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Sexual Predator Commitment Laws in the United States: 1998 Update

EXECUTIVE SUMMARY

Twelve states have statutes that authorize the confinement and treatment of highly dangerous sex offenders following completion of their criminal sentence: Arizona, California, Florida, Illinois, Iowa, Kansas, Minnesota, New Jersey, North Dakota, South Carolina, Washington, and Wisconsin. These laws are commonly referred to as "sexual predator" laws. This report describes sexual predator laws and compares several of their key provisions.

As of the summer of 1998, more than 520 sexual predators have been committed in these 12 states.

Sexual predator laws conform in many aspects. Key similarities include the following:

- Commitment follows a criminal sentence.
- The laws target repeat sex offenders.
- Evidence regarding the individual's likelihood of future violence is central to decision-making.

In comparing state statutes, some differences emerge:

- Most states require the "beyond a reasonable doubt" standard used in criminal proceedings as the burden of proof for commitment; others use the lower standard of "clear and convincing evidence."
- A few states specifically provide that juveniles are eligible for commitment, while others stipulate that petitions can only be filed on persons who are 18 years of age or older.
- California's law calls for a time-limited confinement of two years, while the remaining eleven states authorize indeterminate periods of commitment.

The earliest statutes, in Washington and Kansas, were quite similar, although each law has been slightly modified since its passage. With the U.S. Supreme Court decision in 1997 upholding the constitutionality of Kansas' law, the next wave of statutes is likely to show more individuality.

In 1998, legislative proposals for post-release confinement of sexual predators were introduced in at least 21 states.