


Lobbying on SORNA

Reform Sex Offender Laws Project
National conference
June 27, 2010


Barriers to implementation

- Retroactivity
- Juveniles
- Cost
- Substantial compliance
- SORNA defines Tiers according to federal offenses
- Tribes



Legal arguments

- Ex post facto
- Separation of powers
- Double jeopardy
- Due process
- Right to contract
- Equal protection
- Cruel & unusual punishment
- Juveniles: right to due process, right to equal protection, right to trial by jury



Ex post facto: "after the fact"

- Passing any law that aggravates a crime and inflicts greater punishment
- AWA must be determined to be criminal, not civil

Separation of powers

- Under AWA, prior judicial determinations are being undone by a policy change enacted by the legislative branch and implemented by the executive branch

Double jeopardy

- The imposition of multiple criminal punishments for the same offense in successive proceedings
- AWA classification must be seen by the courts as criminal punishment

Due process

- Legislatively or administrative reclassification; no judicial hearing
- Constitutionally protected liberty interest in prior judicial classification

Right to contract

- No state shall pass any ... law impairing the obligation of contracts
- Plea deals are contracts

Juveniles

- Children in juvenile court receive only limited due process protections
- AWA imposes adult sanctions on juveniles who have not received full protection from the Constitution

Public policy arguments

- Offense-based classification system vs. risk-based classification
- No judicial discretion
- Vast majority of offenders classified as Tier III
- Dilution of registry; impossible to know who is a danger
- Burden on local law enforcement

More policy arguments

- Federal government forcing states to abandon systems they've created
- False sense of security
- No focus on treatment
- Good intentions, unintended consequences
- Plea bargaining to non-sex offenses, more sex offense charges going to trial

How do I lobby on this issue?



Define specific problems

- Don't advocate against SORNA; too broad
- Break it down into specific, manageable issues
- Retroactivity, application to juveniles, cost to implement, risk-based systems vs. offense-based, etc.
- Use your story to highlight overall policy objections

Present concrete alternatives

- Don't just point out problems, offer solutions
- What should states do instead of what SORNA requires?
- Ask for ideal, but be ready with alternatives

Have an effective meeting

- Direct your message toward specific legislator: are they concerned with big government, civil liberties, overspending?
- Talk about unlikely allies
- Be pithy; don't overwhelm with too many stats, too-long personal stories
- Good mix of personal & policy appeals



Amy Borrer
Legislative Liaison
Office of the Ohio Public Defender
614-644-1587
amy.borrer@opd.ohio.gov
www.opd.ohio.gov
