

Finally! A decision in the Rhode Island residency restrictions case

written by admin | March 18, 2023



In 2015, the ACLU of Rhode Island, on the heels of an announcement that the residency restriction distance for certain registrants would be increased from 300 to 1,000 feet, filed a suit to block the move and asked for a temporary restraining order, which was granted and has remained in place until now. NARSOL contributed to the case financially and issued [this press release](#).

That was seven and a half years ago. The wheels of justice do indeed grind slowly, and sometimes they don't grind at all, but this time they did. [The new statute was found by the court to be unconstitutional](#) due to being void for vagueness.

This is the ACLU press release:

Federal judge rules unconstitutional state's residency restriction for sex offenders

March 16, 2023 – 3p.m. A federal court today ruled unconstitutional a state law that makes it a crime for certain sex offenders to reside within 1,000 feet of a school, finding that the statute would require individuals subject to it to guess whether they were in compliance with it, and potentially face a criminal trial if they guessed wrong.

In a 25-page opinion, Chief U.S. District Court Judge John McConnell, Jr. held that since “neither an ordinary person nor law enforcement could understand the statutory language that attempts to define the boundaries of residences and schools,” the residency prohibition is unconstitutionally void for vagueness. ACLU of RI cooperating attorneys [challenged the statute](#) when it was first enacted in 2015, and it has been subject to a preliminary injunction barring its enforcement since then.

The law provides for measuring the 1,000 foot distance “from the nearest boundary line of the real property supporting the residence of the person to the nearest boundary line of the real property *that supports* or upon which there exists a school.” ACLU of RI cooperating attorneys Lynette Labinger and John MacDonald noted the complete lack of clarity as to what property “supporting” a school was applicable in measuring the distance – what about spaces like playing fields, playgrounds, or parking lots? In fact, the court noted, the state has given differing interpretations of what that language means over the years, and most recently argued that it applies to any real property – even if not contiguous to the school – if it is “typically used by students for school purposes,” and that those determinations needed to be made on a case-by-case basis. In pointing out the problem with this approach, the court noted:

“After all, if the State’s process involved law enforcement, school officials, and attorneys collaborating to make precise individualized determinations on these boundaries, how could an ordinary person ever be expected to faithfully follow this

process, let alone come to the same conclusion about where these boundaries lie? Not to mention that these difficulties facilitate arbitrary and inconsistent enforcement.”

Both nationally and locally, correctional administrators, experts involved in the treatment of sex offenders, victims' rights groups, and advocates for the homeless have opposed sex offender residency laws as being [ineffective, counter-productive, and potentially more, rather than less, harmful to public safety](#). The law applies to all Level 3 sex offenders, even if their crime was committed against an adult, and even though the overwhelming majority of sex offenses are committed against people the offender knows, not strangers.

[*Read the remainder of the RI ACLU's press release here.*](#)