Supreme Court ruled that registered sex offenders who had committed crimes before the establishment of the registration in 1995 were not required to register. This ruling removed numerous offenders from the sex offender registry. Some Missouri state legislators reacted strongly to this ruling and in the senate passed a bill that would allow sex offender registry laws to be applied retroactively. Surprisingly though, the Missouri House did not pass the bill. While it may seem that sex offenders had finally gained a slight victory, the Missouri Supreme Court made another ruling in 2009. This ruling decided that federal law mandated all sex offenders be registered even if their crimes had been committed before the registration law went into effect in 1995.

2010 -2013

The Missouri General Assembly passed two bills during this period. First, in 2011, Senate Bill 250 passed, requiring sex offenders to complete certain treatment programs prior to being eligible for parole or conditional release. Finally, in 2013, the General Assembly passed House Bill 301. The first provision of HB 301 removed the names of juvenile sex offenders from the sex offender registry website. A second provision called for judges to sentence a sex offender to an extended term of imprisonment for having committed certain offenses. Previously, the law called for an extended term of imprisonment only for persistent sex offenders. Another provision called for the sentences of multiple sex offenses to run consecutively rather than concurrently. Finally, the bill allowed certain sex offenders to petition for their name to be removed from the registry after five years.

Public Safety

Public safety came to the forefront with the veto of HB 301. Governor Nixon listed off several reasons explaining his veto in his letter to the Missouri General Assembly. The governor's first reason emphasized public safety. Governor Nixon stated that the Missouri sex offender registry website received just over four million visits in the previous year, implying that Missourians do find the information useful (McDermott, 2013). He argued that by taking names off the registry, Missourians would be deprived of information that pertains to public safety. Governor Nixon also reasoned that an informed public helps law enforcement agencies solve sex offense cases (Ruess, 2013). Governor Nixon stated his worry was that with the passage of HB 301, Missouri could attract more sex offenders. He

specifically stated, “the Speaker stands ready to help these offenders hide from the public,” (McDermott, 2013).

Governor Nixon next argued that removal of these sex offenders from the registry disrespected the victims of these crimes. “Moreover, the bill would deprive victims of sex offenses the opportunity to be heard before an offender is removed from the very websites that are designed to protect victims and other members of the public,” (Nixon, 2013). Here Governor Nixon emphasized that the bill would in essence repeal the importance of victims. The governor wanted to make it clear that it is the victims that should be remembered not concern for the offender.

Perception of Sex Offenders

Proponents of the bill argued against the governor’s veto by attempting to change the perception of sex offenders. The sponsor of the bill claimed that not everyone on the sex offender registry need to be feared (Ruess, 2013). Some of the people that could fall into this category would be a juvenile having consensual sex with another juvenile. Others could be offenders who urinate in public. These types of offenders are not the stereotypical sex offenders that the public most often thinks of in reference to sex offenders. Supporters of B 301 claimed that these are not the offenders that prey on children like monsters. Proponents of the bill deemed that the juveniles removed from the registry with this bill had “served their debt to society. They are adults now and haven’t done anything wrong since.” (McDermott, 2013). They argued that these youths who commit such crimes deserve to get their lives back.

Politics of Lawmaking

Republicans again accumulated a large margin of control in both houses of the General Assembly. In the House they controlled approximately 68 percent of the seats and almost 70 percent of the seats in the Senate. HB 301 passed the house with 153 votes and passed with senate with 28 votes with only 4 votes in opposition. Even with the Republicans majority in both houses, Democrats voted to pass the bill as well. The passage showed bipartisan support for the bill. However, Governor Jay Nixon, a Democrat, vetoed the bill. His reasons are stated above, but part of the unseen reasoning could be due to politics. He may have wanted to resist Republican-initiated policies. The Republican leadership originally vowed to override the veto. In order to do so, Democrats would have needed to vote against their governor. It seemed though that democrats were not willing to do so and would not promise to vote to override the veto. Republicans eventually withdrew the motion to override the veto.

Discussion

The findings discussed above present evidence lending itself to certain conclusions. Referring to the basic questions posed earlier help explain the significance of HB 301. *What was the general trend of sex offender laws and how does HB 301 fit?* The findings showed that laws became increasingly more punitive toward sex offenders based on the bills passed from 1995 to 2013. There was a general tone of punitiveness from politicians justifying the need for passing these ever increasingly punitive bills. The Missouri General Assembly took a chance to break this pattern with HB 301. HB 301 dealt with juvenile offenders so it may not have been a complete break away from the current trend. However, it was a step in the

other direction. Nevertheless, Governor Nixon continued in the pattern of punitiveness with his veto.

How do current sociological and political theories of policy creation explain the actions surrounding HB 301? While the process of creating laws concerning sex offenders is most undoubtedly a complex process with many factors, the three main themes of public safety, perception of sex offenders, and the politics of lawmaking can explain the actions surrounding HB 301. In short, concerns about public safety and the perception of sex offenders go hand in hand with both political parties endorsing punitive measures against sex offenders. HB 301 presents a situation where partisan politics may be emerging that pits public safety verses the perception of sex offenders. These themes are discussed in further detail below.

Public Safety

Concerns about public safety was undoubtedly a driving force behind a majority of the laws passed in Missouri from the late 1990s to 2013. The mandate for a sex offender registry to be implemented in Missouri can partially be attributed to the need to feel safe from sex offenders. After initially establishing the sex offender registry, it became paramount that the public should have access to this information. The logic is that by informing the public, parents and guardians can keep their children away from dangerous sex offenders. Even though such public notification laws faced legal challenges, thereby stalling such laws in Missouri, once judged legal, Missouri quickly moved to make the information public. As technology advanced with the rapid improvement of the internet, the information provided by the sex offender registry could be accessed by countless

individuals. The breadth of information made available on these registry websites allowed the public to know everything about sex offenders especially with the passage of HB 1698. The use of knowledge lends itself to the ideas of Foucault. Foucault proposed that extensive surveillance produces knowledge which produces power (Garland, 1990). With the amount of information provided to citizens and all the tracking measures, sex offenders are under constant surveillance. All of these measures are an attempt to force sex offenders to live a certain way and to police themselves. By not being able to hide, sex offenders are forced into complacency. Residential restrictions also passed under the ethos of public safety. By limiting where sex offenders can live, Missouri lawmakers impressed upon the public the need for safe communities.

Remembering victims and protecting people from future victimization inherently lay behind these public safety laws. Stories of child victims being kidnapped, raped, and murdered spurred the Missouri legislature to pass extremely punitive laws. In the 1990s, the local victims, Angie Housman and Cassidy Senter became the reason for establishing a sex offender registry. Officials stated numerous times that had a sex offender registry already been in place, locating the two girls would have been easier and given law enforcement agencies a chance to rescue the girls. However, local victims were usually not referred to often even in local legislation. National stories such as Adam Walsh and Jessica Lunsford spurred a national movement in the mid-2000s to pass even tougher laws on sex offenders. The evidence lent itself to the conclusion that story upon story of a different sex offender case is not needed. Rather, the few highly sensationalized cases drew much attention and concern reaffirmed Galeste, Fradella and Vogel's (2012) argument. Often

time laws included the name of the victim in order for everyone to remember why these laws should be passed. These few cases provided support for Sample and Kadleck's (2008) affirmation that a highly sensationalized case causes tension in the public which eventually leads to policy change. HB 1698 can also be seen as a direct response to the Adam Walsh and Jessica Lunsford incidents because both of events occurred in Florida, not Missouri. Governor Nixon used public safety arguments in his veto of HB 301. Whether or not HB 301 would have really impacted public safety is not the issue. However, the perception of public safety being impacted by HB 301 creates a compelling argument. Who can argue against the protection of children? Despite reasons given, those who advocated for HB 301 come off as not protecting communities and almost defending sex offenders. While this is certainly not the case, using public safety in order to defend the veto creates a very tough argument to fight against. The laws regarding the public safety concerning sex offenders hinged on the argument that children need special protection, and reaffirmed Zimring's (2004) conclusion. Furthermore, there is almost a Durkhemian logic behind these public safety arguments (Garland, 1990). The laws passed increased punishments in order to reaffirm that certain crimes were not tolerated in communities. Communities rallied around and agreed upon punishing those who harmed children. It created a certain cohesiveness and solidarity among community members.

Perception of Sex Offenders

The establishment of a sex offender registry in Missouri shaped and reflected certain perceptions of sex offenders. The perception was that sex offenders needed to be tracked because they were a danger to the community. 1996's HB 974 use of the term predatory

sex offender played on this perception. By using this type of language, lawmakers reinforced the notion that these sex offenders will stalk and prey on unsuspecting victims. Simon (1998) argued that this type of language lumps sex offenders together instead of focusing on individuals. The language of HB 974 reaffirmed this argument by naming sex offenders as predators which led to the enactment of laws that are extremely punitive toward all sex offenders. This is exemplified by the sheer number of laws passed in the late 1990s and then with the extremely punitive measures enacted by HB 1698 in 2006. Along with this tracking for public safety mentality, tracking also infers that sex offenders will reoffend. Lawmakers often used language such as “incurable” to describe sex offenders. By using such language lawmakers and other public figures reinforced this notion of impending recidivism in the public’s mind.

Proponents of HB 301 go against the standard perception of sex offenders. Admittedly, HB 301 focuses on removing juvenile offenders from the registry. It could have been a response to such studies by Christiansen and Vincent (2013) and Zimring (2004), showing that juvenile sex offenders tend to not recidivate very much if at all. However, proponents did not explicitly use juvenile sex offender research as a reason for the justification of HB 301. Instead, they attempted to change the perception that the sex offenders affected by HB 301 are not dangerous. Because the sex offender registry includes a plethora of crimes requiring registration, the public perceives anybody on the registry as dangerous. Proponents attempted to change this perception. The examples given are of juveniles having consensual sex and people who displayed their genitals in public. These types of offenders are neither dangerous to the community nor at risk to recidivate at high

levels. These offenders do not fit the image of the monsters or predators established by earlier laws. Proponents said these offenders paid their price and it is time to let them get on with their lives without the sex offender stigma attached. HB 301 evidenced the need for clarification of who are the dangerous sex offenders. It also showed the problem with becoming extremely punitive toward one group of criminals without thinking of consequences further down the road. Everybody on the sex offender registry is under the umbrella of dangerous and terrible predators. HB 301 took an initial step at changing the perception.

Politics of Lawmaking

The bills passed in the late 1990s and first decade of the 2000s reaffirmed the extremely punitive attitude of both political parties. When Democrats had control of both houses and the governor's office they kept passing bill after bill targeting sex offenders in order to increase punishments. When Republicans took control of both houses and eventually the governor's office, they continued the trend established by the Democrats. Republicans had their chance to reverse the trend when they had major control of both houses and the governor's office after the 2004 elections. With their majority and the governor's backing, Republicans had the opportunity to act differently. However, they passed one of the most punitive laws regarding sex offenders in 2006 with HB 1698. Figures 1 and 2 provide proof that these policies were not driven by crime statistics. Both figures show that rape rates and sexual assault rates were decreasing and yet both political parties continued to initiate punitive policies. While the figures focus primarily on national trends, it is not believed Missouri would differ greatly from these trends. Figure 1 does show the

specific rape rate in MO provided by the UCR while it is slightly more sporadic, the general trend is still decreasing. The argument is made that Republican initiated HB 1698 in 2006 could have been a reaction to increasing rape rates in Missouri which Figure 1 shows. However, this was not the reason given. Politicians focused on the national cases involving children. Crime rates were not used as justification for the need of these policies.

However, going against this trend, HB 301 called into question the current political explanation of punitive legislation. Republicans again had a large majority in both houses in 2013. To pass a bill that is viewed as soft on crime is contrary to both the perception of Republicans on crime control and the general trend of Missouri politics leading up to 2013. Republican leadership who supported the bill reasoned that sex offender laws have become overly broad, echoing the same conclusion that Sample and Kadleck (2008) found. Republicans passed the bill with the Democrats support as well. As one *St. Louis Post-Dispatch* (2013) editorial put it, the Republican led General Assembly attempted a “smart on crime” stance with HB 301. However, Nixon, a Democrat, vetoed the bill. There are a couple of reasons for this. First, Nixon could just be continuing the general trend of Missouri politics. The study showed both parties being extremely punitive toward sex offenders during the time period with Nixon continuing the pattern. Second, and possibly more importantly, Nixon was the state attorney general in Missouri from 1993 to 2009. During his entire tenure as state attorney general, Missouri passed extremely punitive laws regarding sex offenders. Nixon was state attorney general at a time when everyone jumped on the “get tough” on crime bandwagon. Come 2013 when Nixon can be progressive in dealing with sex offenders, he reverted to what he knows best, punitive measures against

sex offenders. During Nixon's entire career, he supported these punitive measures against sex offenders. To support HB 301 could be viewed as flip flopping on his previous stances. With Nixon setting the tone, Democrats in the Missouri General assembly did not want to go against him and would not have supported an override of his veto. This is a hidden power of the governor's office. General Assembly members in the same party as the governor can vote for measures they know will never become actual law. This allows them to save face with their constituents while not compromising party lines.

Additionally, national politics played an important role in the bills passed by the Missouri General Assembly. As discussed above, the incidents involving children victims around the nation spurred states to initiate and pass punitive bills regarding sex offenders. Missouri acted no differently. On numerous occasions, lawmakers concerned themselves with Missouri possibly being a safe haven for sex offenders. In fact, one of Nixon's reasons for vetoing HB 301 was due to the possibility that with such a law, sex offenders could hide from the public by moving to Missouri. Furthermore, Kansas and Illinois often passed laws, such as public notification laws, before Missouri. Missouri lawmakers did not want to fall behind the actions of other states and quickly moved to make Missouri just as punitive as their neighbors and sometimes even going further than other states. This reaffirmed Campbell and Schoenfeld's (2013) notion of the diffusion of policies between national and local politics. Even though Missouri may have wanted a sex offender registry prior to 1995, it took national incidents and eventually federal law for Missouri to finally establish a registry. Continuing this push, President Clinton spoke very negatively about sex offenders in the late 1990s which helped to explain why Democrats in Missouri continued to push

through punitive legislation during the late 1990s. Furthering this notion that national and outside influences are needed for change was the absence of national movements for sex offender law reform. The media outlets examined presented no evidence of other states or national leaders indicating change was needed. Had there been such a movement, HB 301 might have had a different outcome.

Conclusion

This study sought to explain why Missouri's General Assembly passed HB 301 in 2013 only to have the bill vetoed by the governor, preventing it from becoming law. HB 301 centered on the sex offender registry, particularly the removal of certain juvenile sex offenders from the registry. In an effort to understand the motivation behind the various actions associated with HB 301, this study examined the historical context and evolution of Missouri's sex offender laws from 1995 to 2013. After examining bills passed by the Missouri General Assembly and media sources concerning these bills certain themes emerged. Three key factors shaped the legislative trajectory of the state's sex offender registry: claims that further sanctions were necessary to ensure public safety, the negative and intractable perception of sex offenders, and the politics of lawmaking.

The main questions this study attempted to answer focused on current sex offender policy trends and the policy creation process itself. *What are the current trends of sex offender laws and how does HB 301 fit?* This study showed that leading up to HB 301, the Missouri General Assembly passed increasingly punitive policies concerning sex offenders. This is not surprising seeing as this time period had increasing punitiveness for all crime policies both in Missouri and nationwide. HB 301 represented a possible step in the other

direction. HB 301 dealt with juvenile sex offenders and sex offenders who commit less serious offenses. Removing them from the registry could be seen as a small step in reversing the trend toward extremely punitive policies that categorize and stigmatize both minor and serious offenders. While not a total reversal, the law did represent a more measured approach that treated young and less serious offenders differently than most serious offenders.

The second question addressed how well current sociological and political theories of policy creation explain the actions surrounding HB 301. Prior to HB 301, sex offender legislation could be viewed as concern over public safety, the perception of sex offenders, and bipartisan political rhetoric pushing for increasingly punitive policies regarding sex offenders. All three of these elements worked in tandem with each other. However, the advent of HB 301 presents a new story. The political differences between Missouri Republicans and the Democratic Governor Jay Nixon open the possibility that partisan politics could be returning to crime policy. This partisanship has pitted public safety verses the changing perception of sex offenders. HB 301 introduces the possibility of the concern over public safety, the perception of sex offenders, and the politics of lawmaking no longer working in tandem with each other to produce punitive policies.

Hence, these results lead to further questions that can be addressed in future research. Are partisan politics in crime policy really returning? Are Missouri Republicans going to try and continue this “smart” crime position while Democrats hold on to the “tough” on crime position? Furthermore, can the perception of low-level sex offenders be changed to the point that it can offset the worries of public safety? HB 301 attempted to do

this, but ultimately concerns for public safety won out. Additionally, this study presented no measurement of the public's attitude concerning any of the bills examined. Gaging how the public feels about sex offender policies can add another layer of analysis not explored in this study. It could be that a bill such as HB 301 can succeed if it has public support. Is there a public outcry for reforming sex offender laws or will one make itself known? Time will answer these questions. Time will determine as to whether HB 301 truly was the beginning of new developments or just more of the same.

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Appendix A

Table 1: Source Missouri General Assembly Bills Truly Agreed and Passed, 1995-2013

<u>Year</u>	<u>Bill No.</u>	<u>Summary</u>
1996	HB 974	Required minimum sentencing for certain sexual offenders
1997	HB 104	Allowed prosecution of sexual offenses involve persons 18 years of younger to be commenced within 10 years
1997	HB 883	Clarified registration requirements for sex offenders
1998	HB 1405	Allowed for the civil commitment of sexual predators
1999	HB 348	Requires registration of juvenile sex offenders
1999	HB 852	Allowed for a convicted sex offender to be confined after 10 years of being released without having committed a new offense
2002	SB 758	Clarified registration requirements for sex offenders
2002	SB 1070	Revised offender registry
2003	SB 184	Required the sex offender registry be posted on the internet
2004	HB 1055	Implemented residential restrictions for sex offenders and added harsher penalties for certain offenses
2004	SB 1000	Required DNA samples from sex offenders
2005	SB 73	Allowed county law enforcement agencies to have sex offender registry website
2006	HB 1698	Changed numerous laws regarding sex offenses
2008	SB 714	Required juveniles over the age of 14 to register as adult sex offenders
2008	SB 932	Allocated money for the specific purpose of investigating internet sex crimes against children
2009	HB 826	Allowed Department of Mental Health to contract with county jails for the confinement of sexually violent predators
2009	SB 36	Modifies provisions relating to sexual offenses against children
2009	SB 435	Allowed Department of Mental Health to contract with county jails for the confinement of sexually violent predators
2011	SB 250	Required sexual assault offenders to complete certain programs before release on parole
2013	HB 301	Changed the laws regarding certain sexual offenses including the removal of certain juvenile offenders from the registry

Table 2: Political Makeup of the Missouri general Assembly and Governor's Office

Year	House			Senate		Governor
	<u>D</u>	<u>R</u>	<u>I</u>	<u>D</u>	<u>R</u>	
1995	87	76		19	15	D
1996	88	74		19	15	D
1997	87	74	1	19	15	D
1998	86	75	2	19	15	D
1999	85	75	2	18	16	D
2000	84	76	2	18	16	D
2001	88	75		16	18	D
2002	87	76		16	18	D
2003	71	90		13	20	D
2004	73	90		14	20	D
2005	65	98		11	23	R
2006	66	97		11	23	R
2007	71	92		13	21	R
2008	70	91		14	20	R
2009	74	89		11	23	D
2010	74	88		11	23	D
2011	56	106		8	26	D
2012	56	106	1	8	26	D
2013	53	110		10	24	D

Appendix B

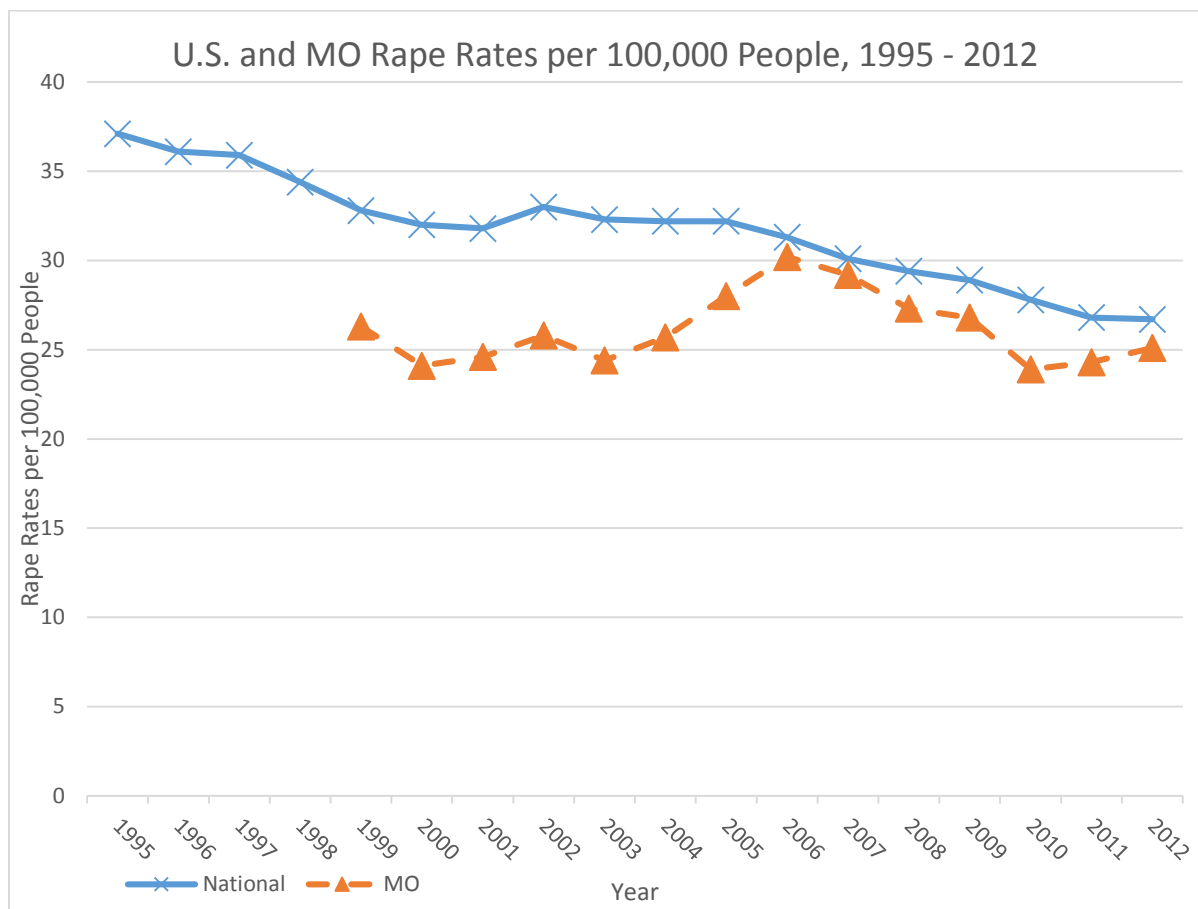
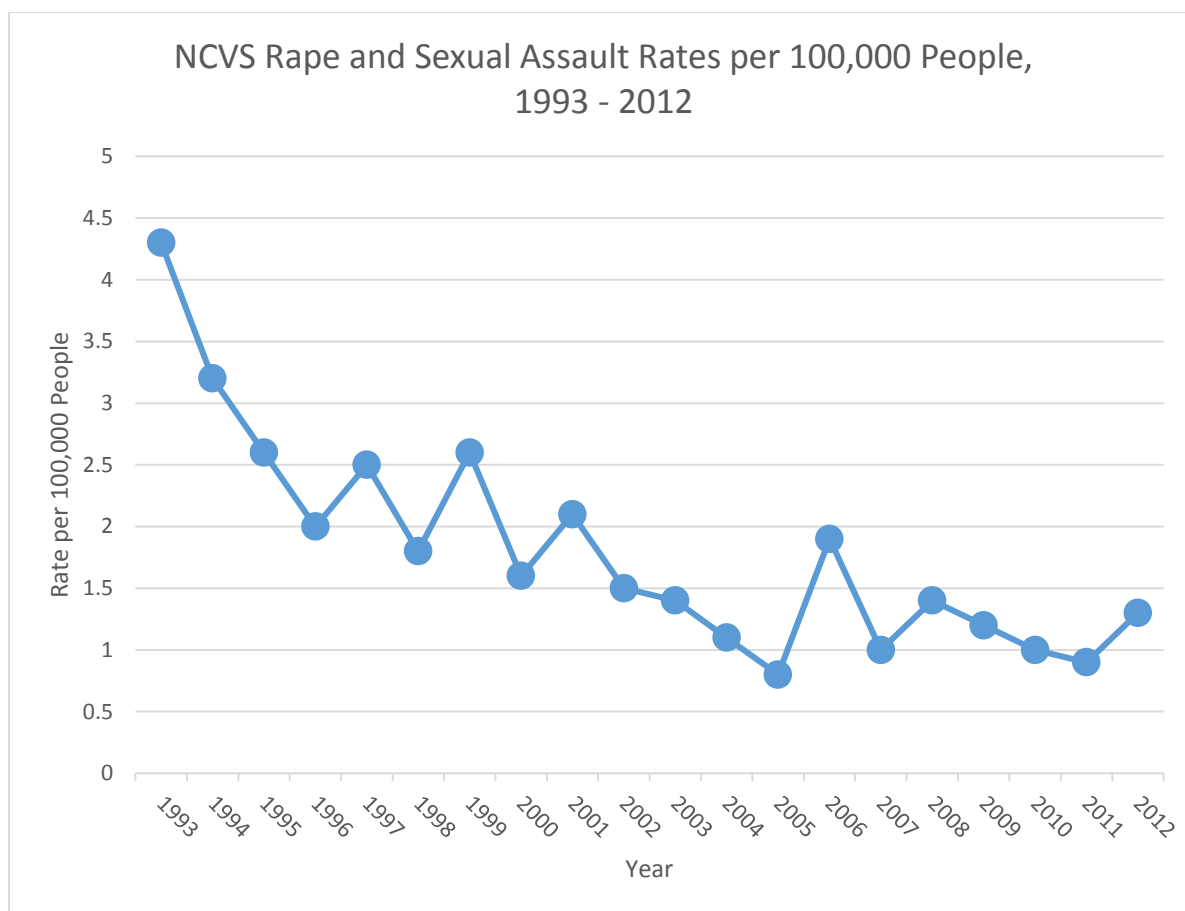
Figure 1: Source Federal Bureau of Investigation, Uniform Crime Report, 1995-2012

Figure 2: Source Bureau of Justice Statistics, National Crime Victimization Survey, 1993-2012



Appendix C

SCS HB 301 -- PRISONER RE-ENTRY PROGRAM AND SEXUAL OFFENSES

(Vetoed by the Governor)

This bill changes the laws regarding certain sexual offenses and sexually violent offenders and establishes a prisoner re-entry program for certain offenders.

JUVENILES ON THE SEXUAL OFFENDER REGISTRY

Beginning August 28, 2013, the information of a sexual offender whose offense was committed when he or she was younger than 18 years of age cannot be listed on the State Highway Patrol's Sexual Offender Registry website and any offender currently on the website who was required to register as a sexual offender based on an offense that occurred when he or she was younger than 18 years of age must be immediately removed from the website.

The bill allows any person on the sexual offender registry who was a juvenile certified as an adult and convicted of a felony under Chapter 566, RSMo, regarding sexual offenses, that was equal to or more severe than aggravated sexual abuse under federal law or any person 14 years of age or older at the time of the offense who was adjudicated for an offense that was equal to or more severe than aggravated sexual abuse under federal law to file a petition for removal from the registry. The petition cannot be filed until five years have passed from the later of the date the offender was found guilty of the offense requiring registration or the date the offender was released from custody for the offense. If the person was convicted outside of Missouri, he or she must be a resident of Missouri for at least five years before filing the petition. The court must grant the petition and enter an order directing the removal of the offender's name and information from the registry unless it finds that the offender has been adjudicated of or has charges pending for failure to register or for a subsequent sexual offense that would require registration that occurred after the date the person initially registered; has not successfully completed any required period of supervised release, probation, or parole; or has not been a Missouri resident for at least five years. If the petition is not granted solely because he or she had pending charges for failure to register or an additional offense that requires registration and the charges are subsequently dismissed or he or she is acquitted of the charges, the person may file a new petition at any time after the dismissal or acquittal. If the denial is based on a finding of guilt for an offense that would require registration, no successive petition can be filed. If the denial is based on a finding of guilt for failure to register, the person may file a new petition after five years. If the denial is based on the petitioner not completing a required period of supervised release, probation, or parole, the person may file a new petition at any time after successfully completing the period of release, probation, or parole. Beginning August 28, 2013, regardless of whether an offender's petition is granted under these provisions, the information regarding any person whose offense was

committed when he or she was younger than 18 years of age must be immediately removed from the patrol's sexual offender website and any local law enforcement website allowed under Section 589.402.

SEXUAL OFFENSES

The bill:

- (1) Renames the crime of forcible rape to rape in the first degree and specifies that a person commits the crime if he or she has sexual intercourse with an individual who is incapacitated, incapable of consent, or lacks the capacity to consent or by the use of forcible compulsion;
- (2) Renames the crime of forcible sodomy to sodomy in the first degree and specifies that a person commits the offense if he or she has deviate sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent or by the use of forcible compulsion;
- (3) Renames the crime of sexual assault to rape in the second degree;
- (4) Renames the crime of deviate sexual assault to sodomy in the second degree;
- (5) Renames the crime of sexual abuse to sexual abuse in the first degree and specifies that a person commits the offense if he or she subjects another person to sexual contact when that person is incapacitated, incapable of consent, or lacks the capacity to consent or by the use of forcible compulsion;
- (6) Renames the crime of "sexual misconduct in the second degree" to "sexual misconduct in the first degree";
- (7) Renames the crime of "sexual misconduct in the third degree" to "sexual misconduct in the second degree";
- (8) Renames the crime of "sexual misconduct" to "sexual abuse in the second degree";
- (9) Specifies that a real estate broker's or salesperson's license must also be revoked and an applicant must also not be issued a license if the licensee or applicant has pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of rape in the first or second degree, forcible rape, sodomy in the first or second degree, or sexual abuse in the first or second degree;
- (10) Specifies that a prosecution for rape in the first degree, attempted rape in the first degree, sodomy in the first degree, or attempted sodomy in the first degree may be commenced at any time;

- (11) Defines the terms "domestic violence," "family," and "household member" as they apply to certain information that an insurance company cannot disclose to be the same as they are defined in Section 455.010;
- (12) Specifies that a prosecution for an unlawful sexual offense involving a person 18 years old or younger must be commenced within 30 years after the victim reaches the age of 18 unless the prosecution is for rape in the first degree, attempted rape in the first degree, sodomy in the first degree, or attempted sodomy in the first degree, in which case the prosecution may be commenced at any time;
- (13) Includes being in a drug-induced state or for any other reason being manifestly unable or known by the actor to be unable to make a reasonable judgment to the list of those who are incapable of giving consent to sexual activity; and
- (14) Repeals the provision which specifies that a person is not incapacitated with respect to an act committed upon him or her if he or she became unconscious, unable to appraise the nature of the person's conduct, or unable to communicate unwillingness to an act after consenting to the act.

PRISONER RE-ENTRY PROGRAM

A prisoner re-entry program is established within the Department of Corrections to assist offenders who have served their full sentences without early release and are locating to the City of St. Louis upon release. Subject to appropriations, moneys for the program must be appropriated to the department which must transfer the funds to the City of St. Louis's Department of Health and Human Services which will administer the fund. The city must be responsible for the issuance of a request for proposals to organizations with demonstrated experience in providing re-entry services, including facilitating connections to providers of housing and employment services and physical health, mental health, substance abuse, and other social services. The city and the selected contractor must be jointly responsible to the department for ensuring that the services are provided and must provide the department with all data and records necessary to oversee and measure the effectiveness of the program. The department director is authorized to enter into contracts as are necessary and proper for the implementation of the program.

DEPARTMENT OF CORRECTIONS PROGRAMS

Currently, the Department of Corrections must provide a report and recommendations for terms and conditions of probation to the court after 100 days of incarceration if the department determines that an offender is not successful in a program. The court must then release the offender on probation or order the offender to remain incarcerated to serve the sentence imposed. The bill specifies that if the department determines the offender has not successfully completed a 120-day program, the offender must be removed from the program and the court advised of the removal. The department may recommend

the terms and conditions of probation. The court has the power to grant probation or order the execution of the offender's sentence. The court must consider other authorized dispositions if the court is advised that an offender is not eligible for placement in a 120-day program. Except when an offender has been found to be a predatory sexual offender, the court must request the department to conduct a sexual offender assessment if the defendant has pled guilty or been found guilty of a class B sexual abuse felony. The bill repeals a provision requiring the court to request certain offenders be placed in the sexual offender assessment unit of the department and requires the department to provide to the court a report on the offender and may provide recommendations for terms and conditions of an offender's probation. The sexual offender assessment must not be considered a 120-day program. The bill specifies the process for granting probation to an offender who has completed the assessment.

SEXUALLY VIOLENT OFFENDERS

The bill revises the definition of "sexually violent offense" for purposes of civil commitment to include sexual abuse in the first degree; sexual assault in the first degree; deviate sexual assault in the first degree; the act of abuse of a child involving sexual contact, a prohibited sexual act, sexual abuse, or sexual exploitation of a minor; or any felony offense that contains elements substantially similar to these offenses.

Currently, a sexually violent predator who has been civilly committed is allowed to petition the court for conditional release over the objections of the Director of the Department of Mental Health. The petition must be served upon the court that committed the person, the department director, the head of the facility housing the offender, and the Attorney General. The bill requires the petition to also be served to the prosecuting attorney of the jurisdiction into which the committed person is to be released.

The Department of Corrections must provide, upon request, access by the chief of the local law enforcement agency to the information gathered by the global positioning system or other technology used to monitor a person who has been granted conditional release from the department upon the determination by a court or jury that he or she is not likely to commit acts of sexual violence if released when the person is being electronically monitored and remains in the county, city, town, or village where the releasing facility is located. The information obtained must be closed and cannot be disclosed to any person outside the agency except upon an order of the court supervising the conditional release.

The bill specifies that it is the intent of the legislature to reject and abrogate earlier case law interpretations on the meaning of or definition of "sexually violent offense" to include, but not be limited to, holdings in *Robertson v. State*, 392 S.W.3d 1 (Mo. App. W.D., 2012); and *State ex rel. Whitaker v. Satterfield*, 386 S.W.3d 893 (Mo. App. S.D., 2012), and all cases citing, interpreting, applying, or following those cases. These provisions are to be applied retroactively.

The provisions of the bill regarding the revision of the definition of "dangerous felony" in Section 556.061 and the provisions regarding sexually violent offenses in Section 632.480 contain an emergency clause.