

State of Vermont
Department of Public Safety
103 South Main Street
Waterbury, VT 05671
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October 16, 2014

NOV 17 2014

Senator Richard Sears
343 Matteson Road
North Bennington, VT 05257

Senator Sears,

Thank you for your letter concerning the recent Vermont Sex Offender Registry audit. As we continue to work towards implementing the provided recommendations we welcome the opportunity to work with you and the legislature on strengthening language governing the registry. The department very much appreciates the careful work needed to best protect the public while also addressing legitimate privacy and due process concerns.

In that spirit we recommend efforts to amend language around the registry focus on the following areas: clarification of the court's role in determining registry status for Vermont-based convictions, clarifying language which requires interpretation at the administrative level, and introducing language to eliminate inconsistencies in registration requirements for offenders.

With regards to the role of the courts in the registry process, we believe this forum is best suited to weigh the individual factors of any potentially qualifying Vermont-based conviction. This is especially true given the collateral consequences for an offender who is required to register and the necessity to fully understand what those entail (both registry qualification and duration). In this instance language in 13 V.S.A. § 5403(a) could be adjusted to clearly delineate what role the courts have in this process.

Similarly by clarifying the legislative intent behind certain language that determines qualification the program becomes more manageable and transparent to all parties

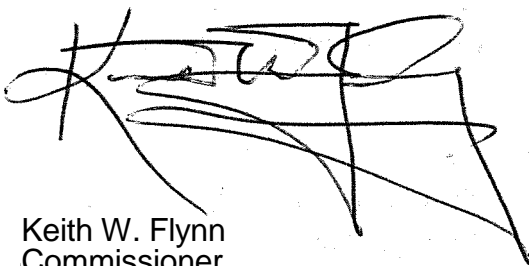
involved. Specifically, language contained in 13 V.S.A. § 5401(10)(B) and mirrored in other sections of statute concerning conduct *which is criminal only because of the age of the victim* is challenging for the Registry to interpret. While specific conviction information is provided to the registry, the full weight of information and deliberation available to the court may be necessary to make this determination.

Additionally, selective language review may identify areas where standardizing language will increase program transparency and administration. Specifically the phrase *or comparable offenses in another jurisdiction of the United States* appears throughout statute in relation to non-Vermont convictions. However, in 13 V.S.A. § 5407(0(2) this language is missing and thus non-Vermont convictions comparable to sexual assault and aggravated sexual assault do not singularly qualify for lifetime registration.

Finally, although the statute identifies qualifying federal convictions, it does not acknowledge the relevant federal entities within the statute. This change would provide the federal agencies with the ability to comply with the statute under their recognized authority.

In each of the above instances we believe that working with Legislative Council enhanced language may be crafted that will allow both the Senate Committee on Judiciary and the full legislature to fully engage these proposals. As always the Department and I stand ready to provide any perspective, assistance, or support that both the legislature and public may need on these challenging issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith W. Flynn", written over a faint, illegible stamp or background.

Keith W. Flynn
Commissioner