ICAOS Committee Want to Ensure Sex Offenders Are Monitored Across State Lines

By Mary Branham Dusenberry
Sex offenders in North Carolina are classified by a tier structure, with each level crime determining the punishment. A Tier 1 sex offender, the most severe, would have the most severe punishment, including active GPS tracking for the rest of his life after he leaves prison.

New Jersey has no statewide residency requirements, but 113 cities have set restrictions that make it virtually impossible for sex offenders to live within city limits.

In Georgia, lawmakers considered a bill in 2006 that would have prohibited sex offenders from living in the state at all.

New York legislators have barred sex offenders from operating ice cream trucks. Offenders can’t run massage parlors in California. Eight states allow castration of sex offenders.

The laws vary. The penalties are tough in some states; not as tough in others. The states’ approaches, conditions and requirements for management of sex offenders are vastly different and these differences create problems when sex offenders want to transfer across state lines.

“Sex offenders are a very transient offender population,” said Robert Guy, the director of North Carolina’s Division of Community Corrections who chairs a new ad hoc committee of the Interstate Commission for Adult Offender Supervision. “They like to move. They will move to try to go where there’s less restriction and less control, if possible.”

The ad hoc committee of ICAOS is working to develop a policy statement and proposed rules to guide the transfer of sex offenders among states. All 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands are members of ICAOS.

The committee, which met for the first time in March, hopes to develop a policy and rules that create minimum expectations for compact members concerning the sex offender population. The committee hopes to present recommendations to the full membership at ICAOS’s annual business meeting in September. Rules of the national compact supersede any conflicting state laws, according to Don Blackburn, executive director of ICAOS.

Guy said in the last 18 to 24 months, states have been proposing and adopting laws dealing with sex offenders. Much of the activity in the states is in response to the federal government’s passage of the Adam Walsh Child Protection and Safety Act in July 2006 and high-profile child abduction cases across the country.

“We have got to get some direction about crossing state lines,” Guy said. “If we don’t get things under control, a state that has a less restrictive law or has very little to do with sex offender regulations might become the state of choice for sex offenders.”

That was the case in North Carolina, before that state passed a new sex offender law. Guy said many Georgia sex offenders had previously sought transfer to his state because the punishment was not as tough.

The compact seeks to remedy these inconsistencies.

The flood of sex offender legislation recently has created many discrepancies across state lines. Many states, for instance, have passed laws that ban a sex offender from living within 1,000 to 2,000 yards of a school or day care. Others also have requirements for GPS tracking—some for just the most serious offenses, others for any sex offense across the board.

“We want states to pass laws, but we don’t want states to pass laws that are in conflict with the overall mission of the agreement of the compact between the states,” Blackburn said.

Before the new compact was adopted, said Blackburn, “we had states passing laws that wouldn’t allow offenders to be in their states and it would be a crime if they were there.

“We don’t want states passing laws that prohibit sex offenders from even living in their state. We still need to get sex offenders … where they have the most resources for their successful rehabilitation,” he said.

Guy said a first step of the ad hoc committee is to gather information about new sex offender laws passed in 2007. He said it’s important that sex offenders be registered, but many tough state laws may drive sex offenders underground.
“The last thing you want to do is lose sex offenders and they become homeless,” he said. “The irony to that is, you pass GPS tracking. But if they (sex offenders) don’t meet the 1,000 foot residency requirement and they become homeless, you can’t hook up the GPS. There’s no phone. There’s no house. They’re living in tents or under a bridge, so GPS isn’t going to do you much good either.”

Some states have found those residency requirements have created problems with tracking offenders. “How you drive them (sex offenders) underground is if you don’t allow them a place to live. Then where are they going to live?” Blackburn said.

The answer, now, may be for sex offenders to find states with less restrictive punishments.

“We’ve got tough punishment for sex offenders in North Carolina, but when they do get out of prison, when they try to go out of state, I’m responsible as the sending state. It’s my responsibility to make sure they go through the compact, that they meet the rules before they transfer anywhere. If not, then they’re going to stay in North Carolina where I’ve got them on GPS tracking or at least I know where they’re living,” said Guy. “That’s one of the big issues … making sure they’re not free to move about the country.”

Guy said the bar has been raised on what punishment sex offenders receive, but “state laws do not even come close to offenders receive, but “state laws do not even come close to looking alike. Some components are the same, but on the punishment side …”

Guy said he’s often hesitant to release sex offenders to live in other states.

“A Tier 1 sex offender in North Carolina, a child predator, I’m not letting him leave my state period, until I know the other state, in the receiving state, that he complies with the rules, that he has residency there and that he has a reason to be there.

“We don’t slow it down, once they get across state lines. That’s what happens with many of these sex offenders. Tragically they start moving about and changing locations and changing their environment, that’s part of their M-O. That’s why the compact is so important.”

The committee will be deliberate in its efforts to construct guidelines for transfer of sex offenders across state lines. “It’s such an important topic for me as a commissioner and as a director of parole and probation that it’s not something you want to hurry into and make knee-jerk decisions and not accomplish anything,” Guy said.

Guy would also like the committee to offer a resource to help states struggling with the types of laws they want to pass.

“We’ve got to make sure we have a pretty good aggressive plan that we can get out in front of this thing,” Guy said. “If not, I’m afraid we’ll have a compliance issue in the states.”

Tracking Sex Offenders

That’s one reason registration—and an ability for states to track those registered offenders—is so important.

When the Adam Walsh Act was under consideration, officials estimated that more than 100,000 sex offenders had registered in the state where the offense occurred, then moved to another state but failed to re-register, Blackburn said. ICAOS is developing a national database that will tie the state registries together. Blackburn said about 30 percent of registered sex offenders are under active state supervision. When they cross state lines, those offenders will be in ICAOS’ new information tracking system.

“Sex offenders like to move. They want to get lost. They want to move to those states where there is no supervision,” he said.

The Adam Walsh Act requires that after each state registers a sex offender, it must track that offender.

“You’ve got to have some database to track them, so when they go to another state, they only have five days to register. The Adam Walsh Act is trying to stop sex offenders from getting lost,” Blackburn said.

“We are hoping to tie into other state systems with this system so we can track all sex offenders as they move across the states, which will be an easy interface between our system and state systems,” Blackburn said. “We are hoping nationally to be able to track all sex offenders if they cross state lines, because that’s where they get lost.”

The Adam Walsh Act, he said, requires registration within five days. Blackburn said other requirements are more stringent than in the past, so states will need to track all offenders, not just those under supervision.

“We hope this is a spark and assistance to states … that our database system is going to be a platform and a help for them in order to comply with the Adam Walsh Act and all the other sex offender requirements … and tracking all these sex offenders,” Blackburn said.

He said ICAOS also hopes to interact with other databases through government agencies, and is working with federal probation and Immigration and Customs Enforcement (ICE).

“The more systems we have their names in and the more they interconnect, the better off we’re going to be,” Guy said. “Right now, there are a lot of paper systems out there. We’ve got to get automation. The sex offender is one population we have to make sure we track.”

In developing the new tracking system, Blackburn said ICAOS has found some state registries are behind on entering as many as 10,000 names.

“So we have states that may have somewhat of a registry, but they don’t have the resources or people to enter the names into it, So they’ve got thousands sitting there to be entered into it,” he said. “These people (sex offenders), while they haven’t been entered into the system, move to another state. Guess what? You’ve lost them.”

He’s hoping the ICAOS database can help eliminate some of those problems. And, he said, federal money is available to help states build their own database systems.

“We believe our system is going to be a backbone that can easily facilitate them interfacing,” Blackburn said. “Most states have a management system that they track their own offenders. We’re trying to link with those systems so if these people cross state lines, then we’ll know where they are.”

Guy said linking to the ICAOS database shouldn’t be a problem, at least for North Carolina. “We have 125,000 offenders under our supervision and it’s all automated,” he said. “So the national system will be a perfect link for us because as they apply to go out of state, it will be interfaced with the national network.”

—Mary Branham Dusenberry is managing editor for State News magazine.