SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

530

FROM: County Counsel

SUBMITTAL DATE: March 26, 2015

SUBJECT: Adoption of Ordinance No. 902.3, An Ordinance Repealing Ordinance No. 902 Establishing Sex Offender Residency Prohibitions – All Districts [$0]

RECOMMENDED MOTION: That the Board of Supervisors adopt Ordinance No. 902.3, An Ordinance Repealing Ordinance No. 902, due to a recent decision by the California Supreme Court finding a blanket or uniform application of sex offender residency restrictions in Penal Code section 3003.5(b) to be unconstitutional.

BACKGROUND:
On March 24, 2015, in agenda item 3-8, the Board of Supervisors introduced Ordinance No. 902.3 as the first step in repealing Ordinance No. 902 in its entirety due to the California Supreme Court's recent decision in *In re William Taylor.* The Board's action on this agenda item will finalize the repeal which will be effective thirty days after adoption.

Departmental Concurrence

(continued on page 2)

GREGORY P. PRIAMOS,
County Counsel

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (Per Exec. Office)
COST	$ N/A	$ N/A	$ N/A	$ N/A	Consent ☐ Policy ☑
NET COUNTY COST	$ N/A	$ N/A	$ N/A	$ N/A	

SOURCE OF FUNDS: N/A

Budget Adjustment: No
For Fiscal Year: N/A

C.E.O. RECOMMENDATION:

APPROVE
BY Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

☐ Positions Added ☐ Change Order
☐ A-30 ☐ 4/5 Vote

Prev. Agn. Ref.: 3-10 7/1/14; 3-16 7/15/14; 3-4 8/5/14; 3-8 3/24/15

District: All

Agenda Number: 3-8

BACKGROUND:

As stated in the March 24th agenda item, the California Supreme Court recently issued its opinion in *In re William Taylor* finding the blanket residency restrictions in Penal Code section 3003.5(b) to be unconstitutional. The Supreme Court concluded, "the evidentiary record below establishes that blanket enforcement of Jessica's Law's mandatory residency restrictions against registered sex offenders on parole in San Diego County impedes those basic, albeit limited, constitutional rights. Furthermore, section 3003.5(b), as applied and enforced in that county, cannot survive rational basis scrutiny because it has hampered efforts to monitor, supervise, and rehabilitate such parolees in the interests of public safety, and as such, bears no rational relationship to advancing the state's legitimate goal of protecting children from sexual predators." The Supreme Court went further to state that the California Department of Corrections and Rehabilitation "retains the statutory authority, under provisions in the Penal Code separate from those found in section 3003.5(b), to impose special restrictions on registered sex offenders in the form of discretionary parole conditions, including residency restrictions that may be more or less restrictive than those found in section 3003.5(b), as long as they are based on, and supported by, the particularized circumstances of each individual parolee."

The California Supreme Court's reasoning makes it clear that the County cannot enforce a uniform or blanket approach to residency restrictions for registered sex offenders. For that reason, repeal of Ordinance No. 902 in its entirety is appropriate. As a result of the Supreme Court decision, the residency restrictions for registered sex offenders must now be considered on a case-by-case basis as discretionary parole conditions placed on the sex offender by the state, not local ordinance restrictions.

As previously advised, there are several Penal Code sections still in place regarding sex offenders. Such Penal Code provisions include:

- a lifetime duty to register with local law enforcement for each city or county in which the offender resides and to update that registration 1180 annually or upon any relevant change (§§ 290–290.024);
- a state-maintained website that discloses information about the offender to the public (§§ 290.4, 290.45, 290.46);
- a sex offender's duty to submit to monitoring with a global positioning device while on parole and potentially for the remainder of the offender's life if the underlying sex offense was one of several identified felonies (§§ 3000.07, 3004, subd. (b));
- a prohibition against the offender "enter[ing] any park where children regularly gather without the express permission of his or her parole agent" if the victim of the underlying sex offense was under 14 years of age (§ 3053.8, subd. (a));
- a prohibition against the offender entering any school without "lawful business" and written permission from the school (§ 626.81);
- enhanced penalties for the offender remaining at or returning to "any school or public place at or near which children attend or normally congregate" after a school or law enforcement official has asked the offender to leave (§ 653b);
- a prohibition against the offender entering a day care or residential facility for elders or dependent adults without registering with the facility if the victim of the underlying sex offense was an elder or dependent adult (§ 653c);
- a duty to disclose the offender's status as a sex offender when applying for or accepting a job or volunteer position involving direct and unaccompanied contact with minor children (§ 290.95, subds. (a) & (b));
- a prohibition against the offender working or volunteering with children if the victim of the underlying sex offense was under 16 years of age (§ 290.95, subd. (c)); and
- a prohibition against the offender receiving publicly funded prescription drugs or other therapies to treat erectile dysfunction (§ 290.02).

County Counsel will continue to keep the Board apprised of legal developments in this area of the law.

Impact on Residents and Businesses
As stated above, even with repeal of Ordinance No. 902 due to the California Supreme Court's decision, there are numerous Penal Code sections regulating the daily activities of sex offenders to safeguard residents from sex offenders, particularly those that prey on children.

SUPPLEMENTAL:
Additional Fiscal Information
N/A

Contract History and Price Reasonableness
N/A

ATTACHMENTS:
1. Ordinance No. 902.3

ORDINANCE NO. 902.3

AN ORDINANCE OF THE COUNTY OF RIVERSIDE

REPEALING ORDINANCE NO. 902

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. Ordinance No. 902 entitled "An Ordinance of the County of Riverside Establishing Sex Offender Residency Prohibitions" is repealed in its entirety due to the California Supreme Court's March 2, 2015 decision in *In re William Taylor*.

Section 2. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its adoption.

BOARD OF SUPERVISORS OF THE COUNTY
OF RIVERSIDE, STATE OF CALIFORNIA

By: _____
Chairman

ATTEST:
CLERK OF THE BOARD

By: _____
Deputy

(SEAL)

APPROVED AS TO FORM

March 25, 2015

By: _____
TIFFANY N. NORTH
Deputy County Counsel