LEGISLATIVE HISTORY OF PREDATORY OFFENDER REGISTRATION
JACOB WETTERLING

• Abducted on October 22, 1989
  – Law enforcement officials had no way to determine where sex offenders were living
  – Law enforcement officials had no way to determine which offenders had committed similar crimes
  – Minnesota communities had no knowledge of the dangerous offenders living among them
1991

- Minnesota began registering sex offenders
- The first version of the law applied only to those offenders who were sentenced to prison and released after August 1, 1991
- The first version of the law applied only to adult offenders with child victims for the following crimes:
  - Kidnapping
  - Certain Criminal Sexual Conduct involving children
  - Solicitation & Prostitution of Minors
  - Use of a Minor in a Sexual Performance
- Only required to report their primary address 10 days before moving
- 10 years from release of imprisonment
- Failure to register (misdemeanor violation) added 5 years
1993

- Sex Offender Registration Law was modified to include those offenders who were sentenced to probation and offenders who had adult victims
  - Also included persons charged with or petitioned for a felony violation of or attempt to violate any of the listed statutory provisions or “another offense arising out of the same set of circumstances.”
  - Murder added

- Registration period changed to:
  - 10 years from release of incarceration
  - 10 years from assignment of corrections agent or duration of probation (whichever is longest)

- Requires registration for prisoners from other states
- Added predatory crimes to registration (under Chapter 609)
1994

- Adds juveniles to the registry
- Modifies the Failure to Register to a gross misdemeanor instead of a misdemeanor
- Requires registration for those who come to Minnesota on an inter-state transfer
- Requires 5 day notice prior to changing a primary address
- Period of civil commitment for sexually psychopathic personalities and sexually dangerous persons is not included in 10 year registration period
1995

- Sex Offender Registration Law was modified to include comparable federal offenses.
- Out of state requirements modified to apply to all offenders as opposed to only those released from prison or under supervision.
- Sex Offender Registration Law was changed to begin the day that the registration form was signed.
- Statute specified that out-of-state offenders would need to enter and remain in the state for 30 days.
Section 1. [LEGISLATIVE FINDINGS AND PURPOSE.] The legislature finds that if members of the public are provided adequate notice and information about a sex offender who has been or is about to be released from custody and who lives or will live in or near their neighborhood, the community can develop constructive plans to prepare themselves and their children for the offender's release.
• Offenders who are released from prison will be assigned a risk level one, two or three
• Information regarding level three offenders is made available to the public
• Requires notice to state in which the offender plans to live (if the state has a registration requirement)
• The BCA shall notify
  – local law enforcement of the offender’s new address
  – if the person is leaving the state, then the registration authority in the state
• The verification form process begins
  – Failure to return within 10 days after receipt is failure to register
1998

- Additional offenses added such as:
  - Criminal Sexual Conduct in the 5th degree at the felony level
  - Indecent Exposure at the felony level
  - False imprisonment of a minor

- Removes the standard that someone remain in the state for 30 days to require registration
  - “Enters the state”

- Registration information on Juveniles & Adults may be maintained together
• The courts may not modify an individual’s duty to register in the pronounced sentence or disposition order.
• Kidnapping of an adult added to the crimes list.
• Also required registration for civil commitment as SDP or SPP in another state or at the federal commitment.
• Registration applies to those committed as mentally ill and dangerous:
  – Charged with an enumerated offense AND
  – Found not guilty due to this mental illness or deficiency following a trial or
  – Found guilty but mentally ill verdict AND
  – The person was civilly committed.
Kidnapping and murder of Katie brought the then Sex Offender Registration laws into the spotlight to make changes to the registration laws.
Katie’s Law took effect:

- Changed Sex Offender Registration to Predatory Offender Registration
- Court martial and military offenses added with out of state and federal offenses
- Working and attending school in Minnesota requires registration
- Increased the penalties for violations of registration requirements to a felony
- Increased the number of offenses that require registration
- Required that offenders provide the address of any property they own, lease or rent. Also required reporting of employment, school and vehicle information
• Expands list of information to be provided for registration
• Added lifetime registration for some offenses for both juveniles and adults
• Incarceration for any new conviction or revocation for the registration offense will restart their registration period.
• 16 year olds and older may have their information made public due to a lack of compliance (30 days or longer)
• Failure to register is changed to a felony-level crime
NEW REGISTRATION REQUIREMENTS
243.167 ADDED

• Any offender, regardless of state of original conviction, must register in Minnesota if they have a past conviction that is comparable to a Minnesota registerable offense, and did not have to register, and is convicted of a Crime Against a Person (effective 8/1/2000)

• Any offender, regardless of the state of the original conviction, must register again if they have completed their initial registration in Minnesota, or another state, and are subsequently convicted of a new crime against the person as defined in Minn. Stat. 243.167
• Provides for the inactivation of offenders who are no longer living, working, or attending school in Minnesota.
• Modifies those offenses in which juveniles were previously required to register for life
  – specified that the only first time registrable offenses were convictions for 1st Degree Murder, Clause 2
The kidnapping of Dru Sjodin brought the spotlight back to registration, community notification, and civil commitment issues in Minnesota.
As a result, the 2004 and 2005 Legislative sessions included numerous hearings regarding sex offender registration issues.

The following changes were made to M.S.§ 243.166 and M.S.§ 243.167:

- Previously the statute required registration for felony charges or attempted charges; the law has now changed to include aiding, abetting and conspiracy to commit offenses as well
- New crimes added:
  - Criminal Sexual Predatory Conduct 609.3453
  - False Imprisonment of an adult or minor 609.255, Subd. 2
  - Fourth Degree Assault 609.2231
REGISTRATION FOR HOMELESS OFFENDERS
(2005)

• Offenders who lack a primary residence (are homeless):
  -Must register with local law enforcement agency within 24 hours of no longer having a primary address
  -Required to report to the LE agency on a weekly basis between 9am-5pm
  -The verification letter will be mailed to the LE agency

*Effective June 3, 2005
OTHER CHANGES TO THE REGISTRATION LAW (2005)

• Incarceration for any new conviction or revocation for any offense will restart the registration period
• Out of state offenders who visit or vacation in Minnesota for 14 days or longer are required to register
• Sufficient notice is provided to offenders for the need to register when the verification form is sent by first class mail or to the local law enforcement agency (2008)
• If an individual previously inactivated returns to Minnesota to live and their registration period has not expired, they must re-register. (2010)
• Modified the list of offenses requiring registration (2011)
• Commissioner of Human Services granted POR access for background studies (2012)
2014 - 2016

- Effective Date: effective August 1, 2014, and applies to crimes committed on or after that date
- Registration required for out-of-state/federal convictions for offenses “arising out of the same set of circumstances” as offenses enumerated in the statute are required to register as predatory offenders.
- Law Enforcement can obtain new photos during compliance checks
- Registration periods will restart for offender who are given credit for time served.
- List of offenses modified.
- Law enforcement requests the ability to share POR statuses with child protection workers to be able to complete family assessments
2019 LEGISLATIVE SESSION

- Changes to 243.166
- subd. 4a (a), additional data required:
  - Phone numbers
  - Vehicle tab expiration year
- subd. 7(b):
  - Added that a corrections agent may also disclose the status of an individual as a predatory offender to comply with section 244.057.
(4) the person was charged with or petitioned for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to an offense or involving similar circumstances to an offense described in clause (1), (2), or (3), and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances.

(b) A person also shall register under this section if:

(1) the person was charged with or petitioned for an offense in another state that would be a violation of a law similar to an offense or involving similar circumstances to an offense described in paragraph (a) if committed in this state, clause (1), (2), or (3), and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances;

(2) the person enters this state to reside, work, or attend school, or enters this state and remains for 14 days or longer or for an aggregate period of time exceeding 30 days during any calendar year; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to a longer registration period under the laws of another state in which the person has been convicted or adjudicated, or is subject to lifetime registration.

If a person described in this paragraph is subject to a longer registration period in another state or is subject to lifetime registration, the person shall register for that time period regardless of when the person was released from confinement, convicted, or adjudicated delinquent.
Cases on the Purpose of the Registration Statute

Angela Helseth Kiese
Assistant Attorney General
Boutin v. LaFleur
591 N.W.2d 711 (Minn. 1999)

• The primary purpose of the statute is to create an offender registry to assist law enforcement with investigations.

• The statute is rationally related to the legitimate state interest of solving crimes.
Kaiser v. State
641 N.W.2d 900 (Minn. 2002)

• Elaborated on the primary purpose:

• The statute is an expression of a policy statement “society has the right to know of predatory offenders’ presence not in order to punish them, but in order to protect itself.”

• The law seeks to increase public safety by requiring a specific class of offenders to provide information to law enforcement authorities to assist in keeping track of them.
Gunderson v. Hvass
339 F.3d 639 (8th Cir. 2003)

• The Minnesota legislature was attempting to ensure the inclusion in the registration rolls of all predatory offenders, including those who take advantage of favorable plea agreements.

• The Court acknowledged the statute might lead to unfair results in some cases but found the legislature intended to trigger the registration requirements in those cases in those conviction cases.

• Concurrence stated the statute and *Boutin* turn reason and fairness on its head, but there was no 14th amendment violation.
The fact that the legislature established a predatory offender registration system is an indication that the whereabouts of predatory offenders – in comparison with the whereabouts of the general population – presents a substantially different or heightened public policy concern.

A review of legislative history indicates the public policy concerns associated with persons convicted of specified predatory crimes have grown over time.
The same set of circumstances requirement was meant to “ensure that true predatory offenders cannot plead out of the registration requirements.”

While the threshold showing of probable cause necessary to support a charge is low, the language requiring a conviction for another offense arising out of the same set of circumstances limits the number of defendants who might be forced to register.
Predatory offender registration statutes generally serve two purposes.

- First, a continually updated database of information on convicted predatory offenders improves law enforcement’s ability to supervise offenders and investigate new offenses.

- Second, community notification allows members of the public to protect themselves from risks in the community.
Sex offenders are a serious threat to this nation.

The victims of sex assault are most often juveniles and when offenders are convicted and reenter society, they are much more likely than any other type of offender to be rearrested for a new rape or sexual assault.

Connecticut, like every other state, has responded by enacting a statute designed to protect its communities from sex offenders and to help apprehend repeat sex offenders.
Smith v. Doe
538 U.S. 84 (2003)

- Sex offenders pose a high risk of reoffending – protecting the public from sex offenders.

- Release of certain information about sex offenders to public agencies and the public will protect the public safety.

- Designed to prevent repeat sex offenses and aid in the investigation of reported offenses.