

## ARE RESIDENCY LAWS LEGAL?

The US Supreme Court has not heard a case on residency restrictions as of 2009, leaving the 8th US Circuit Court decision *Doe v. Miller* (2003) as the highest ruling. The 8th Circuit ruled residency laws were civil/ regulatory, meaning the US Constitution does not apply to those affected by these laws. However, courts have ruled that even civil laws can be punitive/punishment if the effects are severe enough to be seen as punitive, making constitutional claims valid. Furthermore, courts have consistently ruled the mere suspicion a person might engage in criminal activity does not justify sanctions, and laws regulating criminal behavior must be “narrowly tailored” to meet a “legitimate governmental purpose.” In other words, the government can only regulate specific activities tied to criminal behavior. The mere act of living in a residence cannot be linked to criminal behavior.

Lower court decisions in a number of states have determined residency restrictions are indeed punishment, are overbroad, violate “ex post facto” (laws passed after the fact) and due process laws, are excessive in meeting its goals, and essentially banishes individuals from entire areas. The camp under the Julia Tuttle Bridge stands as a testament to the traditional punishment of banishment.

## OUT OF SIGHT BUT NOT OUT OF MIND

Tens of thousands of cars roll over the Julia Tuttle Causeway every day without a thought to those that were forced to reside under the bridge. Many residents of Miami denied the existence of the camp. People who had served their sentences but banished by law to live under a humid, noisy, rat-infested underpass with little or no hope for redemption, and just wondering how to get the next meal. As the number under the bridge continued to swell, Florida’s legislators sat in a climate controlled office, eating, and arguing over the effects of residency restriction laws in their state. And while article after article exposed this dirty little secret to the world, local ordinances across Florida were in the process of passing, ensuring history would repeat itself.

A picture is indeed worth a thousand words, and the pictures from the Julia Tuttle Causeway camp speak volumes on the impact of residency restriction laws. There is no proof residency laws work to reduce sex crimes amongst registrants or in general. However, evidence of the negative effects can be no clearer than the sixty individuals forced to live under the Julia Tuttle Causeway in Miami, Florida. Homelessness, absconding registrants, lack of social service and reintegration problems, and a punitive political climate helped create this social nightmare, giving ample evidence to repeal residency restrictions once and for all.

### Sex Offender Solutions & Education Network

PO box 235, Dixon, IL 61021  
(800) 773-4319 ❖ [www.sosen.org](http://www.sosen.org)

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## RESIDENCY RESTRICTIONS: Banishment by Attrition



*“They don’t work. They don’t work, and they actually make things more dangerous rather than make them safer.” -- Kansas Corrections Secretary Roger Warhol on why Kansas passed a moratorium on residency restriction laws*



**SOSEN EDUCATIONAL SERIES**

## *The Truth about Residency Restrictions*

### **JULIA TUTTLE: A BRIDGE TOO FAR**



In 2005, Dade County, Florida passed a local 2,500 residency restriction law, effectively making the city of Miami off limits to sex offenders. Desperate to find housing for registrants, the Florida Department of Corrections began sending recently released registrants to live under the Julia Tuttle Causeway, the only property that was legal under the local ordinance. The Julia Tuttle Causeway had no running water, electricity (save for a generator bought by residents), toilets, or waste disposal. Social service agencies could not (or would not) help them. As many as 140 people lived in the colony in July 2009. The Julia Tuttle Causeway residents were banished through attrition. Despite national headlines, public outrage, and even court orders to clear out, the Julia Tuttle Causeway residents remained under the bridge until April, 2010 when the residents were moved into other housing, but their plight didn't end there. Further protest from nearby communities ensued and former residents of the encampment were evicted from a Miami hotel and most remain homeless today.

### **RESIDENCY RESTRICTIONS: MORE HARM THAN GOOD**

Residency restriction laws, laws that prevent sex offenders from residing within a prescribed distance from certain landmarks like schools or day care centers, are popular but controversial laws. There are many criticisms of these laws, all of which build a strong case for repealing residency laws:

1. Ineffective: Studies in Minnesota and Colorado found no correlation between residence and sexual offending; offenses are based on relationships, not geography.
2. The law does not restrict daily activity; law only restricts where the registrant sleeps.
3. Law causes stress and instability in the lives of former offenders, increasing the chance registrants will re-offend.
4. Increases the number of offenders registering as homeless, absconding ("going underground"), or giving false addresses as finding legal addresses are increasingly hard to find. In one city, a local ordinance adding recreation centers and youth clubs to the state law restricting registrants from living 1000 feet from schools found the available housing units decline by over 16,000. One study found even under a mere 1000 foot restriction from schools and daycares, only around 1.5% of housing in a restricted area is actually available to a registrant seeking housing.
5. The laws force registrants to cluster together in the few areas allotted by the restrictions, generally in low-income, high-crime areas.
6. Has no impact on overall crime rates: Iowa found the number of sex crimes slightly increased in the year following the enforcement of their 2000 foot residency law, with only one crime listed as a "stranger case."

### **HABITAT FOR INHUMANITY**

When Iowa enforced the 2000 foot residency restrictions in 2005 (after years of legal battles over the controversial law) the state found the number of homeless and missing offenders more than tripled in number, while sex crime levels remained about the same. Surrounding states struggled with the influx of registrants fleeing Iowa, leading some states like Kansas to pass moratoriums against local ordinances passed in panic. In 2007, Iowa began the process to repeal these laws due to these negative consequences, and in 2009, Iowa limited the use of the restrictions to only "the worst" offenders, while including a 300 foot "child safety zone" or anti-loitering ordinance, prohibiting registrants from being within the zone without a legitimate purpose. Other states, like Florida, ignored the experiences of Iowa, and as a result, have experienced the same issue with homelessness and other issues, as illustrated by the Julia Tuttle Causeway camp.



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