

**The Position of the New York State Association for the Treatment of Sexual
Abusers on Assembly Bill 4591/Senate Bill 3138**

The New York State Association for the Treatment of Sexual Abusers (NYS ATSA) is strongly in favor of the adoption of **A.4591/S.3138**, which amends Correction Law §168 to incorporate validated risk assessment instruments and ongoing evaluation of these instruments for use under New York State's Sex Offender Registration Act (SORA) in classifying sex offenders as low, medium, or high risk. For the past 12 years, NYS ATSA has advocated for a reevaluation of the risk assessment instrument presently being used under SORA.

The risk assessment instrument currently being used by the criminal courts in New York State classifies sex offenders as low, medium or high risk. This instrument was **developed in 1995** and has never been empirically validated as an accurate assessment of risk of sexual recidivism. At the present time, approximately **33,500** sex offenders have been classified using the SORA instrument. Without empirical data supporting the predictive accuracy of the current SORA instrument, we are unable to determine if these classification designations are accurately assessing risk.

This proposed bill would provide for the use of scientifically validated risk assessment instruments, such as the Static-99, and for the ongoing evaluation of these instruments. This amendment would be consistent with other sex offender public policies, such as the Sex Offender Management and Treatment Act (SOMTA), which mandates that, "The system for responding to recidivistic sex offenders with civil

measures must be designed for treatment and protection. It should be based on the most accurate scientific understanding available, including the use of current, validated risk assessment instruments” (MHL 10.01[e]). Given the mandate to ensure the risk assessment process is evidence-based, the NYS Office of Mental Health utilizes the Static-99 as part of its risk assessment process. Bureau leadership has been diligent to ensure all policies and procedures have strong empirical support

The use of validated risk assessment instruments has enormous benefits. First, it would enhance public safety by more accurately identifying those sex offenders at higher risk of sexually re-offending so that more resources could be devoted to monitoring them. Second, it would save financial resources because many law enforcement agencies have shared that it stretches out their resources as they try to track the high risk sex offenders. Examination of the classifications made under the current SORA guidelines indicates that **25%** of convicted sex offenders are classified as high risk (Level Three), whereas most actuarial risk assessment schemes suggest that approximately **10%** of sex offenders are classified as high risk. The large number of individuals designated as high risk under New York State’s current SORA instrument spreads the resources of already strained departments (i.e. probation and parole) over a large number of sex offenders, many of whom are not at high risk and who do not need intensive community supervision and monitoring.