

Laws and Programs for the Special Civil Commitment of Sex Offenders

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W. Lawrence Fitch, J. D.

Director of Forensic Services, Maryland Mental
Hygiene Administration

Adjunct Professor, University of Maryland Law
School, Medical School

Sex Offender Civil Commitment

“Sexually Violent Predators”: Sex Offenders About to Be Released from Confinement Who:

A. Have A Mental Abnormality* or Personality Disorder; and

B. Are Likely to Engage in Predatory Acts of Sexual Violence (Serious Difficulty Controlling Behavior)

*Mental Abnormality: “Congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.”

States and Dates

Arizona	1997	Nebraska	2006
California	1996	New Hampshire	2006
District of Columbia	1948	New York	2006
Federal Jurisdiction	2006	North Dakota	1997
Florida	1999	New Jersey	1999
Illinois	1999	Pennsylvania (Kids)	2004
Iowa	1998	South Carolina	1998
Kansas	1994	Texas (Out - P)	1999
Massachusetts	1999	Virginia	2001
Minnesota	1939/1994	Washington	1990
Missouri	1999	Wisconsin	1994

Adam Walsh Child Protection and Safety Act: July 27, 2006

A. Federal “Sexually Dangerous Persons” Commitment Law

1. Federal Offenders Leaving Confinement
2. Commitment to US Attorney General
3. AG to Make “Reasonable Efforts to Cause State to Assume Responsibility for Custody, Care, and Treatment”-- NOTE: State May Say No

B. Grants to States that “Establish, Enhance, or Operate” Special Sex Offender Commitment Programs

1. \$10 million/year for 4 years (through FY 2010)
2. 2-Year Application Period (Expires July 2008)
3. US Attorney General to report annually to House and Senate Judiciary Committees re: states’ progress toward implementation and sexually violent offense rates, by state

Populations

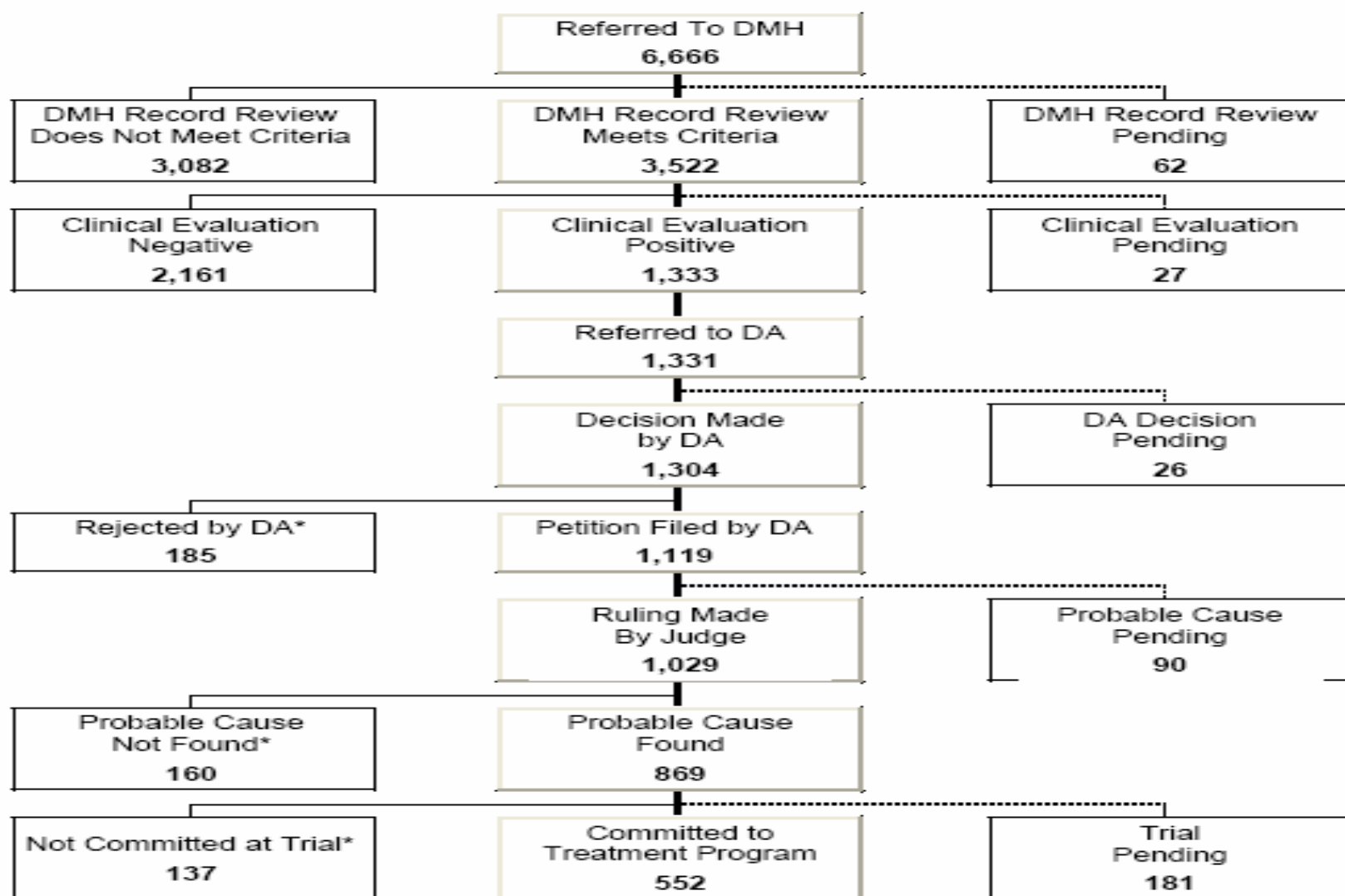
State	# Inpatient	# Supervised/ Transitional Release
AZ	24	59
CA	603	4
DC	4	0
US (NOT YET IMPLEMENTED)		
FL	544	0
IL (2005 #'S)	239	15
IA	62	2
KS	147	7
MA	326	0
MN	350	0

Populations cont'd

State	# Inpatient	# Supervised/Transitional Release
MO	119	0
NE, NH, NY: not yet implemented		
ND	48	0
NJ	344	10
PA	9	0
SC	70	0
TX	n/a	32 (2003)
VA	30	4
WA (2005 #s)	225	10
WI	349	16
TOTAL	3493	159

Sex Offender Commitment Program (SOCP)

All Cases as of 09/01/2006



Note: this report is now available on the SOCP web site: <http://www.dmh.ca.gov/socp>

*These figures contain a small number of cases that were suspended due to legal and administrative reasons

Diagnoses of Committed SVP's (2002 Survey)

Serious Mental Illness: 12%

Mental Retardation: 4%

Any Paraphilia: 85%

Pedophilia: 49%

Any Personality Disorder: 75%

Antisocial Personality disorder: 50%

Costs (Inpatient)

AZ	\$ 92,500	NE	Not implemented
CA	\$107,000	NH	Not implemented
DC	\$237,000	ND	\$97,502
US	Not implemented	NJ	\$65,000
FL	\$41,844.89	NY	Not implemented
IL	\$76,334 (2005)	PA	\$300,000
IA		SC	\$91,250 (2005)
KS	\$41,267	TX	n/a
MA	\$40,108	VA	\$170,000
MN	\$120,000	WA	\$107,000 (2005)
MO	\$73,724	WI	\$127,750

Costs (Outpatient)

- Wide Range (e.g., \$25,000 - \$400,000 Per Offender In WA)
- Average Costs Reported:
 - CA: \$ 125,000
 - KA: \$ 100,000
 - IL: \$ 80,000
 - VA: \$ 13,700
 - WI: \$ 40,000

History of Sex Offender Commitment in U.S.

- I. 1930's – 1960's
 - A. Rehabilitative Ideal
 - B. Indeterminate Sentencing
 - C. MDSO Laws Flourished (26 States)
 - D. Treatment as Alternative to Prison

II. 1970's – 1980's

- A. Rehabilitative Ideal Wanes
- B. Determinate Sentencing
- C. Disillusionment with Treatment (GAP REPORT)
- D. Special Commitment Laws Repealed

III. 1990's

- A. Hard Realities of Determinate Sentencing
- B. Advent of SVP Commitment: Treatment Not as an Alternative to Prison but as a Basis for Continued Confinement-- “Does Not Reflect a Renewed Faith in the Power of Psychiatry to Cure Sex Offenders” (APA)

Legal Reaction

- I. Early State Cases Inconsistent
- II. Kansas v. Hendricks (US S. Ct., 1997)
 - A. Constitutional: So Long as Purpose is Treatment; Mental Condition Need be in DSM
 - B. Tie-Breaking Vote Suggests Limits: Treatment Provision Must Not Be “Sham or Mere Pretext”
- III. Seling v. Young (US S. Ct., 2001)
 - A. Rejects “As Applied” Challenge
 - B. Remedy: Sue the State (Turay v. Seiling)

Legal Reaction Continued

- IV. Kansas v. Crane (US S.Ct., 2002)
 - A. Commitment Requires Showing of “Serious Difficulty Controlling Behavior”
 - B. Opinion Suggested Dangerousness Due to ASPD May Be Insufficient Basis for Civil Commitment: Law Must Differentiate Patients from Prisoners

Professional Reaction

I. APA

A. Task Force 1994 – 2000

B. Conclusion –SVP statutes:

1. “Establish a non-medical definition of what purports to be a clinical condition without regard to scientific and clinical knowledge”
2. “Distort the traditional meaning of civil commitment, misallocate psychiatric facilities and resources, and constitute an abuse of psychiatry”

C. Remedy: Return to Indeterminate Sentencing

II. NASMHPD (1997)

A. Caution – Laws:

1. Disrupt the State's Ability to Provide Services for People with Treatable Psychiatric Illnesses
2. Undermine the Mission and Integrity of the Public Mental Health System
3. Divert Scarce Resources from People with a Mental Illness and Need for Treatment
4. Endanger the Safety of Others in Facilities Who Have Treatable Illnesses

B. Guidelines for Legislation (NASMHPD, Cont.)

1. Distinct from ordinary commitment laws
2. Separate facilities
3. Funded / administered outside SMHA
4. If SMHA responsible, SMHA should determine committability, treatment, LOS
5. Statutes should be narrowly drawn to select for offenders most in need of inpatient treatment
6. Treatment should begin before release from prison

2007 WORK GROUP FINDINGS

- Sex Offender Recidivism Rates Lower Than Public Imagines (and Getting Lower)
- Patient Population Challenging
- Treatment Approaches Different
- LOS, Need for Beds: The Funnel
- Siting Facilities and LRA's: NIMBY
- Staff Recruitment and Retention
- Need for Real-World Standards
- Protecting Budgets
- Treatment Programs in Prison
- Alternatives to Commitment (e.g., Colorado Lifetime Supervision of Sex Offenders Act)

Copies of slides or other
correspondence:

fitchl@dhmh.state.md.us