

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
October 20, 2005

Statement of Senator Patrick Leahy,
Ranking Member, Committee on the Judiciary,
On Sex Offender Registration and Notification Act (S.1086)
Executive Business Meeting
October 20, 2005

I am pleased that we have worked out a compromise on S.1086, the Sex Offender Registration and Notification Act. As reworked, this bill will assist states in their ongoing efforts to protect children through tighter monitoring of known sex offenders.

As a former prosecutor, and as a father and grandfather, I know that there is no higher duty than to protect our society's children, to take every step possible to prevent them from coming to harm, and to punish those who attempt to or succeed in harming them. We have never debated the question of whether children should be protected. Of course they should. The only debate is about how they should be protected, and how best to utilize limited resources to deter and punish those who would prey on them.

Over the last thirty years, I have worked closely with my colleagues, many of whom are here on this committee, to write and enact legislation aimed specifically at protecting children and assisting victims. In the last Congress, Senator Hatch and I joined to introduce the PROTECT Act, which provided prosecutors and law enforcement with tools necessary to combat child pornography and human trafficking. The final legislation passed by Congress included a number of provisions that I had either authored or supported: The National AMBER Alert Network Act; the Protecting Our Children First Act, which reauthorized funding for the National Center for Missing and Exploited Children; and legislation to amend the Violence Against Women Act to provide transitional housing assistance grants for child victims of domestic violence.

In addition, I am pleased that this committee and the Senate have acted on other legislation for children and crime victims that I have sponsored. These include the 21st Century Department of Justice Appropriations Authorization Act, which among other things included important grant funds for the Boys and Girls Clubs of America, and established the Violence Against Women Office in the Justice Department. Last year the President signed into law the Justice for All Act, a package of criminal justice reforms that, among other things, authorized funds to reduce rape kit backlogs and enumerated crime victims' rights.

We have come a long way since S.1086 was first introduced by Senators Biden and Hatch. Through an impressive bipartisan effort, serious concerns raised by members of the Committee,

State attorneys general, the Department of Justice, and others have been addressed. I appreciate that my colleagues took our concerns to heart and revised this bill in ways that will increase protection from the most dangerous sex offenders while not overwhelming the states with unwieldy, and costly, administrative burdens.

Most significantly, the original version of the bill had the potential to impose an enormous unfunded mandate on the states, while also threatening them with a loss of much-needed federal assistance for prosecutors and law enforcement if they did not comply with that unfunded mandate. The current version of the bill eliminates the threatened loss of federal funding, and instead authorizes an infusion of new federal grant money to states to enable them to further strengthen their sex offender registry and monitoring programs. I have long been opposed to unfunded mandates that place heavy burdens on the states, and I am pleased that we were able to reach an agreement on this most significant point.

I am also pleased that the bill now recognizes that all crimes and criminals cannot and should not be treated the same. The original version of the bill imposed numerous reporting and monitoring requirements on the lowest-level offenders, rather than permitting the states to use their scant resources to monitor and supervise the most violent and dangerous of sex offenders. The goal of a community notification system is to inform the public regarding convicted sex offenders who pose a true risk. The revised bill allows the states to draw the important distinction between the lowest level offender and the highest, and affords them substantial flexibility in developing methodologies for monitoring and registering sex offenders, using criteria decided by them.

In crafting any legislation, an important goal is to avoid unintended and adverse consequences. Under the bill as revised, the federal sex offender registry will include a warning that acts of violence or harassing behavior toward sex offenders will not be tolerated and may be prosecuted.

Regrettably, the core, bipartisan bill to strengthen state sex offender registration programs was joined in Committee to an unrelated Republican bill the sole purpose of which is to create additional mandatory minimum sentences. I agree with Justice Kennedy, Justice Breyer, and the vast majority of federal judges and practitioners that harsh, inflexible mandatory sentencing laws are a recipe for injustice. Mandatory sentences also tie prosecutors' hands in these cases where it is most important that they have the discretion to plea bargain, especially considering how difficult it can be to prepare children emotionally and psychologically to testify against their abusers. That said, I appreciate my colleagues' willingness to limit the imposition of new mandatory minimum sentences to the most serious and violent crimes against children, rather than myriad lesser crimes, as the bill originally proposed.

Finally, I want to thank the Vermont Attorney General's office for its prompt and constructive comments on multiple drafts of this legislation. I am proud that Vermont has an effective sex offender registry program, which provides law enforcement agencies and the general public information regarding individuals who have proved a demonstrable threat to the public. In light of the mobility inherent in American society, cooperation and coordination among the various states improves the effectiveness of each state's registry, and the federal assistance S.1086 provides will enhance that cooperation and coordination.