

# State of Vermont

## Senate Chamber



Montpelier, Vermont

### Joint Senate Resolution

By the Senate Judiciary Committee,

**J.R.S. 24.** Joint resolution relating to criminal procedure, the sex offender registry, and the Adam Walsh Child Protection and Safety Act of 2006.

*Whereas*, in 2006, President Bush signed the Adam Walsh Child Protection and Safety Act, and the states are required to comply with the Act by July 27, 2009, or lose 10 percent of the state's federal Byrne/Justice Access Grant funds, and

*Whereas*, the General Assembly agrees with the Act's purpose of protecting the public, especially children, from violent sex offenders, as evidenced by the substantial amount of legislation enacted in Vermont during the past five years to protect citizens of our state from the dangers that sex offenders pose, and

*Whereas*, despite the Act's good intentions, the Office of Justice Programs' SMART office, which is responsible for regulations and compliance under the Act, has not certified any state in substantial compliance largely due to the costs and complexities associated with the Act, and

*Whereas*, regulations that former United States Attorney General Alberto Gonzales issued to implement the Act have exacerbated the Act's problems and made state compliance even more difficult, and

*Whereas*, the inability to comply with the Act means that every state in the country stands to lose 10 percent of its federal Byrne/Justice Access Grant funds on July 27 of this year, and

*Whereas*, in addition to its financial challenges for states, the Act contains a broad span of provisions that would significantly change state practice related to the registration and management of sex offenders in Vermont in a manner that is inconsistent with widely accepted evidence-based best practices and at a substantial financial cost to the state, and

*Whereas*, Vermont has adopted a practice of assigning offender risk levels through the use of actuarial risk assessment instruments that have a high correlation to sexual recidivism, and

*Whereas*, the Act mandates an entirely different offense tier structure and demands that risk determinations be based solely on an offender's crime of conviction, a methodology that, according to the most recent research, is a far less reliable predictor of reoffense than the use of actuarial tools, and

*Whereas*, Vermont, long a national leader in juvenile justice matters, has since 1981 permitted prosecutors to hold minors accountable for serious criminal behavior by charging them in adult court for serious crimes, and is therefore not an appropriate state for the Act's retroactive application to juveniles, and

*Whereas*, the Council of State Governments found that the Act's juvenile provisions "contradict the rehabilitative intent and confidentiality that has been inherent in the juvenile justice system" and "ignore important developmental differences between juveniles and adults, namely that juvenile sex offenders are at a much lower risk to reoffend than adult sex offenders," and, on the basis of those findings, adopted a resolution on December 6, 2008, strongly opposing the Act's application to juvenile sex offenders and urging Congress to revise it to address more accurately the needs of juvenile offenders, and

*Whereas*, the National Conference of State Legislatures’s 2008-09 Law and Criminal Justice Committee policies state that “NCSL objects to the Adam Walsh Act’s one-size-fits-all approach to classifying, registering and, in some circumstances, sentencing sex offenders” because provisions of the Act “preempt many state laws and create an unfunded mandate for states,” “were crafted without state input or consideration of current state practices,” and “are inflexible and, in some instances, not able to be implemented,” and

*Whereas*, the General Assembly recognizes the Act’s worthy goal of establishing some continuity and uniformity among the sex offender registry laws of the various states, but believes such a goal can be accomplished while preserving the ability of each state to develop its own approaches that are specifically fashioned to meet its particular needs and circumstances, *now therefore be it*

***Resolved by the Senate and House of Representatives:***

That the General Assembly urges the Vermont Congressional delegation to ask Congress to extend the state compliance date under the Adam Walsh Act and to ask the SMART office to reconsider the rules issued under it, so that Congress and the states have the opportunity to work toward a solution that will honor the intent of the Act by creating a more consistent system of sex offender registries throughout the country while preserving the authority of individual states to develop the approaches that are most effective for them, *and be it further*

***Resolved:*** That the Secretary of State be directed to send copies of this resolution to the Vermont Congressional delegation and to United States Attorney General Eric Holder.

\_\_\_\_\_  
President of the Senate

Attested to:

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Speaker of the House

\_\_\_\_\_  
David A. Gibson  
Secretary of the Senate

Date:\_\_\_\_\_

