

RESOLUTION NO. 2010- 6630

A RESOLUTION OPPOSING 2009 SENATE BILL 548, PROPOSING TO PROHIBIT CITIES, VILLAGES AND TOWNS FROM ENACTING AND ENFORCING SEX OFFENDER RESIDENCY RESTRICTION AND CHILD SAFETY ZONE ORDINANCES

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WHEREAS, 2009 Senate Bill 548, introduced on February 18, 2010, proposes to prohibit a political subdivision, including cities, villages and towns, from enacting an ordinance or adopting a resolution that specifically affects the placement or residency of, or areas that may not be entered or exited by, an individual based on that individual's status as a sex offender; and also proposes to prohibit a political subdivision from enforcing any such ordinance or resolution it has already ordained or adopted in the years prior to the effective date of the proposed law; and

WHEREAS, such proposed legislation if adopted would prohibit the continued enforcement by Wisconsin cities, villages and towns of their existing sex offender residency restriction and child safety zone ordinances, and prevent other Wisconsin cities, villages and towns from enacting such regulations in the future; and

WHEREAS, the City of Franklin was among the first of now many Wisconsin municipalities to adopt ordinances providing for local sex offender residency restrictions and/or establishing child safety zones, which ordinances were ordained following the review of a voluminous legislative record, containing other state and local municipality laws, and reports, studies and articles from across the Country; and following a history of substantial Citizen interest and input, including public meetings which were attended by hundreds and hundreds of Citizens, all voicing or concurring in the need to protect the Community from the evils of sex offender re-offense; and

WHEREAS, the Franklin sex offender residency restriction ordinance and its enforcement were reviewed and upheld by the Milwaukee County Circuit Court in Case No. 07-CV-9978, wherein the City of Franklin prevailed over an asserted nine constitutional challenges and a preemption challenge asserting the claim that the local authority to regulate those matters as set forth in the ordinances had been preempted by State law; and

WHEREAS, the Franklin ordinances providing for sex offender residency restrictions have been in effect and enforced for more than three years and the Franklin Police Chief has opined that that the ordinances are an extremely important public safety tool and that their enforcement is necessary to protect the public and primarily, the children; and

WHEREAS, sex offender residency restriction laws have been enacted across the Country in an effort to protect against and prevent substantial harms from occurring, such efforts and the experience thereunder being recent in the human experience of existence in a democratic republic and the development of social sciences which may be applicable thereto, as discussed in the October 11, 2007 Trial Court decision in *State of Florida v. Schmidt, et al.*, Case No. 16-2006-MO-010568-XXXX:

Defendant presented the testimony of two expert witnesses (Dr. Luis Rosell and Dr. Jill Levenson) on the subject of residency restrictions and recidivism rates for sex offenders. The State presented testimony from its own expert on the subject, Dr. Chris Robison.

There is no question that recidivism by sexual offenders is a nationwide concern. Both Dr. Levenson and Dr. Robison acknowledged research concluding that in the 15 years following release of sexual offenders from prison, approximately 24% of sexual offenders recidivate. Both also acknowledged that offenders with a prior sexual offense conviction have even higher recidivism rates: 37% within a 15 year period. As Dr. Robison explained it, one prior sexual conviction approximately doubles the likelihood of an offender being convicted of a future sexual offense. All three experts testified that it is well established that most sex offenders have many more victims than those involved in offenses for which they were arrested, as well as a variety of victims (adult and children). *Dr. Rosell and Dr. Levenson both conclude that there is no proof that residency restrictions for sex offenders helps to reduce recidivism rates, citing two studies in support of their conclusions. Both admit, though, that these are the only studies currently available that directly address the issue of recidivism rates and residency restrictions. Dr. Robison testified that there are significant limitations to both of these studies which limits the ability to generalize from them and, that based on this, they do not support a conclusion that residency restrictions are not effective in reducing recidivism. In his opinion, due to the limited number of studies and the limitations inherent in them, there is no basis in the current research to say either way whether residency restrictions have an effect on recidivism rates. Even the Defendant's witness, Dr. Levenson, agreed that there is not enough research to support a conclusion either way. According to Dr. Robison, the type of research needed to draw specific conclusions regarding the*

*effectiveness of residency restrictions would take at least ten years, and possibly fifteen years.*

Although Dr. Rosell and Dr. Levenson testified against residency restrictions, they both admitted that reducing access to victims can decrease the likelihood to re-offend. Dr. Rosell's testimony concurred with his prior testimony in the Doe v. Miller case that "reducing-a specific sex offender's access to children was a good idea, and that if you remove the opportunity, then the likelihood of reoffense is decreased." Doe v. Miller, 405 F.3d 700, 707 (8th Cir. 2005), *cert. denied*, 126 S.Ct. 757, 163 L.Ed.2d 574 (2005). Similarly, Dr. Levenson testified that some sex offenders are dangerous and should be prevented from having access to children. Further, she acknowledged writing that "sexual interest in children and access to victims are factors also associated with recidivism," and that "*it makes sense* that risk might be managed by reducing some of the exposure to children and prohibiting them from living near places where children congregate." Dr. Robison similarly testified that access to victims is a dynamic factor that can contribute to re-offending, and that residency in proximity to groups of children is or may be relevant, independent of where they ultimately commit the offense. *Schmidt, id.* at 13-15. [footnotes omitted] [emphasis added]; and

WHEREAS, each of the 1,850 Wisconsin cities, villages and towns are unique; and each Wisconsin city, village and town should be entitled to provide for the health, to provide for the safety and to provide for the welfare of its Citizens and its children under its Home Rule authority.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the City of Franklin strongly opposes 2009 Senate Bill 548 and any other legislative effort which proposes to prohibit or inhibit the rights of Wisconsin municipalities and their Citizens to provide for their own health, safety and welfare in the regulation of sex offender placement and residency.

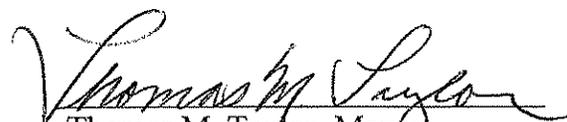
Introduced at a regular meeting of the Common Council of the City of Franklin this 2nd day of March, 2010.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 2nd day of March, 2010.

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APPROVED:

  
Thomas M. Taylor, Mayor

ATTEST:

  
Sandra L. Wesolowski, City Clerk

AYES 5 NOES 0 ABSENT 1 (Ald. Taylor)