

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

390



**FROM:** County Counsel

**SUBMITTAL DATE:**  
March 12, 2015

**SUBJECT:** Introduction 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 introduce and adopt on successive weeks Ordinance No. 902.3, An Ordinance Repealing Ordinance No. 902 Establishing Sex Offender Residency Prohibitions due to a recent decision by the California Supreme Court finding a blanket or uniform application of the residency restrictions in Penal Code section 3003.5(b) to be unconstitutional.

**BACKGROUND:**

On August 5, 2014, in agenda item 3-4, this Board adopted Ordinance No. 902.2 repealing the registered sex offender loitering restrictions that were contained in the ordinance due to recent decisions by the Court of Appeal invalidating ordinances in the City of Irvine and the County of Orange that prohibited sex offenders from entering public parks or recreational facilities without prior written permission.

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 <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
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

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Ashley, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above ordinance is approved as introduced with waiver of reading.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley  
Nays: None  
Absent: None  
Date: March 24, 2015  
xc: Co.Co., COB

Kecia Harper-Ihem  
Clerk of the Board  
By   
Deputy

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

District: All

Agenda Number:

**3-8**

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

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

**FORM 11:** Introduction of Ordinance No. 902.3, An Ordinance Repealing Ordinance No. 902 Establishing Sex Offender Residency Prohibitions

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**BACKGROUND:**

At the time of the Board's action in August 2014, County Counsel advised the Board of another case pending before the California Supreme Court regarding registered sex offender residency restrictions. In September 2012, the Fourth District Court of Appeal, Division 1, issued an opinion in *In re William Taylor* ruling that some of the blanket residency restrictions of Jessica's Law, specifically Penal Code section 3003.5(b), were unconstitutional. Since the residency restrictions had not yet been ruled on by the California Supreme Court when the Board acted on Ordinance No. 902.2 last August, County Counsel recommended that the residency prohibitions of Ordinance No. 902 remain in place until such time as a final decision was issued by the California Supreme Court.

On March 2, 2015, the California Supreme Court issued its opinion in *In re William Taylor*. The Supreme Court agreed with the Court of Appeal and found 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.

Even with the repeal of the Ordinance No. 902, 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);

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- 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



**Riverside County Board of Supervisors  
Request to Speak**

Submit request to Clerk of Board (right of podium),  
Speakers are entitled to three (3) minutes, subject  
to Board Rules listed on the reverse side of this form.

**SPEAKER'S NAME:** Holmstrom

**Address:** \_\_\_\_\_  
(only if follow-up mail response requested)

Mead Valley  
**City:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Phone #:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Agenda #** 3-8

**PLEASE STATE YOUR POSITION BELOW:**

**Position on "Regular" (non-appealed) Agenda Item:**  
\_\_\_\_\_ **Support**      \_\_\_\_\_ **Oppose**      \_\_\_\_\_ **Neutral**

**Note:** If you are here for an agenda item that is filed  
for "Appeal", please state separately your position on  
the appeal below:

\_\_\_\_\_ **Support**      \_\_\_\_\_ **Oppose**      \_\_\_\_\_ **Neutral**

**I give my 3 minutes to:** \_\_\_\_\_

## **BOARD RULES**

### **Requests to Address Board on "Agenda" Items:**

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

### **Requests to Address Board on items that are "NOT" on the Agenda:**

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

### **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

### **Individual Speaker Limits:**

**Individual speakers are limited to a maximum of three (3) minutes.** Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. **Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.**

### **Group/Organized Presentations:**

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

### **Addressing the Board & Acknowledgement by Chairman:**

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman may result in removal from the Board Chambers by Sheriff Deputies.