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Part of Jessica's Law ruled unconstitutional

In response to a judge's decision, California corrections officials stop enforcing a section of the measure in L.A. County restricting how close sex offenders can live to parks or schools.

By Andrew Blankstein, Los Angeles Times

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California corrections officials this week stopped enforcing portions of Jessica's Law in Los Angeles County after a judge ruled that the 2006 statute restricting how close sex offenders can live to parks or schools is unconstitutional.

Los Angeles County Superior Court Judge Peter Espinoza concluded that the controversial measure left sex offenders in some areas with the choice of being homeless or going to jail because the law restricts them from living in large swaths of some cities such as Los Angeles.

He issued the 10-page ruling Monday after four registered sex offenders petitioned the court. He noted that the court has received about 650 habeas corpus petitions raising similar legal issues, and that hundreds more were being prepared.

In his opinion, Espinoza cited comments by Los Angeles Police Chief Charlie Beck that Jessica's Law restrictions had resulted in "a marked increase of homeless/transient [sex offender] registrants." In 2007, there were 30 sex offenders on active parole in Los Angeles. By this September, that number had jumped to 259, Beck said. Most of the new cases were filed in the last six months.

"Rather than protecting public safety, it appears that the sharp rise in homelessness rates in sex offenders on active parole in Los Angeles County actually undermines public safety," wrote Espinoza, who is the supervising judge of Los Angeles County criminal courts. "The evidence presented suggests that despite lay belief, a sex offender parolee's residential proximity to a school or park where children regularly gather does not bear on the parolee's likelihood to commit a sexual offense against a child."

In the wake of the ruling, the state Department of Corrections issued a memo Tuesday to local parole agents stating that they should immediately suspend the portion of the law prohibiting sex offenders from living within 2,000 feet of a school, park or play area.

The memo, obtained by The Times, stressed that parole agents can still use global positioning systems to track the movement of offenders and continue to enforce local ordinances governing offenders. "The duration of this order is unknown," the memo states.

State corrections officials said they could not comment on the specifics of Espinoza's ruling, but that the department would continue to monitor sex offenders in the best way they can. They also plan to appeal the ruling.

"There are other tools that the Department of Corrections and Rehabilitation can and will continue to use to further public safety, including residency restrictions specific to each offender," said agency spokesman Luis Patino.

Proposition 83, overwhelmingly approved by state voters in 2006 and informally known as Jessica's Law, imposes strict residency requirements on sex offenders, including rules forbidding them from residing near locations where children gather. Before the law passed, those residency requirements were imposed only on offenders whose victims were children.

Civil rights attorneys have argued that provisions of the law make it impossible for some registered sex offenders to live in densely populated cities. Nearly all of San Francisco, for example, is off-limits to sex offenders because of the number of parks and schools close to housing. Los Angeles officials also said there are few places in the city where sex offenders can find housing that meets Jessica's Law requirements.

In Orange County, where more than a third of the paroled sex offenders are homeless, dozens of homeless people started living on the streets in an industrial section of Anaheim because it was the only place they could find that complied with Jessica's Law. After complaints, police broke up the camp in May. But many of the offenders moved to another industrial area.

The California Supreme Court ruled in February that registered sex offenders could challenge residency requirements in the law if it proves impossible to avoid living near parks and schools.

Backers of Jessica's Law acknowledge that the rules have made it harder for some sex offenders to find housing, but they believe the scope of the problem has been exaggerated.

State Sen. George Runner (R- Lancaster), the author of Jessica's Law, said most parts of the state still have ample housing for sex offenders, including Los Angeles County.

"Clearly there are places to live in Los Angeles County," Runner said. "That's what's so astounding about the ruling. Even those who have found a place to live are now being allowed to live across the street from a school. You don't give a card to every sex offender, pervert in the county to let them live wherever they want. That's just wrong. The voters didn't want that and it's wrong for a judge to unilaterally decide that."

Runner said he was confident the geographic rules would eventually be restored in L.A. County and elsewhere. He also suspected that the judge's order might prompt local cities to impose their own rules on where sex offenders can live that might be more restrictive than Jessica's Law.

Espinoza's ruling comes as the Superior Court is hearing the cases of sex offenders. It is possible

the judge could modify his ruling at a later date, or that a higher court ultimately could decide the matter.

In recent months, Los Angeles Police Department officials have been voicing concerns about the growing number of sex offenders living on the streets.

There are about 5,100 registered sex offenders in the city, and about 1,020 of them are prohibited under Jessica's Law from living near places where children congregate. Throughout Los Angeles County, about 2,000 registered sex offenders are subject to residency restrictions.

In a briefing before the Los Angeles Police Commission last month, Det. Diane Webb said some of the city's sex offender population has come to Los Angeles from surrounding cities that have passed sex offender rules even tougher than Jessica's Law. Los Angeles has no such laws on the books.