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## **ACLU-IA Asks U.S. Supreme Court to Review Iowa's Sex Offender 2000' Residency Restriction.**

by R. Ben Stone, Executive Director  
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DES MOINES -- The American Civil Liberties Union of Iowa Foundation announced today that its attorneys have filed a petition for writ of certiorari with the United State's Supreme Court in a continued bid to overturn Iowa's unprecedented restrictions on where sex offenders with victims under the age of 18 can reside. The Court will likely decide by the end of the year whether to hear the case.

Just the second state in the nation to pass such a law, Iowa restricts nearly every registered sex offender from residing within 2000 feet of a school, day care facility or registered in home child care provider.

When the law went into effect in July 2002, the ACLU-IA quickly filed a class action lawsuit on behalf of all affected sex offenders and succeeded in getting a ruling from U.S. District Court Judge Robert Pratt in February 2004 that the law was unconstitutional. This past summer, a three judge panel of the United State's Court of appeals overturned the ruling and by a 1 vote margin, the full court of appeals declined to rehear the case.

Since September 1 of this year, law enforcement officials have been scrambling to commence enforcement of the law. Most jurisdictions have been sending law enforcement officers to the doors of registered sex offenders telling them they have to move or face arrest.

"This law is not only a law enforcement nightmare, but it also breaking up families, separating parents from their children, causing homelessness and -- unless changes are made - will likely cost the taxpayers of this state millions," says ACLU-IA Executive Director Ben Stone. "Our jails and prisons likely are going to be filled with law-abiding citizens who served their sentence years ago, but who will be incarcerated again simply because they cannot find a place to live under this law," said Stone.

The ACLU-IA also believes it is important for people to realize that the law is sweeping in who it covers - both in scope and time. "The 2000 foot rule applies equally to all kinds

of people who don't fit the public perception of the typical sex offender," added Stone. "The law covers cases where a 19 year old had sex with a 15 year old, as well as persons who pled guilty to exposing themselves at a party. And, perhaps most significantly, the law has no time limit - middle-aged fathers with a wife and children who have had no criminal convictions for decades are being forced to leave their family and likely become homeless, " Stone said.

The ACLU-IA maintains the residency restrictions are ineffective because they do not focus on offenders who are a threat to small children and do not prevent predators from travelling to areas where children could be abducted. At the same time, the statute amounts to the unconstitutional punishment of banishment. Indeed, maps of Des Moines and many Iowa municipalities show there is hardly anywhere for a sex offender to live. Typically entire cities are blocked off because of the number and size of circles drawn around targeted facilities and homes.

The ACLU-IA argues in its petition seeking review by the U.S. Supreme Court that the statute should be reviewed promptly because jurisdictions across the nation are quickly adopting laws and ordinances banning sex offenders from living in their jurisdictions. In fact, it has been reported that the eastern Iowa town of Ely, which did not have a school or day care, passed an ordinance banning sex offenders from residing in nearly all of the town. Similar legislation is being passed or proposed in many states.

Florida State Representative Rep. Susan Goldstein wh recently introduced such a bill in the Florida legislature was quoted on September 15, 2005 by the South Florida Sun Sentinel as stating the goal is "to get these people out of our neighborhoods and hopefully out of our state."

[[http://pqasb.pqarchiver.com/sun\\_sentinel/896343381.html?did=896343381&FMT=ABS&FMTS=FT&date=Sep+15%2C+2005&author=Jason+Garcia+Tallahassee+Bureau&pub=South+Florida+Sun+-+Sentinel&desc=LEGISLATOR+SEEKS+STATEWIDE+PREDATOR+LAW](http://pqasb.pqarchiver.com/sun_sentinel/896343381.html?did=896343381&FMT=ABS&FMTS=FT&date=Sep+15%2C+2005&author=Jason+Garcia+Tallahassee+Bureau&pub=South+Florida+Sun+-+Sentinel&desc=LEGISLATOR+SEEKS+STATEWIDE+PREDATOR+LAW)]

The name of the ACLU-IA litigation is Does I, II & III v. Miller, et al. The case was originally filed in the U.S. Court for the So. District of Iowa, Case number 3:03-cv-90067. The lead counsel for the ACLU-IAF is Phil Mears from Iowa City, Iowa.

Electronic copies of the ACLU-IA's petition to the U. S. Supreme Court are posted on the ACLU-IA's website. <http://www.iowaclu.org> (Click on "Documents", then "Briefs".)