

Michigan Supreme Court says registry is punishment.

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By [John Agar](#) . . .

MUSKEGON COUNTY, MI – The [Michigan Supreme Court said](#) requirements of the state’s Sex Offender Registration Act are an unconstitutional punishment for a man convicted years before the registry took effect.

The man’s attorney said the ruling in the Muskegon County case would impact others who were convicted before registry rules were amended in 2011.

The provisions restricted where sex offenders could live or work and forced them to follow other rules or face prosecution.

“It’s a really big deal for the tens of thousands of people subject to the burdensome requirements” of the Sex Offender Registration Act, or SORA, Jessica Zimbelman, an attorney for the State Appellate Defender Office, told MLive on Tuesday, July 27.

The Supreme Court found that the 2011 statute was an unconstitutional “ex post facto” law that retroactively punished conduct, rather than an effort to promote public safety.

“We are asked to decide whether the retroactive application of Michigan’s Sex Offenders Act (as amended in 2011) ... violates state and federal constitutional prohibitions on ex post factor laws,” the Supreme Court wrote.

“We hold that it does.”

The state Supreme Court said legislators likely intended 2011 SORA rules “as a civil regulation rather than a criminal punishment” but said they impose “onerous burdens” and resemble “the punishment of shaming. The breadth of information available to the public – far beyond a registrant’s criminal history – as well as the option for subscription-based notification of the movement of registrants into a particular zip code, increased the likelihood of social ostracism based on registration.”

The registry lists criminal conviction, home address, employer, a photo and other identifying information. The registrants are essentially on parole, the Supreme Court said.

“In conclusion, the 2011 SORA bears significant resemblance to the traditional punishments of banishment, shaming, and parole because of its limitations on residency and employment, publication of information and encouragement of social ostracism, and imposition of significant state supervision,” the court said.

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