Report of the Senior Safety Zone Task Force

Special Act 14-20: An Act Concerning Senior Safety Zone

Submitted:
January 1, 2015
**Task Force Membership**

Senator Cathy Osten – Co-Chair

Margaret Morelli – Co-Chair  
Appointed by the Speaker of the House, J. Brendan Sharkey

David McGuire  
Appointed by the Majority Leader of the House, Joe Aresimowicz

Eduardo Palmieri  
Appointed by the Minority Leader of the Senate, John McKinney

Julia Evans Starr  
Connecticut’s Legislative Commission on Aging, Executive Director

Dianne Stone  
Appointed by the Speaker of the House, J. Brendan Sharkey

Nancy Shaffer  
Long-Term Care Ombudsman

**Administrative Staff:**

[Connecticut’s Legislative Commission on Aging](https://www.cla.state.ct.us)

*A nonpartisan public policy and research office of the CT General Assembly*
**Process Overview**

The following report is the culmination of the work of the Senior Safety Zone Task Force. In accordance with Special Act No. 14-20 the task force was charged with studying the following:

1. Best practices nationwide for protecting senior citizens in their homes, at senior centers and at long-term nursing facilities from interaction with sexual offenders;
2. Legal considerations related to identifying persons convicted of sexual offenses and preventing them from entering public facilities where senior citizens may live or congregate;
3. Data regarding the percentage of sexual offenders whose victims are elderly persons;
4. The most effective means to identify sexual offenders and limit their movements without affecting their constitutional rights.

The task force met four times between October and December. The task force invited experts to present at various task force meetings to speak on areas under study. Invited speakers and guests included: Chief Paul Melanson, Farmington Police Department; Juan Torres, Social Work Supervisor, DSS, Protective Services for the Elderly; Ellen Cyr, CT Association of Resident Services Coordinators in Housing; Pam Atwood, Dementia Specialist, Hebrew Health Care; Jillian Gilchrest, Connecticut Sexual Assault Crisis Services. Members of the Task Force also presented information specific to their area of expertise.

Additionally, the task force, through Senator Osten, asked the Office of Legislative Research to study other states’ consideration or enactment of senior safety zone legislation (Appendix A).

**Background**

In 2012, in response to reportedly high numbers of sex offenders moving into the town of Montville, the town adopted a local town ordinance that established a “Senior Safety Zone”. The Montville ordinance prohibited convicted sex offenders from entering any town-owned or leased park, senior center, elderly community centers, elderly housing and/or other facilities where senior congregate. The local ordinance was later rescinded after the American Civil Liberties Union questioned its constitutionality. Opponents of the ordinance also were concerned that it was unenforceable, among other issues.

The Connecticut General Assembly has considered legislation similar to the Montville ordinance since 2011. Bills have been voted favorably out of committee but have not passed either chamber of the General Assembly. In 2013, the Aging Committee favorably reported a substitute bill, which the legislature enacted as Special Act 14-20 and created this task force.
Findings

Connecticut is undergoing a permanent and historic transformation in its demographics. Between 2010 and 2040, Connecticut’s population of people age 65 and older is projected to grow by 57%, with less than 2% growth for people age 20 to 64 during the same period (see Figure 1). Moreover, residents born in Connecticut today can expect to live to be 80.8 years old—the third highest life expectancy in the nation. These demographic shifts will effect most every aspect of our lives. Continuous evaluation of state and local policies to reflect the needs of the aging population remains imperative.

This task force was mandated to explore a sensitive topic and propose responsible recommendations that consider all of the individuals affected by the outcomes of this task force.

Sexual Assault Victims

According to the U.S Department of Justice, the 12- 24 year-old age group experiences highest rate of non-fatal violent crime victimization while older adults, age 65 years or older, experience such victimization at lower rates than other age cohorts (see Figure 2). Nonfatal violent crime includes rape and sexual assault, robbery and aggravated assault.

Figure 1: Projected Population Growth in Connecticut from 2010 to 2040. This figure was created and information calculated by Connecticut’s Legislative Commission on Aging with population projections provided by the University of Virginia Weldon Cooper Center for Public Service (from 2010 U.S. Census Data).

Figure 2: U.S. Rate of Violent Crime, by Crime and Age Rate per 1,000 persons

- Total Violent Crime
- Serious Violent Crime
- Rape/Sexual Assault
- Robbery
- Aggravated Assault

Age 12-24: 49.9, 15.2, 2.6, 0.5, 9.1
Age 25-49: 27.6, 8.9, 1.2, 0.2, 2.1
Age 50-64: 16.8, 4.8, 0.5, 0.6, 1.1
65 or older: 3.6, 1.3, 0.2, 0.6, 0.5
Between 2003 and 2013, older adults in the United States were more likely to report violent crime to police than persons between ages 12 and 24 years old. There was no difference in the reporting between older adults and persons of other ages.  

In Connecticut, between 2009 and 2013, there were 4,364 reports of sexual assault across all age groups. Of those, 57 (or 1.3%) were victims over the age of 60. This information is based on known offenses to the police (see Figure 3). However, according to the Connecticut Sexual Assault Crisis Services and Pennsylvania Coalition Against Rape, only 30% of sexual assaults on older adults are reported. Additionally, while the scope of this task force was to review data specific to older adults, sexual abuse happens at every age and could have a lifelong impact on the victim. Older adults who have experienced sexual assault in earlier years may experience unresolved trauma.

Figure 3

Juan Torres, a Social Work Supervisor at Department of Social Services Protective Services for the Elderly Program, presented data on substantiated elder abuse cases in Connecticut to the task force. During the 2013 calendar year, there were 998 substantiated cases of elder abuse and of those, there were 5 (or .5%) substantiated cases of sexual abuse. Expanded mandated reporter laws (PA 13-250) have increased the number of reports to Protective Services. However, Mr. Torres reported that sexual abuse is often difficult to recognize and identify.

Limited information was available about the perpetrators of these crimes against older adults. However, a national study of elder sexual abuse found that 81% of suspected offenders were

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4 Presentation the Task Force: CT Department of Social Services, Protective Services for the Elderly report to the Senior Safety Zone Task Force, October 30, 2014.
caregivers (78% of which were husbands or sons). Additionally, 36% of the suspected offenders were themselves elders. 5

Victims with Alzheimer’s Disease or Dementia
Working with victims with dementia creates very unique challenges. Approximately 5.3 million people of all ages in the United States have some kind of dementia. 10% of older adults over 65 have some kind of dementia. Close to half of all people over 85, the fastest growing segment of the U.S. population, have Alzheimer’s disease or another kind of dementia. 6 One 2009 study revealed that close to 50% of people with dementia experience some kind of abuse (physical, emotional, financial or sexual). 7

Some experts say that reports of sexual abuse are sometimes dismissed because the victim is not considered credible. Connecticut Sexual Assault Crisis Services, citing a Pennsylvania study, says victims who have been abused in an assisted living facility were less likely to see their offenders be convicted than those victims who had been abused in other settings. 8 Additionally, consent is difficult to measure. For example, a spouse may claim it is his or her right to continue to have sex with his/her spouse even though the law disagrees. 9

Perpetuators with Alzheimer’s Disease or Dementia
A person with certain types or stages of dementia may display inappropriate sexual behavior. Pamela Atwood, Director of Dementia Services and a Certified Dementia Specialist from Hebrew Health Care, presented to the task force and stated that the intent of the sexual behavior is important to understand and acknowledge. Sexual advances may be intimacy-seeking behavior instead of about power and control. Regardless of the intent, victims of these behaviors are impacted and must not be minimized.

Sex Offender Registry and Current Practices
In 1998, the Department of Public Safety was mandated by PA 98-111 to establish and maintain a centralized sex offender registry in the State of Connecticut. Connecticut General Statutes 54-250 through 54-261 mandates that the Department of Emergency Services and Protection establish and maintain a central registry of persons who have been convicted of certain sexual offenses. The law requires that this information be made available to the public, who can search the registry at the www.icrimewatch.net.

The addresses of all sex offenders are updated on a ninety-day or annual basis, depending on the conviction or the conditions of release of the offender. Local law enforcement officials are notified when a registered sex offender has moved into their town.

5 Pennsylvania Coalition Against Rape: http://pcar.org/elder-sexual-abuse.  
7 Administration on Aging, National Center on Elder Abuse: http://www.ncea.aoa.gov/faq/index.aspx  
8 Pennsylvania Coalition Against Rape: http://pcar.org/elder-sexual-abuse  
9 Wisconsin Coalition Against Sexual Assault. (2004). To live without fear and violence: sexual assault and domestic abuse against older individuals.
Often people hear “sex offender,” and they think of sexual assault and child molestation. The legal definition of sex offender, for the purposes of the registry, is a person who has been convicted of violating one of the state’s laws relating to sexual behavior. In Connecticut, any person who has been convicted of one of the crimes outlined in the statute must register within three days of release.

While the legal definition for purpose of the registry addresses cases of serious sexual assault feared by most people, it also includes a range of sexual offenses that are not necessarily viewed as a threat to most. For example, an 18-year-old adult engaging in sexual contact with a 15-year-old minor can be prosecuted for assault. By law, the 15-year-old is unable to “consent” to sexual activity. Therefore the offender is convicted and must register on sex offender registry.

Offenders stay on the registry for 10 years after conviction and release. Lifetime registration is required after conviction and release for crimes defined as a sexually violent offense under C.G.S. Section 54-250.

As of November 2014, there are 4,417 of people on Connecticut’s sex offender registry. The age breakdown of those on the registry can be seen on the figure below (see Figure 4). Just as the general population is aging, so too is the age of offenders on the registry. At this time, 460 people on the registry are over the age 65, this number will increase dramatically over the next 10 years.

**Figure 4**

<table>
<thead>
<tr>
<th>Age Group</th>
<th># of Offenders</th>
</tr>
</thead>
<tbody>
<tr>
<td>86-95</td>
<td>12</td>
</tr>
<tr>
<td>76-85</td>
<td>67</td>
</tr>
<tr>
<td>66-75</td>
<td>281</td>
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<td>56-65</td>
<td>677</td>
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<tr>
<td>46-55</td>
<td>1305</td>
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<tr>
<td>36-45</td>
<td>981</td>
</tr>
<tr>
<td>26-35</td>
<td>897</td>
</tr>
<tr>
<td>18-25</td>
<td>197</td>
</tr>
</tbody>
</table>

**Current Practices: Law Enforcement**

According to invited guest speaker, Paul Melanson, Chief of Police of the Farmington Police Department, when a police department is notified by probation or parole that a registered offender has moved into the area, local law enforcement thoroughly reviews, on a case-by-case basis.

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\(^{10}\) Data provided to the task force from the Office of Emergency Services and Public Protection
basis, the offender’s case information and history. Based on information from the review, potentially affected parties, including schools and members of a neighborhood, are notified. Sometimes it is necessary to meet with these parties to develop an appropriate safety plan. For example, a registered sex offender may need to enter a school (as they may be a parent or grandparent of a child in the school). A safety plan is put in place on how to effectively deal with this situation that both protects the public and honors the rights of the offender and their family.

**Current Practice: Congregate Housing**

Currently, congregate housing facilities funded by the federal Department of Housing and Urban Development must perform a criminal background check on all residents upon application to determine if an applicant, or any member of the household, is registered on the sex offender registry. If the applicant, or a member of the applicant’s household, is a lifetime registered sex offender, the application is denied.

**Current Practice: Senior and Community Centers**

Senior and community centers in Connecticut are very diverse in terms of structure, capacity, purpose and programs. In Connecticut, there are 160 senior centers, each one of them very different than the other. According to task force member, Dianne Stone, there is no standard definition of a senior center in Connecticut, and they are not regulated by any state or federal entity. Generally, senior and community centers are similar to a library in that people come and go without oversight. There is no standard practice in monitoring the participation of a sex offender in a senior or community center setting. These centers generally lack the capacity to screen participants and monitor participation and behavior.

**Recommendations**

1. Replicate law enforcement models that do a case-by-case analysis of an offender’s criminal history when they move into a town, and provide notification to appropriate officials as necessary. During the analysis by local law enforcement, a scientifically validated risk assessment tool should be used to provide a standardized approach to evaluating risk to the community.

2. Provide education to local law enforcement and probation and parole officers about the role of community and senior centers so law enforcement recognizes the need to notify them when a sex offender has moved into the area. Often schools are notified and a safety plan put in place. We recommend working with senior and community centers, libraries and other public offices in the same way as schools.

3. Explore a modification to the sex offender registry to include a tiered system that may help law enforcement and community members better understand the nature of the offenses and risk (if any) to the public. The current registry includes very little.

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information about the type of crime the person has committed that may lead to misinformation and fear in the public.

4. Encourage senior centers, community centers and congregate housing sites, in collaboration with local law enforcement, Connecticut Sexual Assault Crisis Services, and other victim-oriented groups to implement a safety plan that includes training and education to appropriate staff to identify and manage risk for all forms of abuse, neglect and exploitation.

The following recommendations were also identified as a result of the task force’s research. While these recommendations were not specific to the scope of the Special Act, they were identified as important strategies to strengthen the overall elder abuse protection system.

1. Include Emergency Services Workers (EMS) as elder abuse mandated reporters (CGS 17b-451). The mandated reporter statutes were updated in 2013 to reflect the growing trend of older adults living in the community. EMS workers were inadvertently not included in this update yet as first responders they may be critical to the identification of seniors in crisis.

2. We must carefully monitor the capacity of the system, including adequate support and funding for the Protective Services for the Elderly Program and the Chief State’s Attorney’s office, to ensure reports of abuse and neglect are thoroughly investigated and prosecuted. In 2013, significant changes were made to the elder abuse mandated reporter statute. Since then, Protective Services for the Elderly has seen an increase of 700 referrals this past year.

3. Develop a mandated reporter training that can be used across disciplines to help to ensure recognition and identification of elder abuse.

4. Evaluate the use of a multidisciplinary team approach by Protective Services for Elderly complex elder abuse cases reported to the state. Teams typically include representatives of the public agencies involved in elder abuse such as Protective Services, law enforcement, Long Term Care Ombudsman and agencies that provide services to older adults in the community.

5. Standardize elder abuse definitions and reporting mechanisms to accurately capture the nature and scope of elder abuse in Connecticut and in-line with national models for consistency across states. Data should be granulated enough to determine specific trends. Complete, standardized and accurate data regarding elder abuse is essential for planning, evaluation and resource allocation.

6. Empower older adults, persons with disabilities and family members with information on how to best screen and select privately hired direct care workers.

7. Standardize and define the role of senior centers in statute as a community focal point in order to strengthen the role of the senior center within municipalities.
Appendix A: Office of Legislative Research Report

Email to Senator Osten from Nicole Dube, OLR, 9/22/2014

Sen. Osten,

You asked if any states have considered or enacted “senior safety zone” legislation, which prohibits registered sex offenders from entering senior housing facilities. We found three states (Connecticut, Florida, and Massachusetts) that have considered this issue through state legislation or local ordinance. Please note, this list may not be exhaustive.

**Connecticut**

**State Legislation**

The legislature has considered senior safety zone legislation every session since 2011. Most recently, in 2014, the legislature considered SB 178. As originally raised, the bill would have prohibited registered sex offenders from entering senior centers, elderly housing, or elderly congregate facilities, unless they were (1) visiting a relative living there or (2) providing services required by their employment. It also allowed registered sex offenders to enter a senior housing center to participate in activities not sponsored or organized by the center, such as voting in an election. The bill did not apply to sex offenders living in any of these facilities.

The Aging Committee favorably reported a substitute bill, which the legislature enacted as Special Act 14-20. The act created a 10-member task force to study the creation of senior safety zones, including (1) best practices, (2) legal considerations, (3) data on the percentage of sex offenders whose victims are seniors, and (4) the most effective ways of identifying and limiting the movement of sex offenders without affecting their constitutional rights. The task force must report its findings and recommendations by January 1, 2015 to the Aging and Judiciary committees.

**Local Ordinance**

In 2012, the town of Montville adopted, but later rescinded, an ordinance establishing senior safety zones. Specifically, it prohibited convicted sex offenders from entering any town-owned or -leased park, senior center, senior bus, elderly community, elderly housing, elderly event, elderly function, or other facility where seniors congregate. The ordinance provided exemptions to the prohibition similar to those in SB 141 listed above.

In 2013, the town rescinded the ordinance after opponents, including the Connecticut chapter of the American Civil Liberties Union, raised concerns that it was unenforceable and unconstitutional.

**Florida**

**Local Ordinance**
In 2007, Hillsborough County adopted a “Sexual Predatory Senior Protection Ordinance” that prohibits convicted sex offenders from living within 1,000 feet of designated senior communities (Ord. No. 07-12). Sex offenders living in nursing homes and long-term care facilities are required to disclose their status to the facility’s management. The ordinance grandfathers in those sex offenders already living in or near a “senior safety zone,” but requires long-term care facility management to take precautions to alert other residents of potential danger. Individuals who violate the ordinance are subject to a fine of up to $500, up to 60 days in jail, or both.

Massachusetts

State Legislation

In 2006, the Massachusetts legislature enacted legislation prohibiting a Level 3 sex offender (e.g., the highest risk of re-offense and public danger) from “knowingly and willingly” living in, moving to, or transferring to a nursing home, rest home, town-maintained infirmary, charitable home for the aged, or intermediate care facility for the mentally retarded. Violators of the law are subject to the following penalties:

- **First conviction**: up to 30 days imprisonment in a jail or house of correction;
- **Second conviction**: (a) up to two and one-half years imprisonment in a jail or house of correction, (b) up to five years imprisonment in a state prison; (c) a fine of up to $1,000; or (d) both imprisonment and a fine; and
- **Third and subsequent convictions**: at least five years imprisonment in a state prison, provided that the imposed sentence is not reduced to less than five years, nor suspended (M.G.L. Chapter 6, § 178E).

In 2011, the Supreme Judicial Court of Massachusetts ruled that the law violated due process and was unconstitutional when applied to a Level 3 sex offender who had an existing placement in a senior housing facility at the time the law was enacted. The court determined that the law infringed on a sex offender’s protected liberty and property interests by failing to provide for an individualized determination that the public safety benefits requiring the individual to leave the senior housing facility outweighed the risks to the sex offender of such a removal (Doe v. Police Commissioner of Boston (2011) 951 N.E.2d 337, 460 Mass. 342).

Local Ordinance

In addition to state legislation, some towns (Ayer, Malden, Mansfield, Marlborough, Quincy, Rockland, and Shirley) have addressed this issue through local ordinance. For example, Mansfield prohibits convicted registered sex offenders from entering any park, recreational facility, elderly housing facility, over-55 community, or senior citizen center. Marlborough, Shirley, and Rockland prohibit registered sex offenders from living within 1,000 feet of elderly housing and certain recreational facilities. Malden prohibits registered sex offenders from entering an elderly housing or recreational facility without the administrator’s prior written authorization. It also prohibits loitering within 500 feet of these locations.

In 2012, a married Level 3 sex offender in Ayer challenged the town’s bylaw, which prohibits Level 2 and Level 3 sex offenders from living or loitering in areas where large numbers of children or seniors congregate. The sex offender filed a civil lawsuit against the town and its police chief seeking to overturn the bylaw as unconstitutional. In a December 19, 2012 decision, the court ordered that the sex offender and his wife could immediately move to a property owned by the sex offender’s in-laws, which is in a restricted area. The court did not address the bylaw’s constitutionality, but found that the sex offender registered with the town before the bylaw took effect, exempting him from the bylaw’s residency restrictions (King v. Town of Ayer, No.1:12-CV-11777-WGY, Mass Dist.Ct., Dec. 19, 2012).