

The Boards of the New York State ATSA and Alliance have developed the following statement concerning sexually violent predator legislation in New York to provide useful information as this legislation is again being debated.

**NEW YORK STATE ATSA AND ALLIANCE POLICY STATEMENT
CONCERNING SEXUAL VIOLENT PREDATOR LEGISLATION**

The New York State Association for the Treatment of Sexual Abusers (NYSATSA) and the New York State Alliance of Sex Offender Service Providers (Alliance) Boards endorse the public policy statement adopted by the National ATSA Executive Board of Directors on March 20th, 2001, a copy of which can be found on the New York State ATSA and Alliance website. The New York Boards, however, endorse the following updated policy statement that has special reference to the State of New York and is more current, being adopted in January of 2006:

Sexual violent predator legislation may have a place in the treatment and management of sexual offenders and in the reduction of sexually violent crime. However, at this point, despite the fact that 17 states have passed such legislation and the fact that New York State is attempting to enact a form of such legislation through aggressive use of its current psychiatric civil commitment law, the unproven efficacy and potentially enormous costs of such programs mandate careful further study and design before enacting such legislation in the State of New York.

We would thus recommend that a multidisciplinary group be established by the Governor and Legislature to study such legislation, reviewing the current laws, existing programs, and experience of other states and countries that have enacted such legislation, along with current laws pertaining to sexual offenders in New York, in order to make recommendations relevant for New York. Any recommendations should include projected costs, an analysis of the impact of such legislation on the community and organizations involved, and methods of assessing the effects and outcome of such a program in an ongoing way. We state this for the following reasons:

1. It is clear that there are a number of individuals who are sexually violent predators and whose release into the community at all or without intensive supervision would place the public at risk.
2. As of July 2005, 17 states have adopted such statutes (Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Missouri, New Jersey, North Dakota, Pennsylvania (for juveniles only),

South Carolina, Texas, Virginia, Washington, and Wisconsin). Additionally, similar measures (so-called dangerous offender legislation) have been passed in Canada and in Australia.

3. Enormous costs are associated with such programs. Some have estimated potential costs for New York at \$250,000/inmate/annum. California in 2001 estimated its costs at \$107,000/inmate/annum and expended \$350,000,000 to build a new facility to house individuals committed under its program, with additional annual legal costs of up to \$70,000/annum.
4. The number of inmates able to be released into the community varies greatly between programs in various states, ranging from a rate of 66% released in Arizona (law enacted 1996) to only to 2% in Florida (law enacted 1999). Nationally, as of December 2004, 3943 individuals had been committed under such statutes and only 12% released.
5. The costs of such programs can be reduced substantially by measures that would facilitate release of an individual into the community or community commitment in the first place. For instance, Texas has a civil commitment statute that is entirely outpatient.
6. The capability of releasing a patient into the community is dependent on a variety of factors including the availability of community housing and treatment and monitoring resources and these need to be considered as part of any such legislation.
7. The costs of such programs are not entirely within the control of the states that pass them because various federal class action suits and other standards insure substantial expenditures beyond what a state legislature might have budgeted. Additionally, should legislatures decide that such programs are not desirable, they are difficult to dissolve.
8. Research on the effects of such legislation on recidivism and crime rates is sparse and not definitive.
9. It may be more cost-effective to extend the length of sentencing for sexually violent crime rather than creating a whole new sexual predator statute. Further research into this possibility is needed.
10. Detailed risk assessment could make more rational use of limited resources and increase the monitoring and scrutiny of offenders who are at greater risk and consideration of this should be included in any such legislation.

11. The current New York State Sex Offender Registration Act (SORA) was enacted 10 years ago and did not have the benefit of many of the risk assessment and actuarial instruments and other research that has been done since. This should be reexamined as part of any step towards sexual predator legislation.
12. Lifetime parole or probation for certain crimes has been enacted in some states with apparent reduction in crime rates and this should be considered as an integral part of sexual predator legislation.

Note: Please refer to ATSA Position Paper: “Civil Commitment of Sexually Violent Offenders” Adopted by the ATSA Executive Board of Directors on March 20, 2001.

<http://www.atsa.com/ppcivilcommit.html>