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November 27, 2006

Time Served

# Zoning Laws That Bar Pedophiles Raise Concerns

By [LAURA MANSNERUS](#)

FRANKLIN TOWNSHIP, N.J., Nov. 21 — The man identified in court documents as A. B. does not talk to his neighbors or tarry at the convenience store. Seventy-seven years old, soft-spoken and sometimes confused, he hardly ever leaves the little ranch house he bought in 1969. “People know what’s what with me,” he said.

What’s what with A. B. is that he moved back here last year after serving seven years in prison for sexually molesting two grandchildren and another youngster. And because his home is in a “child safety zone” drawn by the township, he may be forced to leave it.

But the public defender’s office in [New Jersey](#), a state government agency, filed suit against the township on his behalf last month, claiming that the ordinance not only violates his right to due process, but also conflicts with a state law requiring that parole officers decide where registered sex offenders live. It is the first such case the agency has taken up, and could herald a curb on the rapidly proliferating local ordinances that threaten to push pedophiles to the fringes of civilization.

Such regulations — more than 100 have been enacted in New Jersey municipalities — are popular around the nation. More than 20 states have broad laws keeping sex offenders from schools, churches, playgrounds and the like. This month 70 percent of California voters approved expanding statewide restrictions to include more sex offenders, and authorized towns to designate even stricter limits.

On Long Island, the East Rockaway Village Board voted on Nov. 13 to add areas in which sex offenders are barred: Now they cannot live within 1,000 feet of day care centers, community centers, places of worship, libraries and recreational facilities. And the Village of Babylon announced Tuesday that it had evicted seven offenders who were violating its residency restrictions.

The steady march of more and more restrictive regulations, though, is sending sex offenders into rural territory, which in New Jersey and on Long Island is scarce — or worse, into vagrancy, law enforcement officials say. Now these officials fear that uprooting sex offenders makes them less stable and harder to

track.

“It certainly makes our job difficult,” said Thomas James, New Jersey’s director of parole, explaining that because his officers often have to find housing and social services for offenders, their banishment by local governments is “an ever-increasing problem.”

But Michael DiGiorgio, chief of police here in Franklin Township, said, “We’re not telling any of these individuals they can’t live in Franklin Township; they just can’t live where the children are.”

“That’s the whole purpose of the ordinance,” he added. “To protect children.”

A. B.’s name is on the state’s registry — “I’m broadcast on the Internet,” he said — but he was identified by randomly chosen initials in court papers, and granted anonymity for this article, so as not to expose his victims. His lawsuit, filed in State Superior Court in Gloucester County, is one of a handful filed across New Jersey in recent months to overturn the local rules, part of a national wave of litigation that is beginning to follow the multiplying new laws.

An Ohio court ruled in October that the state’s buffer-zone law could not be enforced against offenders who lived in such zones before it took effect. Citing several constitutional concerns, a federal judge in California issued a temporary restraining order barring enforcement of the residency restrictions set forth in the state’s recent ballot proposition.

In Georgia, plaintiffs in a class-action suit include several offenders who would seem to pose little further threat: an elderly man with Alzheimer’s disease and another living in a hospice, along with a woman whose long-ago conviction was for having consensual oral sex with a 15-year-old boy when she was 17.

“We’ve represented people on death row, we’ve represented what I thought were some pretty unpopular people,” said Stephen B. Bright, president of the Southern Center for Human Rights, which is handling the Georgia case. “I didn’t know what unpopular was until we started representing sex offenders.”

Professionals who treat sex offenders say those who are forced to move often drop out of treatment programs. Civil liberties advocates say the restrictions unfairly punish people who have already served their sentences. But perhaps the most potent complaint about the ordinances is one articulated in A. B.’s lawsuit: that they impede the state’s ability to track the offenders in the first place.

In Florida, which has 1,000-foot buffer zones, a survey of 135 offenders showed that about half had to move after the law was adopted. In New Jersey, officials said they were unsure how many of the state’s 12,500 registered offenders had been displaced.

“Do you want to throw them all out of their homes? Where are they going to go?” asked Tom Rosenthal, a spokesman for the state public defender’s office. “Law enforcement is already empowered to tell

people to move. If they feel someone shouldn't be there, they can tell him to move and he can be gone in an hour."

A. B.'s future is uncertain because his house is half a mile from a lake, a recreation area under the terms of the township ordinance. So are most other houses in this 56-square-mile township of 16,000 people, a rural expanse in South Jersey where communities grew up around lakes, campgrounds and public parks.

A. B. and his wife live on Social Security income of \$1,200 a month and have no assets other than the house and a 1996 Ford Taurus. He left school at 16, having completed only the sixth grade. He delivered telegrams for Western Union, later drove a truck and then worked as an office assistant at an appliance business that went bankrupt.

At age 68, A. B. was charged with aggravated sexual assault and endangering the welfare of a child; he was accused of fondling the genitals of a 3-year-old boy and a 21-month-old girl, and performing oral sex on a 6-year-old girl.

In prison he had a heart attack, and a doctor later told him that in the hospital his heart had stopped. "Maybe they should have left me dead," he said in a recent interview at his kitchen table here.

Since his release from prison, A. B. has mostly stayed home to care for his wife, who is mentally ill and spends her days at an adult-care center in Glassboro, about 10 miles away. The two biggest towns nearby, Vineland and Millville, also have residency restrictions on sex offenders.

"I looked here, looked there," A. B. said of the possibility of having to move, "but the cheapest price for anything decent is \$850 a month." A. B. was originally ordered to move by Oct. 25, but the township has agreed to let him stay until the suit is resolved.

The mayor, David Ferrucci, said that Franklin Township, unlike some smaller, more compact towns that effectively zoned out sex offenders entirely, had "a reasonable amount of housing outside the zone."

The ordinance, adopted 13 months ago, applies only to those convicted of sex crimes against minors, and follows the state's three-tier system. High-risk offenders cannot live within 3,000 feet of designated places, including schools, parks, churches, theaters, libraries and convenience stores. The zone extends 2,500 feet for the moderate-risk group and 1,000 feet for low-risk offenders.

The ordinance also prohibits loitering in those areas. A. B., a moderate-risk offender, says that he is afraid to go to church, and that when he buys cigarettes for his wife at the Wawa store a few miles away, he does not talk to anyone. On his parole officer's advice, he said, he avoids public places whenever possible. As required, he goes to group therapy sessions every two weeks.

"I wouldn't do anything out of the law," he said. "I'm scared. I don't want to spend another day of my life in prison."

Experts say at least 90 percent of child molesters, like A. B., abuse relatives or family friends. Yet Charles Onley, a researcher at the Center for Sex Offender Management, a project of the [federal Justice Department](#), said that “most of the laws are passed on the basis of the repulsive-stranger image, when in most cases the offender knows the victim.”

Still, parents’ demands for reassurance are hard to dismiss, especially as sex offenders are forced out of neighboring towns.

“How could legislation like this be done better?” Mayor Ferrucci said. “Let the state do it. I would be a huge advocate for that. We’re all out there as municipalities grasping for opportunities to protect our citizens.”

The public defender’s office contends that the New Jersey Legislature acted 10 years ago when it adopted Megan’s Law, named for [Megan Kanka](#), a 7-year-old Hamilton Township girl whose murder by a released sex offender prompted extensive restrictions on offenders when they leave prison. They are registered by local police departments, tracked by parole officers and, in many cases, required to report regularly for psychological treatment. Several bills proposing further residency restrictions have been introduced, but the Legislature has not acted on them.

Many other states, though, have enacted buffer-zone legislation since Iowa’s law was upheld by a federal appeals court in April 2005; now, the county prosecutors’ association is urging repeal of the law as ineffective and unfair to offenders’ families.

Some states, including New Jersey, have tried other solutions, including civil confinement of some sex offenders after their prison terms. But last week, New York State’s highest court, the Court of Appeals, struck down the practice of confining offenders to psychiatric hospitals after they leave prison and ordered hearings to determine whether those being held should be released.

Gov. [George E. Pataki](#), who last year ordered the confinement of 12 offenders after lawmakers failed to agree on legislation that would have explicitly permitted such detention, said he would call for a special session of the Legislature this week to push for a civil confinement bill.

Even as New Jersey’s courts consider possible constitutional problems with local residency restrictions, new ones keep coming.

On Tuesday the City Council in Jersey City enacted an ordinance that prohibits sex offenders from living within 2,500 feet of a school, park, sports facility, theater or convenience store, among other places. The measure exempts offenders who already have established residence in such zones, but bars newly released convicts who want to return home or move in with relatives. Taken together, the zones block out virtually the whole city.

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