

The Position of the New York State Association for the Treatment of Sexual Abusers and the New York State Alliance for the Prevention of Sexual Abuse on Assembly Bill 4191 and Senate Bill 7509

The New York State Association for the Treatment of Sexual Abusers (NYSATSA) and the New York State Alliance for the Prevention of Sexual Abuse (The Alliance) are strongly in favor of the adoption of A 4191 and S 7509, which propose amending Correction Law § 168-d 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 individuals who have committed sexual offenses as low, medium, or high risk. For the past 18 years NYSATSA and the Alliance have advocated for a reevaluation of the Risk Assessment Instrument (RAI), 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. In fact, a study has found no support for the effect of registration and community notification laws enacted by the New York State Sex Offender Registration Act with its classification scheme using the RAI in reducing sexual offending by rapists, child molesters, sexual recidivists, or first-time offenders. By the end of 2016 approximately 40,000 individuals who had committed sexual crimes had been classified using the RAI. Without empirical data supporting the predictive

accuracy of the risk assessment instruments used under SORA, an accurate assessment of risk is impossible.

The proposed bill would provide for the use of scientifically validated risk assessment instruments, such as the Static-99R and the Violence Risk Scale-Sexual Offense Version (VFS-SO) for contact offenders, and the Child Pornography Offender Risk Tool (CPORT) for internet offenders, in assessing risk and for the ongoing evaluation of such 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, include the use of current, validated risk assessment instruments” (MHL 1001(e)). Given the mandate to ensure the risk assessment process is evidence-based, the NYS Office of Mental Health utilizes the Static-99R 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 for sexually re-offending so that more resources could be devoted to supervising them. Second, it would save financial resources because many law enforcement agencies have reported that current risk classification schemes overextend their resources as they try and track large numbers of sex offenders who have been identified as high-risk. Examination of the classifications made under the current SORA guidelines indicates that almost 25% of convicted sex offenders are classified as high

risk (Level Three), whereas most actuarial risk assessment schemes result in approximately 10% of sex offenders being classified as high risk. The large number of individuals designated as high risk under New York State's current RAI spreads the resources of already strained department of probation and parole over a larger number of sex offenders than is necessary, many of whom are not at high risk and not in need of intensive supervision and monitoring.