



COUNTY OF SAN DIEGO

BOARD OF SUPERVISORS

1600 PACIFIC HIGHWAY, ROOM 335, SAN DIEGO, CALIFORNIA 92101-2470

AGENDA ITEM

DATE: November 14, 2006

TO: Board of Supervisors

SUBJECT: INTRODUCTION OF AN ORDINANCE ADDING CHAPTER 16, SEX OFFENDER LOITERING ORDINANCE, TO TITLE 3, DIV. 2 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES (District: All)

SUMMARY:

Overview

There are more than 4,000 registered sex offenders in San Diego County, the vast majority not on probation or parole. While living in our communities, these individuals adhere to just one restriction: each must register a home address once a year or whenever they change addresses. Sadly, many sex offenders who are required to register have disobeyed the law and have failed to do so. Experts believe that there is no "cure" for sex offenders and recidivism rates remain disturbingly high. Experts also warn that sex offenders, particularly child predators, frequent areas where potential victims are present. Individuals already convicted of heinous crimes against children cannot be allowed to loiter around schools, parks and childcare centers, preying on additional victims.

Currently, there is no State law or County ordinance that prohibits those who are required to register as sex offenders from loitering around places where children typically congregate. Several cities in the region have already adopted ordinances to address this vulnerability. The County also needs to take action to protect children and families in the unincorporated area.

Today's action brings before the Board of Supervisors an ordinance that prohibits those who are required to register as sex offenders from loitering on or within 300 feet of public or private schools, parks and other child-oriented locations with the intent to commit a criminal act. This action will add to the San Diego County Code of Regulatory Ordinances, Title 3, Division 2, a new Chapter 16 entitled "Sex Offender Loitering Ordinance."

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Recommendation(s)

SUPERVISOR JACOB AND SUPERVISOR COX:

Approve introduction (first reading) of ordinance; read title and waive further reading of ordinance (MAJORITY VOTE):

AN ORDINANCE ADDING CHAPTER 16, SEX OFFENDER LOITERING ORDINANCE, SECTIONS 32.1601, 32.1602 and 32.1603 TO THE COUNTY OF SAN DIEGO REGULATORY ORDINANCES RELATING TO PROHIBITING SEX OFFENDERS FROM LOITERING

Submit ordinance for further Board consideration and adoption (second reading) on December 5, 2006.

Fiscal Impact

There is no fiscal impact associated with this request

Business Impact Statement

N/A

Advisory Board Statement

N/A

BACKGROUND:

There are more than 4,000 registered sex offenders in San Diego County, the vast majority not on probation or parole. While living in our communities, these individuals adhere to just one restriction: each must register a home address once a year or whenever they change addresses. Sadly, many sex offenders who are required to register have disobeyed the law and have failed to do so. A majority of experts in the law enforcement and healthcare communities continue to believe that there is no “cure” for sex offenders. Recidivism rates for sex offenders remain disturbingly high. Experts warn that sex offenders, particularly child predators, frequent areas where potential victims are present. Individuals already convicted of sex crimes against children cannot be allowed to loiter around schools, parks and childcare centers, preying on additional victims.

Currently, even with the anticipated passage of Proposition 83 (“Jessica’s Law”), there is no State law or County ordinance that prohibits those who are required to register as sex offenders from loitering around places where children typically congregate. Several cities in the region have already adopted ordinances to address this vulnerability. The County needs to also take action to protect children and families in the unincorporated area.

Today’s action brings before the Board of Supervisors an ordinance that will help protect children in the unincorporated area by prohibiting those who are required to register as sex offenders from loitering in certain areas. Constitutional legal principles require that the ordinance not prohibit constitutionally permissible conduct and be clear as to the type of conduct proscribed by the ordinance. A number of court decisions relating to loitering ordinances

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provide guidance on meeting Constitutional standards. This proposed ordinance has been drafted with those Constitutional standards in mind.

The ordinance defines “sex offender” as “an individual who is currently required by law to register with a governmental entity as a “sex offender.”

This ordinance defines “loitering” as “remaining, lingering or wandering in a public or private place for the purpose of engaging in any lewd, lascivious or otherwise illegal conduct, including but not limited to committing offenses specified in Penal Code sections 207, 209, 261, 264.1, 273a, 286, 288, 288a, 288.2, 288.3, 289, 311.1, 311.2, 311.4 or 311.11, or for the purpose or intent of engaging any person in any sexual act of any kind, or for the purpose or intent of soliciting any person to engage in any sexual act of any kind.” The “lewd (and) lascivious” language is derived from statutes that have already passed constitutional muster. The additional listing of specific Penal Code section is taken from the approach used in Jessica’s Law and is intended to provide additional detail as to specific criminal acts to which this loitering ordinance applies.

This ordinance will prohibit any person who is required to register as a sex offender from loitering, as defined above, in any “public or private place that is on or within 300 feet of a public or private school for children, a child care and development facility, a park, recreation facility, playground or arcade where children are present.”

Finally, violation of this ordinance will be a misdemeanor punishable by a fine or imprisonment, or both.

Approval of this ordinance adds to the long list of ways our Board has aggressively sought to protect children from sex offenders. Past actions include the launch of a regional sex offender Internet pin map and mandatory background checks for all County volunteers who work with children. Our Board successfully urged the State to make available over the Internet the Megan’s Law sex offender database. We encouraged local schools to adopt a uniform policy prohibiting sex offenders from volunteering in schools and urged the State to grant school districts and libraries direct access to the Megan’s Law database. We continue to urge the State to make key modifications to the State’s Sexually Violent Predator Program and to strengthen the law so that individuals caught possessing child pornography are charged with felonies, not misdemeanors. In addition, our Board unanimously supported the Jessica’s Law Initiative on the Nov. 7, 2006 ballot.

We urge your support!

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Respectfully submitted,

Dianne Jacob
Supervisor, Fifth District

Greg Cox
Supervisor, First District

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AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW	<input checked="" type="checkbox"/> Yes	
Written Disclosure per County Charter Section 1000.1 Required	<input type="checkbox"/> Yes	<input type="checkbox"/> No
GROUP/AGENCY FINANCE DIRECTOR	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
CHIEF FINANCIAL OFFICER	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
Requires Four Votes	<input type="checkbox"/> Yes	<input type="checkbox"/> No
GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
COUNTY TECHNOLOGY OFFICE	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
DEPARTMENT OF HUMAN RESOURCES	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A

Other Concurrence(s):

ORIGINATING DEPARTMENT:

CONTACT PERSON(S):

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Erik Caldwell

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AUTHORIZED REPRESENTATIVE: _____