

**Before the
Pennsylvania House of Representatives
Judiciary Committee
Task Force on Civil Commitments
The Honorable Albert Masland, Chairman**

**Hearing on House Bill 1811
"The Sexually Violent Predators Act"
August 17, 1998
Ceremonial Courtroom
Federal Courthouse
Philadelphia, PA**

**Testimony and Supporting Exhibits
of
William L. Faust,
Ernest L. Peebles Jr.,
and
Dr. Jeffrey B. Allen**

**on behalf of the
Forensic Advocacy Coalition
138 Viaduct Avenue
Downingtown, PA 19335
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AVENEL

Good afternoon, Mr. Chairman and members of the Judiciary Committee Task Force on Civil Commitments. My name is William Faust and I appear here today as the Vice President and a member of the Board of Directors of the Forensic Advocacy Coalition or "FAC." With me today are Ernest L. Peebles, Jr., also a member of the FAC Board of Directors, and Dr. Jeffrey B. Allen, a psychologist experienced in the treatment of sexual predators. They will also both testify here today.

FAC is the only true statewide coalition of mental health consumers, family members, professionals and advocates solely concerned about persons with mental illness

in the criminal justice system. In addition to our extensive advocacy program, FAC sponsors the Law Enforcement Advocacy Project, a federally-funded police training program, which is PA's oldest and largest such training program, dealing with both mental illness and substance abuse issues in police interactions with consumers and their families.

Briefly, my own background is as a forensic mental health advocate for many years with AMI of PA and NAMI, as well as serving on the Board of the Montgomery County Emergency Service ("MCES"), the Veterans Administration Management Assistance Veterans Integrated Service Network #4 for Veterans Hospitals as well as other national and statewide advocacy organizations. On behalf of FAC, I want to express our appreciation for the invitation to testify here today regarding our views on House Bill 1811, the proposed "Sexually Violent Predators Act." As a forensic advocacy group, we are concerned about any possible confusion between sexual predators and persons with true mental illness, as well as any attempt to mix these populations in terms of treatment, sites or budget dollars. We also have a few more technical comments about the Bill and recent events related to this issue.

Before turning to the Bill itself, however, I want to begin by noting that our appearance here today is just the latest part of our continuing advocacy campaign on this issue that began over four years ago. At that time, FAC members began monitoring statutes and cases in other states dealing with the issue of sexual predators. The stimulus for our original efforts was a request for technical assistance from our forensic advocacy colleagues in New Jersey where one of our FAC members had previously served as an advocate. At that time, we reviewed the Washington State sexual predators statute and the U. S. Supreme Court decision in Illinois v. Allen. Subsequently, as you know, New

Jersey and other states have enacted similar statutes. (See, e.g., N.J.S.A.30:4- 27.2)

It was because of this earlier research and technical assistance, however, that we first became aware of the U.S, Supreme Court case of Kansas v. Hendricks, raising the issues of the constitutionality of the commitment of sexual predators under substantive due process and the double jeopardy and ex post facto clauses. In late 1996, together with our New Jersey colleagues, we obtained copies of the U.S. Supreme Court papers in the case as well as the briefs of the parties and the various amici curiae mental health and professional and advocacy organizations. (See, e.g., the Cover and Table of Contents of the amicus brief of the National Mental Health Association in Kansas v. Hendricks attached hereto as Exhibit No.1., focusing on opposition to the mixing of sex predators and state hospital populations).

At that time, we began sharing our research on this issue with other advocates here in PA. Subsequently, on December 2,1996, we attended and reviewed the oral argument in Kansas v. Hendricks at the U.S. Supreme Court in Washington, D.C. together with advocates from other states. Frankly, it was the first U.S. Supreme Court oral argument that I had ever attended and it was difficult to follow the questioning of the Justices. However, from many of the Court's questions--particularly those of Justices O'Connor, Ginsburg and Scalia--it was apparent, even to me, that the Court was going to reverse the Kansas Supreme Court and uphold the Kansas sexual predator law. Finally, in the summer of 1997, we reviewed the U.S, Supreme Court's opinion as well as the large amount of press coverage it received and responded with Op-Eds and letters to the Editor to many of the leading media articles and commentaries about the decision and its

rationale. At that time , we were pretty much alone in our concerns about Hendricks.

Subsequently, when the first bills were introduced in this Legislature, FAC continued to disseminate its research and concerns about this issue to other advocates and to staff here. On August 7,1997, FAC members including myself attended the National Conference of State Legislatures ("NCSL") meeting in Philadelphia. Incidentally, one of our FAC members had earlier worked as a consultant to NCSL on mental health commitment laws and thus was familiar with their legislative research process and system of studying new caselaw and statutory legal developments. As you may know, the NCSL program included a session where inter alia the Kansas Attorney General, Carla Stovall, presented on her interpretation of the U.S. Supreme Court's opinion in Kansas v. Hendricks and her current proposals to amend the Kansas statute. (See the NCSL Conference Annual Meeting Program attached hereto as Exhibit 2)

On that issue, General Stovall suggested to us that advocates for the sexual predators were already challenging the so-called "notice" provision warning sex offenders of the state's intention to seek commitment at a stated time in advance of their release from incarceration for sexual offenses . General Stovall noted that the defense in some cases where the notice had been given late or not at all was arguing that the failure to give the required notice precisely at the time set in the law invalidated the whole commitment process on due process grounds. She suggested that an amendment might be sought requiring instead only that the notice be given no sooner than a certain number of days before release and no later than some other fixed date perhaps even after release so that any subsequent omissions would not result in a complete lack of any basis to proceed with the commitment process.. Finally, we were fortunate in getting to question

General Stovall and gain some reassurance from her about the complete separation in Kansas of these sexual predators from the state hospital population of persons with mental illness, including specifically, the forensic population. There was no question also that from Kansas' perspective that Kansas model was costing in excess of \$1,000,000 for a single, segregated 16 bed unit with an estimate of another \$1,000,000 for an already planned expansion to a unit approximately twice that size. When PA Senate Bill 1086 came up for hearing last October, we testified about our contacts with Kansas and the concerns raised by General Stovall to us at that time.

Since that time, we have had further discussions with the Kansas Attorney General's Office. Recently, we were told that there had indeed been two court dismissals of commitments in Kansas where the State had failed to meet the notice provisions, just as General Stovall had earlier predicted would happen at NCSL last year. The Kansas A.G. will now try to amend the notice provision to clarify that it is not mandatory. In addition, we learned that the treatment unit had grown to 18 beds, with 17 filled presently and one additional patient in process of commitment. According to the Kansas AG's Office costs for this separate treatment unit are averaging at about \$100,000 per patient per year. Let me note here, for the record, that both the Kansas Attorney General and her staff, particularly Kelly Newton, Esq., have been unfailingly helpful to us in our research.

With that background on our long-standing involvement in this issue, we want to turn now to our principal concern: Building and enforcing as much a distinction as possible between sexual predators and our constituency of persons with mental illness in the criminal justice system. As we have noted repeatedly, we believe that this Bill should

clearly set apart the procedures, treatment , site and funding for these sexual predators so as to distinguish them as much as possible from our folks with mental illness. The differences should include every possible legal, physical and philosophical distinction as supported by the U.S, Supreme Court opinion in Kansas v. Hendricks. We will now address our concerns about various technical aspects of the language of the Bill itself .

Initially, we generally approve of the way that the "Legislative findings" are set forth in Section 2 of the Bill, page 1, except perhaps that we would prefer to start with a positive, direct statement of the need to address the "mental abnormalities" of the sexual predator population, rather than backing into the issue by addressing what they are "unamenable" to, in regard to mental health treatment modalities. For this reason, we urge that the terminology of "mental health" not appear in the Bill at all. Based on our reading, there is one such unnecessary reference at Section 4, "Preliminary assessment and notice" page 4, line 7 of the Bill referring to "mental health experts." We would much prefer if that term were replaced by "therapeutic" or "treatment" rather than "mental health" with its suggestion of a relationship with our concerns and issues . On a larger issue, we urge that when the Bill is passed, we would ask that the law not be codified with the mental health commitment law in the statutory volumes but that it be placed in some other area related to probation, parole or other justice-related programs. Our view is that, now that the U.S. Supreme Court has definitively ruled in Kansas v. Hendricks that these commitment laws for sexual predators are not punitive, state legislatures are free to codify such laws freely with the most relevant subject matter to which they otherwise most clearly pertain.

In terms of an actual physical separation of this population, we approve of the

Bill's language at Section 7, subsection (d) at page 9, line 13, "Secure facility," requiring segregation from other patients of the Department of Welfare. We should note for the record that one of FAC's members, present here in the room today, personally witnessed an institutional rape of a young male patient by a group of such "predators" during his first night on one of our state hospital forensic wards. The terror of that incident affected the subsequent treatment of the victim and the rest of the hospital patient witnesses on that ward for a long time afterward. Our folks with mental illness in the state hospitals are particularly vulnerable and labile during their treatment. They should not be exposed to the risk of attack by sexual predators whose presence would be atherapeutic at least and perhaps life threatening at worst in any case.

I want to emphasize clearly and unequivocally, as we have said all along in this context, there are two populations here, one being folks with mental illness in the criminal justice system and another made up of sexual predators without a serious mental illness diagnosis. Each group must be recognized and treated appropriately-- and separately. They are emphatically not the same population in terms of their treatment needs and public perception. FAC wants to maintain that distinction in every way possible in order to protect our family members and clients with serious mental illnesses..

Before concluding my comments on this Bill, I do want to draw your attention to Exhibits 3 and 4 attached hereto, which are, respectively, the Press Release of the Office of the Governor of New Jersey, Christie Whitman, dated August 12, 1998, and the cover page and excerpt from New Jersey Senate Bill 895, their new sexual predator law. As the Press Release indicates, this law represents a change in direction amending the current

practice of committing sex predators to state mental hospitals, to permit commitment of predators without mental illness to other separate treatment units not on hospital sites. In effect, New Jersey has adopted the Kansas model, as we are urging be done here in PA.

At this point, we need to address the "material world" aspects of this issue--who provides the treatment, site and funding for the commitment of these sexual predators? Our view is that the setting, treatment and funding for these programs should not be DPW or OMHSAS but rather the Department of Corrections ("DOC").. We say this because we believe that the re-entry of these sexual predators into our society and the consequent dangers are largely the result of DOC and Justice problems with sentencing, treatment and rehabilitation, not any failure of DPW or OMHSAS. Our concern is that if DPW or OMHSAS funding is involved, millions of dollars of already scarce mental health funding--at least according to General Stovall_ - will be diverted to serve these sexual predators who are not our folks with mental illness under Kansas v. Hendricks. Thus, even placing the budget for these programs within DPW or OMHSAS is stigmatizing to our folks with mental illness, who overwhelmingly are innocent of any crime, and particularly are wholly innocent of these sexual offenses. We therefore urge this Committee to delete the language on funding at Section 7, subsection (d), page 9 at lines 17 to 20. and replace it with required funding by DOC instead...

In conclusion, we want to underscore our main concerns again. Sex predators are not our folks with true mental illness in the criminal justice system. By definition, sexual predators are convicted--or at least charged sexual offenders--which the overwhelming majority of our people are not. We therefore urge that the sexual predators be legally and physically segregated from our vulnerable and relatively helpless population. The sexual

predators should be treated, housed and funded in settings and from sources completely separate from persons with mental illness.

As advocates, after a long and difficult struggle, we are just beginning to educate the public, the media and the court and justice system to understand mental illness and the need to divert our folks into treatment and away from the criminal justice system. FAC has been involved for the past three years in a national coalition seeking to study and create diversion programs for persons with mental illness in the criminal justice system. (See, e.g., Steadman, GAINS Center et al, *Double Jeopardy: Persons with Mental Illnesses in the Criminal Justice System, A Report to Congress, Rockville, MD(1995).*) FAC wants to have PA's laws help in this great effort to change the way we view mental illness in the context of our justice system. We believe that, with the few changes that we have proposed today, H.B. 1811 can become a Bill worthy of our support in this regard. We will be pleased now to address any questions you may have for us on this matter. It is now my pleasant duty to introduce to you my colleague and fellow FAC Board Member, Ernest L. Peebles, Jr. Ernie.

Good afternoon, Mr. Chairman and members of the Task Force. My name is Ernie Peebles. I am a member of the Board of Directors of the Forensic Advocacy Coalition and serve as a Core police trainer with FAC's Law Enforcement Advocacy Project. In my regular employment, I am the External Patient for the Mental Health Association of Southeastern PA, assigned at Norristown State Hospital. I have been employed in this position for eight years, and prior to that, I served for three and a half years in the same capacity at Byberry, Philadelphia State Hospital. In total, I have

worked for MHA of SEPA for 12 years. My current resume is attached hereto as Exhibit 5.

I am here today to express my own view-- and that of FAC--about the possible impact on my clients of the proposed commitment of sex predators. Simply stated, while we support sex predator commitment, we want to ensure that any such commitments occur under a separate commitment law, apart from mental health commitments, and that any hospital or other facility for such predator commitments must be segregated from the state mental hospital population. Finally, we also believe that sex predator commitment should be separately funded from the OMHSAS budget for reasons I shall now discuss

In my years of serving as a patient--or consumer--advocate, I have come to know literally hundreds of such persons in the state hospital system. My experience, both as an advocate and as a FAC Board member and LEAP police trainer, has convinced me that our state hospital population is a very vulnerable group to sexual predators such as those being discussed here. Our folks are more likely victims than victimizers, more vulnerable to designing persons than perpetrators of harm. Mixing in sexual predators-- that is, persons committed due to that behavior as opposed to traditional diagnosis of serious mental illnesses--in the state hospitals is a prescription for disaster. These risks exist for both our male and female consumers, according to those who run such programs in Kansas and New Jersey. Initially, that is the primary basis for our concern that sex predators be segregated from the state hospital population.

Finally, there is the overarching issue of the stigma associated with sex predator issues. Last year, as a result of my work as a patient advocate, I was involved as a witness in a much-publicized matter involving a patient accused of sex-related charges. At that

time, I became personally aware of the depth and breadth of public and media reaction to cases involving charges related to Megan's Law and this Bill. I can only note for the record, that while persons with mental illness suffer from well-documented stigma of their own, the label of "sex predator" carries infinitely more stigma and harmful "spin" than ever has been identified with mental illness in the public mind. Thus, again, mixing this sex predator group with our folks in state hospitals risks the "tainting" of this population of innocent persons with mental illness with this far more damaging aura, and a resulting additional burden in terms of their freely accessing treatment and community services.

I want also to suggest that an increase in stigma will result if there exists the threat of mixing financing for sex predator treatment with our existing funding for mental health services. In the public mind if OMHSAS funds sex predator treatment, it is a short leap to viewing predators as part of our overall population of persons with mental illness. Moreover, there is the issue of the public perception and likely confusion over the need for additional funding for mental health services--particularly in light of Judge Broderick's recent opinion in Kathleen S. v. DPW, the Haverford State Hospital case--if sex predators services now receive "new" funding through the OMHSAS budget. In summary then, I urge this Task Force to carefully define this sex predator program quite apart from mental health commitments, facilities and budget. If you have any questions, I will be pleased to answer them at this time. I will now introduce the next witness to you, Dr. Jeffrey Allen. Dr. Allen.

Good afternoon, Mr. Chairman and members of the Task Force. My name is Jeffrey B. Allen. I am a psychologist licensed in Pa and New Jersey. I now have a private

practice in Princeton and Freehold, New Jersey. For four years I served as Director of Psychology at the Adult Diagnostic and Treatment Center ("ADTC") at Avenel, New Jersey. As such, I have had experience in treating sexual predators. My current C.V. is attached hereto as Exhibit 6.

My main message today is that, properly designed and adequately funded, treatment for sexual predators works. In support of that general statement, I can provide some background based on current research on these issues. That research does suggest, however, that there are some differences among the different sub-populations of sexual offenders. For example, research shows that for child molesters who are treated while incarcerated versus those untreated, recidivism rates are significantly lower. By comparison, rapists are less responsive to treatment in terms of recidivism than are child molesters. To some extent, these results seem counter-intuitive and against our conventional wisdom, but they are supported by a variety of current studies in this field. Any treatment program for this population should be designed in light of these findings.

Another aspect of the efficacy of treatment is the need for adequate funding to support the services required. As you have heard today, the Kansas Attorney General has estimated the cost of their treatment to average \$100,000 per patient per year. Our average costs at Avenel--a prison setting as opposed to the Kansas model--were much lower as a function of the type of programs offered in that kind of correctional setting. Given the new New Jersey law that has been described here today, it is likely costs will be higher than our costs were at Avenel. (See, e.g., the New Jersey budget office's fiscal note cost estimates attached hereto as Exhibit 7)

Finally, I want to note another, more subtle factor in the efficacy of treatment of

this sex predator population: a treatment philosophy or mind-set. If the staff involved in the program has a real treatment rather than a punishment orientation, treatment results will be enhanced. From my discussions with FAC, I understand that your Corrections Department recognizes its treatment responsibilities for its general population, as well as persons sentenced under PA's Guilty But Mentally Ill ("GBMI") law, which New Jersey does not have as part of its statutory scheme. Assuming such a treatment orientation by PA's correctional staff, sex predator treatment would be more likely to succeed.

In summary, I want to join with my colleagues in supporting a separate sex predator treatment setting, statute and funding from the mental health program. Based on our experience in New Jersey, the risks and stigma associated with mixing sex predators into the mental health population are not justified by any treatment objective. Thank you for the opportunity to appear here today before your legislative Task Force. Please feel free to ask me any questions you may have about my testimony here today. .

Ex. No. 1
p. 1

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In The
Supreme Court of the United States
October Term, 1995

STATE OF KANSAS,

Petitioner,

vs.

LEROY HENDRICKS,

Respondent.

On Writ of Certiorari to the Supreme Court of Kansas

**BRIEF FOR THE NATIONAL MENTAL HEALTH
ASSOCIATION AS AMICUS CURIAE IN SUPPORT
OF RESPONDENT**

INTEREST OF AMICUS CURIAE

National Mental Health Association ("NMHA") is the national citizens' voluntary advocacy organization working with and on behalf of people with mental illness. With 600 affiliates in 43 states and the District of

Ex. No. 1
p. 2

TABLE OF CONTENTS

	<i>Page</i>
TABLE OF AUTHORITIES	ii
INTEREST OF AMICUS CURIAE	1
INTRODUCTION AND SUMMARY OF ARGUMENT	2
ARGUMENT	5
I. SUBSTANTIVE DUE PROCESS REQUIRES A SHOWING OF MENTAL ILLNESS AND DANGEROUSNESS BEFORE A PERSON CAN BE SUBJECT TO INVOLUNTARY CIVIL COMMITMENT	5
II. THE AMENABILITY TO, AND AVAILABILITY OF, TREATMENT FOR PEOPLE WITH BONA FIDE MENTAL ILLNESS DISTINGUISHES THEM FROM SEXUALLY VIOLENT PREDATORS	12
III. COMMITTING VIOLENT SEXUAL PREDATORS	14
IV. CONFINING SEXUALLY VIOLENT PREDATORS IN MENTAL HEALTH FACILITIES WILL FURTHER STIGMATIZE PEOPLE WITH BONA FIDE MENTAL ILLNESS AND DISCOURAGE THEM FROM SEEKING TREATMENT	16
CONCLUSION	20

Ex. No. 2
p. 1



Philadelphia

National Conference of State Legislatures



Annual Meeting
Program and
Exhibition Guide
August 6-10, 1997

THURSDAY

*Ex. No. 2
p. 2*

**2:00 pm - 3:30 pm Customer Service in State Legislatures
Room 204B**

Sponsor: Leadership Staff Section

Leading business companies have taken the customer service ethic to new levels, and legislatures can, too. This program offers insights into proven service techniques and principles to a public that is demanding better service. Learn how you can give constituents—or customers—the highest service, while participating in the legislative process.

Moderator: Bill Kelly, Vice President, Government Relations, Norwest Banks Inc., Minnesota

Speakers: Senator Scott Howell, Utah
Yen Lew, Ombudsman, Hawaii
Howard Martin, Director, State Government Relations, JC Penney Company Inc.

**3:45 pm - 4:45 pm Legal Services Staff Section
Room 113C**

What's New in Uniform and Model Legislation? CLE

Because some legislative issues are not unique to a single state or group of states, uniform and model legislation can provide guidance to legislators and legislative legal staff in developing approaches to these issues. This session will focus on new uniform acts being considered by the Commission on Uniform State Laws and model state legislation that is likely to be of interest and relevant to the states in the near future.

Speakers: John McCabe, Legislative Director and Legal Counsel, the Commission on Uniform State Laws, Illinois
Michael Greenwald, Deputy Director, American Law Institute, Pennsylvania

**2:00 pm - 3:30 pm The Wine Industry at the Legislative and Regulatory Crossroads CLE
Room 201B**

Direct shipment of alcoholic beverages to consumers across state lines has been estimated to generate nearly \$1 billion in annual sales. Direct shipping is one response of the more than 3,000 small U.S. wineries and microbreweries to being locked out of the national wholesale distribution system because they produce limited quantities. The expansion of direct shipping in recent years has generated conflict among states, small producers, wholesalers, retailers and consumers. In 1997, some states acted to increase penalties against direct shippers, while others passed laws to register small direct shippers and collect taxes on their sales. This session will highlight the actions taken by major players in the legislative, regulatory and industry arenas.

Moderator: Senator Mary Panzer, Wisconsin

Speakers: Steve Gross, Wine Institute, California
John Hinman, Hinman & Carmichael, California
Senator Mike Thompson, Task Force Chair, California
Representative Joseph Toomy, Louisiana
Chris Valauri, Beer and Wine Wholesalers Association, North Carolina

**3:45 pm - 5:00 pm Teaching in America: The Status of the Profession and the Role of State Policy
Room 111B**

The National Commission on Teaching and America's Future (NCTAF) recently released, *What Matters Most: Teaching for America's Future*. This significant report has raised some important recommendations for state policy reform that will serve as a springboard for conversations and policy initiatives affecting the teaching profession over the next several years.

Speakers: Former Representative Annette Morgan, Missouri
Sharon Robinson, Vice President for Teaching and Learning, Education Testing Service, Washington, D.C.
Ted Sanders, President, Southern Illinois University

**3:45 pm - 5:30 pm Cybercommerce CLE
Rooms 109A & B**

Electronic commerce on the Internet has the potential to revolutionize business transactions globally. This session will examine current and proposed laws, policies and regulations regarding digital signatures, commercial transactions and cybercash.

Moderator: Representative Jim Morrison, Kansas

Speakers: Ira Magaziner, Special Assistant to the President, The White House, Washington, D.C.

Myles Mendelsohn, Internet Solutions, Bell Atlantic, Virginia
Representative Marlin Schneider, Wisconsin
Richard Zarate, AT&T, New Jersey

**2:00 pm - 5:00 pm NCSLnet and the World Wide Web
Convention Center—CyberRoom—Room 108**

See the NCSLnet section on page 9 for a description of these demonstrations and training sessions.

Introduction to NCSLnet
2:00 pm - 2:30 pm

Federal Funds Information Service (FFIS)
2:45 pm - 3:30 pm

Hands-On Guided Tour
3:45 pm - 5:00 pm

**3:45 pm - 5:30 pm Protecting the Public from Sex Crimes CLE
Room 201B**

Many new policies in states target sex offenders, especially those who victimize children. The session will explore sentencing, treatment and law enforcement strategies including civil commitment of dangerous offenders, controlling offender behavior with chemical treatments and policies to notify the public of sex offenders in a community.

Moderator: Representative Michael Lawlor, Connecticut

Speakers: John Bradford, M.D., Royal Ottawa Hospital, Ontario
Donna Feinberg, Office of Justice Programs, Washington, D.C.
Representative Jeff Jacobson, Ohio
Carla Stovall, Attorney General, Kansas

Office of the Governor**NEWS RELEASE**PO BOX 004
TRENTON, NJ 08625CONTACT: Wendi Patella
609-777-2600

RELEASE: August 12, 1998

Governor Whitman Signs Bills Cracking Down on Sex Offenders

Gov. Christie Whitman today signed a package of bills that will ensure that sex offenders receive appropriate treatment and are not released into the community if there is a likelihood they will repeat their crimes.

"Earlier this year, I made a promise to the citizens of New Jersey. I said that we should make it easier to keep still-dangerous sex offenders away from our children, even after they have served their criminal sentences," the Governor said. "Megan's Law enabled us to keep more than 80 such predators in civil commitment beyond their initial prison terms. It is time to expand that authority."

Known as the New Jersey Sexually Violent Predator Act, S-895, sponsored by Senators Robert Martin (R-Essex/Morris/Passaic) and Anthony Bucco (R-Morris) and Assembly Members Guy Talarico (R-Bergen) and Rose Heck (R-Bergen), allows the state to involuntarily commit sex offenders who suffer from mental abnormalities or personality disorders which make them likely to re-offend.

Currently, only those offenders who meet the legal definition of "mentally ill" may be involuntarily committed.

Under A-2101, sponsored by Assembly Members James Holzapfel (R-Monmouth/Ocean) and Rose Heck (R-Bergen) and Senators John Bennett (R-Monmouth) and Louis Kosco (R-Bergen), sex offenders sent to the ADTC must be willing to participate in sex offender treatment. Those sex offenders who are not amenable to the treatment will not be sentenced to the ADTC.

The bill also requires that current inmates who are no longer participating or cooperating with sex offender treatment be transferred from the center into another Department of Corrections facility.

A-2102, sponsored by Assembly Members James Holzapfel (R-Monmouth/Ocean) and Rose Heck (R-Bergen) and Senators Louis Bassano (R-Essex/Union) and Louis Kosco (R-Bergen), will make it easier to keep a sex offender incarcerated if there is a likelihood that they will violate conditions of parole.

Under the current process, the standard for parole is that the offender must only "be capable of making an acceptable social adjustment in the community." The new standards will be that the offender has had progress in sex offender treatment and that the State Parole Board has determined there is not a reasonable expectation that the offender will violate conditions of parole.

The bills implement some of the recommendations of the Joint Task Force to Study the Adult Diagnostic and Treatment Center.

"When I first arrived in office, I knew that many changes had to be made in order to make New Jersey the safest and best place to start and raise a family," Gov.

Ex 3
p. 1

News Release

Page 2 of 2

Whitman said. "To a community, crime is like a virus. If contracted and not attacked aggressively, it will devastate families and businesses alike, as well as weaken New Jersey's image."

Ex. 3
p. 2



SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 895

Ex. 4.
p1

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED MAY 21, 1998

Sponsored by:

Senator ROBERT J. MARTIN

District 26 (Essex, Morris and Passaic)

Senator ANTHONY R. BUCCO

District 25 (Morris)

Co-Sponsored by:

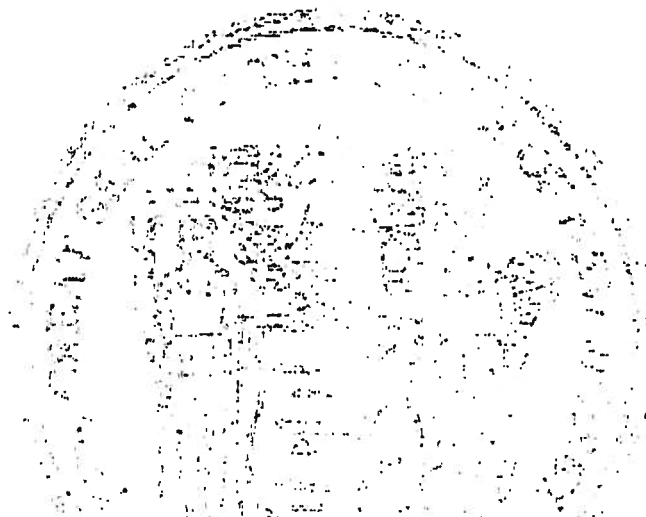
**Senator Kosco, Assemblyman Talarico, Assemblywomen Heck, Crecco,
Assemblyman Bateman, Assemblywoman Buono, Assemblymen Kramer,
Gregg, Kelly and Assemblywoman Murphy**

SYNOPSIS

"New Jersey Sexually Violent Predator Act."

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Law and Public Safety Committee.



3 and an opportunity to be heard.

4

5 10. (New section) If a person who has been civilly committed
6 based upon a determination that the person lacked mental competence
7 to stand trial pursuant to N.J.S.2C:4-6 is about to be released, and the
8 person's involuntary commitment is sought pursuant to this act, the
9 court shall first hear evidence and determine whether the person did
10 commit the act charged.

11 a. The rules of evidence applicable in criminal cases shall apply,
12 and all constitutional rights available to a defendant at a criminal trial,
13 other than the right to a trial by jury and the right not to be tried while
14 incompetent, shall apply.

15 b. After hearing evidence on this issue, the court shall make
16 specific findings on whether the person did commit the act charged,
17 the extent to which the person's lack of mental competence affected
18 the outcome of the hearing, including its effect on the person's ability
19 to consult with and assist counsel and to testify on the person's own
20 behalf, the extent to which the evidence could be reconstructed
21 without the assistance of the person and the strength of the
22 prosecution's case.

23 c. If, after the conclusion of the hearing on this issue, the court
24 finds beyond a reasonable doubt that the person did commit the act
25 charged, the court shall enter a final order, appealable by the person,
26 on that issue and may proceed to consider whether the person should
27 be committed pursuant to this act.

28

29 11. (New section) a. The Department of Corrections shall be
30 responsible for the operation of any facility designated for the custody,
31 care and treatment of sexually violent predators, and shall provide or
32 arrange for custodial care of persons committed pursuant to this act.
33 Except as may be provided pursuant to subsection c. of section 9 of
34 this act, a person committed pursuant to this act shall be kept in a
35 secure facility and shall be housed and managed separately from
36 offenders in the custody of the Department of Corrections and, except
37 for occasional instances of supervised incidental contact, shall be
38 segregated from such offenders.

39 b. The Division of Mental Health Services in the Department of
40 Human Services shall provide or arrange for treatment for a person
41 committed pursuant to this act. Such treatment shall be appropriately
42 tailored to address the specific needs of sexually violent predators.

43 c. Appropriate representatives of the Department of Corrections
44 and the Department of Human Services shall participate in an
45 interagency oversight board to facilitate the coordination of the
46 policies and procedures of the facility.

Ex. 4.
p. 2

ERNEST L. PEEBLES, JR.

Ep. 5
p. 1

1986 - Mental Health Association of Southeastern Pennsylvania
311 South Juniper Street, Suite 902
Philadelphia, PA 19107

EXTERNAL PATIENT ADVOCATE

Advocate on the behalf on psychiatrically diagnosed in-patients at Philadelphia State Hospital. Assist patients in securing legal remedies regarding questions, complaints and concerns regarding their treatment and care. Assist patients in seeking least restrictive therapuetic environment. Monitor all aspects of the institution relative to patient care. Report directly to MHASP, and the superintendent of the institution. Participate in all activities; i.e., committees, meetings, etc. pertinent to patient care, and advocacy initiatives. Interaction with press media.

1985 - 1986

COORDINATOR OF THE ADVOCACY CONSUMER TRAINING CENTER

Coordinator of national, state and local information pertaining to the mental health system and the institutions therefore. Duties; teaching, public speaking engagements, community organizing, legislative lobbying.

1980 - 1985

Point Breeze Neighborhood Advisory Committee
1215 S. 20th Street
Philadelphia, PA 19146

DIRECTOR

Direct day-to-day site office/staff in providing housing/community development services to an eighty-eight (88) square block area; administrated fiscal/reporting operations; coordinated agency volunteers/HUD/CD Funded Program.

1979 - 1980

Voyage House, Inc
311 S. Juniper Street
Philadelphia, PA 19103

COUNSELOR

Crisis Intervention Counselor for runaway youth and their families. Individuals and family counseling technique; also employed consultive group counseling techniques.

1977 - 1979

Advocate Community Development Corporation
1808 W. Diamond Street
Philadelphia, PA 19132

DIRECTOR

Directed housing/community development program focusing on clientele residing within North Central Philadelphia. Administrated fiscal/program operations; supervised staff in provision of housing/community development and consumer activities. HUD/State Funded Program.

1979 - 1979

South Philadelphia Community Center
2600 S. Broad Street
Philadelphia, PA 19147

COUNSELOR (Seasonal)

Summer recreation counselor for youth. Facilitated constructive recreation for program and cultural activities for youth.

Ev. 5
p. 2

1972 - 1976 Philadelphia Housing Authority
2012 Chestnut Street
Philadelphia, PA 19103

COUNSELOR (Entry Level)
COUNSELOR II (Promotional Level)
COUNSELOR III (Promotional Level)
PROJECT COORDINATOR (Promotional-Supervisor)

Counselor, entry thru promotional levels, counseled clients at the Tasker Housing Project with regard to budgeting and consumerism; life skills, landlord/tenant disputes and engaged in crisis intervention. As Project Coordinator, supervised staff and coordinated aforementioned activities.

EDUCATION

1981 - 1983 Lincoln University, Master's in Human Services Program

CERTIFICATES

Thomas Jefferson University - Community Mental Health/Mental Retardation Center (Crisis Intervention)
The Philadelphia Clearing House for Community Funding Resources (Fundraising Workshop)
Temple University - Volunteer Training and Administration of Volunteer Programs
Norfolk State University, School of Continuing General Education (Residential Anti-Crime Workshop)

LETTERS OF RECOMMENDATION

Cooperative Extensive Service, Pennsylvania State University
Medical Graduate Students, Thomas Jefferson University
Isis Dairy and Ice Cream Products
City of Philadelphia, Police department, Accident Investigation District

MEMBERSHIPS

People of Color Caucus
National Association of Protection and Advocacy Systems/National Association for Protection and Advocacy
Board Member - Point Breeze Federation, Inc.
American Society of Mental Health Professionals

References supplied upon request.

PUBLIC SERVICE AWARDS

Ex. 5
p. 3

1962 Young Men's Christian Association Award
1962 Service Award, David Landreth School
1964 Audenreid Junior High School Service Award
1964 United States Committee for UNICEF Award
1977 Commonwealth of Pennsylvania - Board of Probation and Parole Award
1978 Commonwealth of Pennsylvania - Board of Probation and Parole Award
1978 The Right to Read Tutorial Program Award
1978 Institute for Crime Prevention/Center for Administration of Justice-Temple University Award
1981 National Center for Community Anti-Crime Program Award
1982 Young Men's Christian Association Award
1982 Point Breeze Neighborhood Advisory Committee Award
1982 The Amercian Legion Citation of Appreciation (Lincoln Post #89) Award
1983 The Chapel of the Four Chaplains Legion of Honor Award

ATHLETIC AWARDS

1964	Audrenreid Junior High School	Track /Field
1966	South Philadelphia High School	Cross Country
1973	Philadelphia Housing Authority	Basketball
1967	South Philadelphia High School	Track/Field

South Hall

REFERENCES

Mamie Nichols
Executive Director
Point Breeze Federation, Inc.
Philadelphia, PA 19146
(215) 334-2666/334-2858

Joseph Meyers
Office of Housing & Community Development
City of Philadelphia
1234 Market Street
(215) 686-1776

William T. Krum
Mental Health Association of Southeastern Pennsylvania
311 S. Juniper Street, Suite 902
Philadelphia, PA 19107
(215) 735-2465

Ex. 6
p. 1

CURRICULUM VITAE

JEFFREY B. ALLEN, Ph.D.
LICENSED PSYCHOLOGIST

75 WEST MAIN STREET
FREEHOLD, NJ 07728
(732) 431-3000

20 NASSAU STREET., #315
PRINCETON, NJ 08542
1-888-684-4200

Education:

Ph.D.	New York University, New York, New York (Social Psychology)	1986
M.A.	New York University, New York, New York (Social Psychology)	1981
B.A.	Haverford College, Haverford, Pennsylvania (Philosophy)	1971

Professional Experience:

Private Practice:

1991 - Present

Princeton, New Jersey and Freehold, New Jersey

Clinical:

1993-Present

Position: Consultant and Principal Clinical Psychologist

1988-1989

Position: Consultant and Principal Clinical Psychologist,
Outpatient Diagnostic Department, Adult Diagnostic and
Treatment Center, Avenel, N.J.

Responsibilities: Conduct psychological assessments of
convicted sex offenders to determine the need for specialized
treatment. Conduct pre-parole assessments for State Parole
Board. Provide testimony as expert witness for presentencing
hearings.

1989-1993

Position: Principal Clinical Psychologist, Director of
Psychology, Adult Diagnostic and Treatment Center, Avenel,
N.J.

Responsibilities: Overall administration of Treatment Program
for 700 sentenced sex offenders. Supervision of 17 full-time
psychotherapists. Primary therapist to 20 offenders (group and
individual psychotherapy). Chair of prerelease panel.
Conducted specialized groups in relapse prevention.

Ex. 6
p. 2

1987 - 1988

Position: Psychologist II, New York State Office of Mental Health, Elmira Satellite Unit, Elmira Correctional Facility, Elmira, New York.

Responsibilities: Worked as part of multi-disciplinary mental health team. Provided individual psychotherapy to adult inmates. Provided group therapy to inmates diagnosed as HIV positive. Conducted initial screening interviews of inmates. Coordinated multi-disciplinary team which evaluated psychiatric cases referred from other correctional facilities.

Conducted in-service training sessions for mental health staff. Conducted training workshops for medical staff in management of antisocial personalities. Wrote curriculum for staff training in forensic psychology. Served as acting unit chief. Planned and chaired weekly mental health unit staff meetings.

1982 - 1985

Position: Staff Psychologist, Department of Corrections, State of Delaware.

Responsibilities: Conducted individual psycho-social assessments of juveniles and adults by analyzing case histories, interviewing clients, administering various tests, and writing classification reports.

Types of reports prepared included initial classification (long range treatment planning), pre-parole, work release, supervised custody and short term crisis evaluations. Administered standardized and tailored paper and pencil assessment instruments to clients in group and individual settings. Conducted short term goal-oriented counseling with inmates. Trained and oriented new staff members.

Consulting:

1997

Position: Consulting Psychologist, New Jersey Dept. of Human Services, Division of Developmental Disabilities.

Responsibilities: Psychological evaluation and treatment of intellectually disabled sexual offenders.

1992 - Present

Position: Consulting Psychologist, New Jersey Department of Human Services, Division of Youth and Family Services.

Responsibilities: Group and individual treatment to adolescent sex offenders. Family therapy with adolescent offenders and their parents.

Ex. 6
p. 3

1988 - 1991

Position: Psychological Consultant, East Jersey State Prison, Rahway, New Jersey.

Responsibilities: Conducted individual psycho-social assessments of adult inmates by analyzing case histories, administering various psychological tests, conducting interviews, and writing reports.

Types of reports prepared included pre-parole, community release, custody status reduction, and crisis evaluation.

1986 - 1987

Position: Psychological Consultant, Correctional Medical Systems, Smyrna, Delaware.

Responsibilities: Conducted individual psycho-social assessments of adolescents and adults by analyzing case histories, interviewing clients, administering various tests, and writing classification reports.

Expert Witness:

1988 - Present

Accepted as an expert witness in Chemung County, New York and 14 counties in New Jersey: Bergen, Essex, Somerset, Cape May, Atlantic, Hunterdon, Hudson, Burlington, Morris, Union, Salem, Ocean, Mercer, Sussex.

Licenses and Affiliations:

Licensed for Independent Practice, Pennsylvania #PS-6226-L

Licensed for Independent Practice, New Jersey #SIO3230

American Psychological Association

New Jersey Psychological Association

Association for the Treatment of Sexual Abusers (ATSA)

New Jersey State Chapter, ATSA (President Elect, 1998)

New Jersey Network for Treatment of Sex Offenders (Charter Member; Vice Chair, 1995-1996)

American College of Forensic Examiners

Ex 6.
p.4

Publications:

"The Psychological Evaluation and Treatment of Sex Offenders in New Jersey" (with Mark Frank, Ph.D). Corrections Today, June, 1992.

"The Dyadic Model of Social Interaction" (with Frank Hawkinshire), chapter in Theories in Social Practice, ed. by Frank Hawkinshire, New York: The Lewinian Society, 1987.

Training Workshops Conducted:

"The Treatment of Adult Sexual Offenders," workshop presented as part of the conference on Innovations in the Assessment and Treatment of Sexual Offenders, Lancaster, PA, April 15, 1998.

"Footprints on the Heart. Sex Offenders in the Head: Working with Adolescent Survivors and Sexual Perpetrators," (with M. Moore-Russell and E. Zupkus) Pre-Conference Seminar at the 13th Annual Conference of National Adolescent Perpetrator Network, Cherry Hill NJ, April 13, 1997

"Interviewing Suspected Sexual Perpetrators" (with Michael Nover, Ph.D.) Workshop for Union County Probation Department, Union County Training Facility, October 1996.

"Megan's Law - Implications for the Residential Treatment of Adolescent Sex Offenders," Workshop for Administrative and Educational Staff at Ewing Residential Center, August 1996.

"Introduction to Adolescent Sex Offenders and Treatment," Workshop Series for Staff at Ewing Residential Treatment Center, May-August 1996.

"The Etiology of Major Patterns of Sexual Offending and Modes of Treatment." New Jersey Administrative Office of the Courts, Trenton, New Jersey, Training Workshop for Probation Officer Recruits, November, 1991.

"Games Inmates Play and How to Avoid Them," Workshop for new civilian employees at the Adult Diagnostic and Treatment Center, Avenel, New Jersey, October, 1991.

Ex. 6
p. 5

"The Treatment Program for Sex Offenders at the ADTC," Burlington County Probation Officers at the Adult Diagnostic and Treatment Center, Avenel, New Jersey, March, 1991 and February, 1990.

"The History, Development, and Present State of the Treatment Program for Adult Sex Offenders," Orientation Workshop for new civilian employees at the Adult Diagnostic and Treatment Center, Avenel, New Jersey, January, 1990.

"The Nature of Sex Offenders and Major Trends in Treatment," Trenton State College, Trenton, New Jersey, October, 1989.

"History and Functions of the Therapeutic Community Concept in Corrections," Custody and Program Staff, Intermediate Care Program, Elmira, New York, May, 1988.

"The Antisocial Personality," Kidney Dialysis Staff, Elmira Correctional Facility, Elmira, New York, May, 1988.

"History and Clinical Uses of the MMPI," Mental Health Staff, Elmira Correctional Facility, Elmira, New York, February, 1988.

"Clinical Uses of Psychological Test Results," Mental Health Staff, Elmira Correctional Facility, Elmira, New York, January, 1988.

"Techniques of Clinical Interviewing," mental Health Staff, Elmira, Correctional Facility, Elmira, New York, September, 1987.

Professional Addresses Given:

"The Use of Psychological Tests in the Assessment and Evaluation of Sexual Abusers," address to New Jersey Chapter of ATSA, New Brunswick, NJ April 22, 1998.

Panelist, "Standards of Practice in Sex Offender Treatment," New Jersey Network for Treatment of Sex Offenders, April 19, 1996.

Panelist, "What Do We Do With The Sex Offender?" University of Medicine and Dentistry of New Jersey, October 21, 1994.

"Relapse Prevention with Adolescent Sex Offenders," Address to Juvenile Sex Offender Network, Freehold, New Jersey, April, 1994.

Ex. 6.
p. 6

"The Treatment of Sexual Aggressors at the ADTC - Past and Present," address to Juvenile Sex Offender Network, December 1993.

"Family Factors in Incest," guest lecture at College of St. Elizabeth, Morristown, New Jersey, November, 1993.

"Strategies for Managing Sexual Acting Out In Geriatric Institutions." address and case consultation at Morrisview Nursing Home, Morris Plains, New Jersey, July, 1992.

"Considerations in Developing a Comprehensive Treatment Program for Sex Offenders." Bucks County Incest Task Force, Bucks County (PA) Community College, Newtown, Pennsylvania, June, 1992.

"The Treatment Program at the Adult Diagnostic and Treatment Center," Address to BiMonthly Psychology Meeting, New Jersey Department Of Corrections, Avenel, New Jersey, January, 1992.

"Milestones and Pitfalls: Lessons in Program Development Learned from 17 Years of Sex Offender Treatment in New Jersey," Address to the Staff of New York State Senator Hoffman (planning a treatment facility for New York State), December, 1990.

"The Etiology of Sexual Offending," guest lecture at Kean College, Madison, New Jersey, April, 1990.

"The Treatment of Antisocial Personality," Annual Conference of Middle Atlantic States Correctional Association. Kiamesha Lake, New York, May, 1989.

"The Development of a Psychophysiological Measure: The PSE," Third International Conference on Field Theory, East Hanover, New Jersey, September, 1988.

"The Neuropsychological Basis of the Psychological Stress Evaluator," Seventh Annual Conference of the Lewinian Society, Oyster Bay, New York, September, 1986.

Ex. 7

supported by a professional expert evaluation or report. If the petition fails to satisfy either of these requirements, the court shall deny the petition without a hearing.

Lastly, the bill provides for discharge plans to be prepared by the treatment team and with the participation of the person, and for victim notification of a sexually violent predator's release to be conducted by the Department of Corrections, in conjunction with the Attorney General or county prosecutor and the county Office of Victim and Witness Advocacy.

This bill is part of a package of legislation that was recommended by the Governor's Task Force for the Review of the Treatment of the Criminally Insane.

FISCAL IMPACT

The bill requires that sexual predators be segregated from other offenders in a secure facility. The Department of Corrections has developed a staffing analysis based on a 150 bed sexual predator unit requiring 69 custody staff positions with expected cost of \$5 million and 26 correctional civilian staff positions costing \$1 million. The Division of Mental Health Services indicates that an additional 44 treatment staff positions costing \$2.3 million would also be required for a total cost (at current cost levels) of \$8.3 million. Initial non-salary operating costs would total \$1.3 million for a total of \$9.6 million annually.

Actual costs are unknown, due to uncertainty as to commitments and the identification of the facility. Presumably, staff would be hired as commitments occur, and selection of the facility will affect custody and staffing patterns. Precise capital construction costs cannot be determined prior to selection of the site. The Office of Legislative Services notes that the cost of constructing one additional prison bed ranges from \$60,000 to \$95,000 depending upon the security level of the bed. These cost estimates do not include legal costs.