

SFGate.com

[Return to regular view](#)[Print This Article](#)

[Sex offender Proposition 83 blocked in court](#)

- By DAVID KRAVETS, AP Legal Affairs Writer
Wednesday, November 8, 2006

(11-08) 16:33 PST San Francisco (AP) --

A federal judge on Wednesday blocked enforcement of key provisions of Proposition 83, the ballot measure passed overwhelmingly by voters that's meant to crack down on sex offenders, including limiting where they may live.

U.S. District Judge Susan Illston, ruling on a lawsuit filed a day after the election, said the measure "is punitive by design and effect" and likely unconstitutional.

The so-called Jessica's Law prohibits registered sex offenders from living within 2,000 feet of a school or park — effectively prohibiting parolees from living in many of California's cities.

It also would require lifetime satellite tracking for paroled rapists, child molesters and other felony sex criminals upon their release from prison.

State law already sets limits on where sex offenders can live, but the new requirement would make it even harder to find homes for offenders released from prison. Parolees currently are prohibited from living within a quarter-mile — or 1,320 feet — of a school, with a half-mile restriction only for high-risk sex offenders.

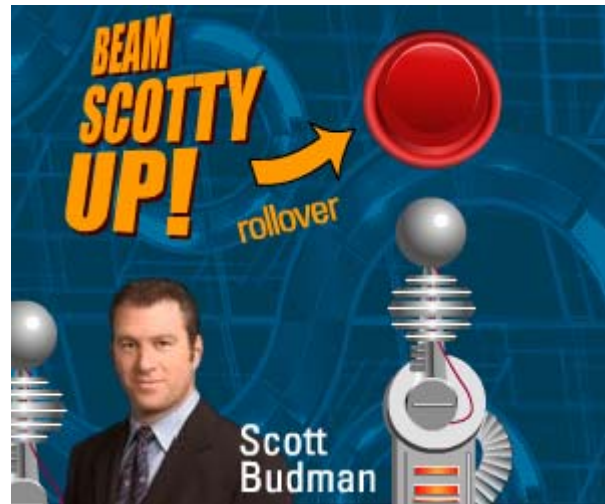
Supporters said the initiative would save lives. However, law enforcement and social service workers worry that some sex offenders may simply stop reporting their addresses so they won't have to move.

The scope of the initiative's impact largely hinged on whether it would apply retroactively to the state's roughly 90,000 registered sex offenders. Supporters and critics had expected the expanded residency requirements to be challenged in court.

Judge Illston issued a temporary restraining order against the residency requirements of Proposition 83. She said the unidentified sex offender who brought the case was likely to prevail on that and ordered a Nov. 27 hearing.

John Doe, as the plaintiff was named in court documents, argued that the measure could only apply to sex offenders registered after the law was passed. Illston did not address whether it could apply to those who registered after Nov. 7.

Another unknown is what to do with registered sex offenders who violate the law. The



measure does not add any crimes to the state's criminal statutes.

"There are a million questions left open," said Dennis Riordan, the lawyer who filed the lawsuit.

Nathan Barankin, a spokesman for Attorney General Bill Lockyer, said the state would vigorously defend the law.

"We won't know the true scope of Prop. 83 until the courts have resolved all the litigation," Barankin said. "Our goal is to make sure those questions get answered as quickly as possible."

Under the measure's language, most suburban and metropolitan areas of the state would be off limits to sex offenders.

The proposition, according to the suit, "effectively banishes John Doe from his home and community for a crime he committed, and paid his debt for, long ago."

The suit says the proposition forces the former convict "from the home that he owns with his wife and his community of over 20 years."

Gov. Arnold Schwarzenegger's legal affairs secretary, Andrea Lynn Hoch, quickly defended Proposition 83, calling it a "vital measure" that would "provide California families and children with numerous important safeguards from sexual predators who live in our communities."

The proposition is named for Jessica Lunsford, a 9-year-old Florida girl who was kidnapped, raped and suffocated by a convicted sex offender last year. More than 70 percent of voters approved the measure Tuesday.

The case is Doe v. Schwarzenegger, 06-6968.

—

Editors: David Kravets has been covering state and federal courts for more than a decade.

URL: <http://sfgate.com/cgi-bin/article.cgi?file=/news/archive/2006/11/08/state/n141657S77.DTL>

©2006 Associated Press