

**IN THE
MISSOURI SUPREME COURT**

JOHN DOE,)	
)	
Appellant,)	
)	
v.)	Case No. SC87786
)	
HON. MATT BLUNT, et al.,)	
)	
Respondents.,)	

Appeal from the St. Louis County Circuit Court
Honorable Thea A. Sherry, Circuit Court Judge

RESPONDENTS' BRIEF

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STATEMENT OF FACTS

The Appellant has included the stipulated facts from the Circuit Court. Respondents agree that the parties stipulated to these facts and that they are properly before this Court. Respondents add two additional facts that are in the record: Doe committed the crime at issue when he was sixteen years old and the victim was fourteen. (L.F. 154-55). The crime at issue was Public Display of Explicit Sexual Material, § 573.060 RSMo. (Appellant’s Brief, pg. 9, ¶ 1).

INTRODUCTION

There is no doubt that the State of Missouri has the power to make sex offenders register with their local sheriffs pursuant to § 589.400, RSMo.¹ This Court settled that question in *Doe v. Phillips*, 194 S.W. 3d at 837 (Mo. banc 2006), and *R.W. v. Sanders*, 168 S.W. 2d 65 (Mo. banc 2005). This Court had previously held that the “obvious legislative intent” behind sex offender registration was the “protect[ion] of children at the hands of sex offenders.” *J.S. v. Beaird*, 28 S.W. 3d 875, 876 (Mo. banc 2000). Doe, however, makes a number of procedural and substantive challenges to the statute.

¹ The Act is popularly known as Missouri’s Megan’s Law. *See Doe v. Phillips*, 194 S.W. 3d , 833, 837 (Mo. banc 2006).

As a preliminary matter, this Court has held that attacks against statutes based on procedural limitations in the state constitution are not favored and that it will interpret procedural limits in the state constitution liberally in favor of the legislation. *See Fust v. Attorney General*, 947 S.W. 2d 424, 427 (Mo. banc 1997). Against this backdrop, Doe's challenges fail.

I. Doe's Challenge is Moot Under This Court's Decision in *Doe v.*

Phillips

Doe stands in much the same position as one of the plaintiffs in *Doe v. Phillips* whose challenge this Court held appeared to be moot. Doe committed the crime at issue when he was sixteen years old and the victim was fourteen. (L.F. 154-55). The crime at issue was Public Display of Explicit Sexual Material. (Appellant's Brief, pg. 9, ¶ 1). This is one of the crimes for which a person subject to the registration requirement may petition for removal from the registry. *Doe*, 194 S.W. 3d at 840-41, citing RSMo. 589.400.7. And given that Doe was 19 or younger and the victim was 13 or older, he may petition for removal after two years. *Id.* at 841, citing RSMo. § 589.400.8. Two years have passed since his guilty plea.

Doe therefore stands in exactly the same shoes as John Doe I from the *Doe v. Phillips* case:

John Doe I pled guilty to sexual assault charges in 1988 at age 17 for what the record describes as ‘inappropriately’ touching a 15-year old who was then his girlfriend. He received a suspended execution of sentence and successfully completed his probation in 1992. As it is more than 2 years since his conviction, the 2006 revisions allow him to petition to have his name removed from the registry by showing he does not present a present or future risk to society. Secs. 589.400.8, 589.400.9, H.B. 1698. These² Does’ claims that the pre-2006 act violated their rights therefore appears to be moot.

Doe v. Phillips, 194 S.W. 3d at 847. Under this Court’s decisions, “[w]hen an event occurs which renders a decision unnecessary, the appeal will be dismissed.” C.C. *Dillon Co. v. City of Eureka*, 12 S.W. 3d 322, 325 (Mo. banc 2000) quoting *Bank of Washington v. McAuliffe*, 676 S.W. 2d 483, 487 (Mo. banc 1984). Here, the 2006 amendments to Megan’s Law make a Constitutional decision unnecessary as Doe has

² The Court was also discussing two other Does whose offenses no longer required registration.

the ability to obtain an order removing him from any requirement to register, and accordingly this appeal is moot.³

II. The Statute Is Not Invalid Under the Original Purpose Clause

[responds to Doe's Point V]

³ As a practical matter, a decision by this Court in this case would not provide Doe with the complete relief he seeks here, *i.e.* cessation of the duty to register and removal from the registry, in any event. Even if the Court held that Doe was not required to register, it would not prevent others from putting his information on the registry. *See Doe v. Phillips*, 194 S.W. 3d at 838 (“even as to those Does who may not be required to fulfill the affirmative duties imposed directly on them by Megan’s Law, Missouri’s constitutional prohibition on laws retrospective in their operation does not prohibit others from publishing information about them in the manner permitted by Megan’s Law”); *id.* at 852 (publication of true information about crimes does not affect a past transaction to the detriment of registrant). Only a Circuit Court order removing Doe from the registry under § 589.400.7 would provide him the full relief he seeks. Doe in fact has a Circuit Court action pending on that topic. *See Doe v. Missouri Sex Offender Registry*, No. 06CC-003504 (St. Louis Co. Cir. Ct.)

Doe challenges the statute under Art. III, § 21 of the Missouri constitution, the “original purpose” clause. But Doe ignores the way the “original purpose” clause has been construed by this Court. The “original purpose” clause has never been interpreted to “inhibit the normal legislative processes in which bills are combined and additions necessary to comply with the legislative intent are made.” *Blue Cross Hosp. Service, Inc. of Missouri v. Frappier*, 681 S.W. 2d 925, 929 (Mo. banc 1984). Nor does the clause prevent extending the scope of a bill or bringing in new matter. *See Stroh Brewery Co. v. State*, 954 S.W. 2d 323, 326 (Mo. banc 1997). A bill title may be changed as a bill progresses through the legislature without violating Art. III, § 21. *See Mo. State Medical Ass’n v. Mo. Dept of Health*, 39 S.W.3d 837, 840 (Mo. banc 2001). Germane amendments do not change a bill’s original purpose. *Id.* This Court has consistently approved expanding the title of a bill as it goes through the legislative process. *See Solid Waste v. Dir. of Dep’t of Nat. Res.*, 964 S.W. 2d 818, 821 (Mo. banc 1998). “[O]nly clear and undoubted language limiting purpose will support an article III, section 21 challenge.” *Stroh Brewery Co.*, 954 S.W.2d at 326.

Challenges under the original purpose clause only succeed when the challenged provisions are “not remotely within the original purpose” of the bill, as was the case in *Missouri Association of Club Executives v. State*, 208 S.W. 3d 885,

888 (Mo. banc 2006) (holding that provisions related to adult entertainment centers were not related to original purpose of repealing and replacing certain statutes involving alcohol-related traffic offenses). “Original purpose refers to the *general* purpose of the bill.” *Id.* at 888 (emphasis added); *McEuen v. Missouri State Board of Education*, 120 S.W. 3d 207, 210 (Mo. banc 2003). “[T]he Constitution does not require that the original purpose be stated anywhere, let alone in the title as introduced. Original purpose is the general purpose, ‘not the mere details through which and by which that purpose is manifested and effectuated.’” *McEuen*, 120 S.W. 3d at 210, quoting *Mo. State Medical Ass’n*, 39 S.W. 3d at 839.

Under these precedents Doe’s claim is without merit. The overarching purpose of the bill at issue did not change during the legislative process – it remained crime prevention, particularly as relating to sex offenses. Originally the bill concerned child pornography. (Exhibit 4, L.F. 176).⁴ Later the bill was expanded with new sections related to sex offenses. (Exhibits 5-7, L.F. 177-199). The final version added more sex offenses. (Exhibit 3, L.F. 160-75). These are certainly at least generally within the “original purpose” of the bill.

⁴ Of course, showing a videotape of a fourteen year old having sex is within most definitions of child pornography.

III. The Statute is Not Invalid Under the “Single Subject” Clause

[respond’s to Doe’s Point IV]

The test for whether a bill violates the Single Subject clause of Art. III, § 23 is whether all provisions “fairly relate to the same subject, have a natural connection therewith or are incidents or means to accomplish its purpose.” *State Medical Ass’n v. Mo. Dept. of Health*, 39 S.W.3d 837, 840 (Mo. banc 2001), quoting *Hammerschmidt v. Boone County*, 877 S.W.2d 98, 102 (Mo. banc 1994). The enacted bill is the only version relevant to single subject requirement. *See State Medical Ass’n*, 39 S.W.3d at 840. The “single subject” of the bill as enacted can include ‘all matters that fall within or reasonably relate to the general core purpose of the proposed legislation.’” *Rizzo v. State*, 189 S.W. 3d 576, 579 (Mo. banc 2006), quoting *Hammerschmidt*, 877 S.W. 2d at 102. This Court has not hesitated to uphold provisions “that seemed to stretch the subject of the bill.” *Rizzo*, 189 S.W. 3d at 579.

Here, all provisions of the bill deal in some way with the subject of crime prevention (with a focus on sex offenses). Doe’s complaints about the number of sections the bill makes changes to are virtually meaningless without some context, which he fails to provide. Again, the bill originally concerned child pornography (which is a sex offense). (Exhibit 4, L.F. 176). Later the bill was expanded with

new sections related to sex offenses. (Exhibits 5-7, L.F. 177-199). The final version added more sex offenses. (Exhibit 3, L.F. 160-75). These additions reasonably relate to the general core of the legislation.

Doe's attack on the broad swath of chapters affected by HB 1055 is only supported by a law review article, as Missouri case law does not support his argument. In *State Medical Ass'n* for example, this Court upheld a bill that mandated insurance coverage for early cancer detection, and also (1) made HIV-related information confidential; (2) mandated insurance for mental illness and chemical dependency; (3) established a health insurance advisory committee, among other things. 39 S.W. 3d at 839. This Court held that, despite the number of chapters involved, the bill covered a single subject: health services. *Id.* at 841.

Doe also argues that the bill has a few provisions that do not apply just to sex offenses, thereby invalidating the whole bill. This is not the law. Even if the Court did find those other provisions were unrelated, at most the result would be that those parts would be severable. *See Carmack v. Director, Missouri Department of Agriculture*, 945 S.W. 2d 956, 961 (Mo. banc 1997). However, he is not challenging those parts of the bill (and probably lacks standing to do so in any event), and as such they are not at issue before this Court.

Doe also relies on the inapposite case of *ACI Plastics v. City of St.Louis*, 724 S.W. 2d 513 (Mo. banc 1987). That case dealt with a challenge under Art. IV, § 13 of the St. Louis City Charter, not the State Constitution. *Id.* at 516. *ACI Plastics* concerned the enactment of a sales tax with no mention in the language provided to voters that the proposition involved a sales tax. *Id.* This is not so here, as this case involves an enacted bill that dealt with the single subject of crime prevention with an emphasis on sex offenses. Therefore *ACI Plastics* provides no assistance in resolving the single subject issue before this Court.

IV. The Statute is Not Invalid Under the “Clear Title” Clause

[responds to Doe’s Point III]

The circuit court properly rejected the plaintiff’s challenge under the clear title clause of Art. III, 23. This clause simply requires that a bill’s title indicate – in a general way – the kind of legislation being enacted. *See National Solid Waste Mgmt. Assn v. Dir. Dept of Natural Resources*, 964 S.W.2d 818, 821 (Mo. banc 1998); *Fust*, 947 S.W. 2d at 429. A title may omit details of a bill, so long as the legislature and the public are not misled. *See Mo. State Medical Assn*, 39 S.W.3d at 841, *citing Lincoln Credit Co. v. Peach*, 636 S.W.3d 31, 39 (Mo. banc 1982) Only the title of the bill as enacted is relevant to the clear-title analysis; titles of earlier versions are not. *See Mo. State Medical Assn* , 39 S.W.3d at 841.

This Court has upheld, against clear-title challenges, titles such as: relating to “certain merchandising practices,” *Brown-Forman Distillers Corp. v. McHenry*, 566 S.W.2d 194, 198 (Mo. banc 1978); “relating to health services,” *Missouri State Medical Ass’n*, 39 S.W.3d at 841; “relating to environmental control,” *Corvera Abatement Tech. v. Air Conservation Comm’n*, 973 S.W.2d 851, 861-62 (Mo. banc 1998); “relating to transportation,” *C.C. Dillon Co. v. City of Eureka*, 12 S.W.3d 322, 329-330 (Mo. banc 2000); and relating to “general not for profit corporations, and reinstatement of other corporations,” *St. John’s Mercy Health Care v. Neill*, 95 S.W.3d 103, 106 (Mo. banc 2003).

In *Missouri State Medical Association*, for example, the Court rejected both under-inclusiveness and over-breadth challenges to the title “relating to health services.” 39 S.W.3d at 841. As to the former, the Court held that the title sufficiently described the content of a bill that covered cancer screening, pre-operative information about breast-implants, confidentiality of HIV diagnoses, and insurance coverage for the treatment of chemical dependency and mental illness. *Id.* With regard to the over-breadth challenge, the Court held that the plain and ordinary meaning of the words used in the title did not render it so broad and amorphous as to lack meaning altogether, i.e., the words did not describe “nearly every activity the state undertakes.” *Id.*

Here, the title of the bill was:

An Act to repeal sections 43.540, 50.550, 537.046, 558.019, 559.021, 565.082, 565.083, 556.037, 566.083, 566.093, 566.140, 566.141, 573.037, 573.040, 589.400, 589.425, and 660.520, RSMo, and to enact in lieu thereof twenty new sections relating to sexual offenses, with a penalty provision. (L.F. 160-75).

This title is no different than titles that this Court has approved in prior cases. The vast majority of the provisions of the bill relate in some way to “sexual offenses,” largely by explicitly referring to sexual offenses, or otherwise by dealing with the consequences thereof. Plaintiff’s argument that the title does not cover the enlargement of the statute of limitations for civil actions against persons who commit childhood sex abuse, §537.046, at best amounts to a strained and unnatural reading of the plain language of the title. This a court cannot do. *See Missouri State Medical Association*, 39 S.W.3d at 841, *citing Corvera*, 973 S.W.2d at 862. Of course, no one can seriously dispute that childhood sexual abuse is a “sexual offense” under the plain meaning of the phrase. Moreover, §537.046.1(1) provides a list of crimes that qualify as childhood sexual abuse, for purposes of civil recovery. The other examples plaintiff cites, changes to laws concerning assaults on law enforcement or other official personnel, sections 565.082 and 565.083, and

criminals' restitution to county-level agencies, sections 50.550, 50.565, and 559.021, would affect sex offenders, and some other offenders. The title is accurate in referring to sexual offenses. Moreover, the title specifically cites certain statutes being repealed, which include the most of the statutes being enacted (with changes), and thereby provides more information as to what the bill contains. Even so, and applying the presumption of constitutionality, these statutes are best seen as details that can be omitted from the title, *Mo. State Medical Assn.*, 39 S.W.3d at 841, or minutiae that do not have to be listed, *e.g.*, *Graves v. Purcell*, 85 S.W. 2d 543, 550 (Mo. banc 1935).

Plaintiff also argues that the bill title is insufficient because it refers to a “penalty provision,” in the singular, rather than in the plural. Again, even if the title of the bill did not catalog the minutiae of the act, that does not amount to a clear-title issue. *E.g.*, *Graves v. Purcell*, 85 S.W. 2d 543, 550 (Mo. banc 1935). Failing to specify which penalty provision the description refers to, assuming that the bill has more than one, does not lead readers to assume that the bill contains *no* penalties. Moreover, whether the bill refers to a single penalty provision when there is more than one penalty is also irrelevant. Penalties for violations of criminal statutes are but incidents of the law and need not be referred to in the title. *State v. Oswald*, 306 S.W. 2d 559, 561 (Mo. 1957).

Finally, even if the title were somehow under-inclusive, which it is not, Plaintiff would not gain the relief that he seeks, *i.e.*, relief from the registration provisions. By law, the “provisions of every statute are severable.” §1.140, RSMo (2000). And HB 1055 does not itself provide to the contrary. Therefore, even if this Court were to find a provision of the bill void for purposes of Plaintiff’s procedural challenge, which it should not, “the remaining provisions of the [bill] are valid unless the court finds the valid provisions ... are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the legislature would have enacted the valid provisions without the void one; or unless the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.” § 1.140.

Plaintiff bears the heavy burden of so demonstrating. And in accordance with the presumption that legislation is constitutional, along with the statutory presumption of severability, this Court has long favored severing offending provisions in procedural challenge cases, rather than striking entire bills. *E.g., Home Builders Association of Greater St. Louis v. State*, 75 S.W.3d 267, 271 (Mo. banc 2002 (where bill’s title is under-inclusive, portions of bill that fall outside scope of title may be invalidated and severed from remainder of bill.)

V. The Statute is Not Invalid Under the First Amendment

[responds to Doe's Point VI]

Plaintiff's First Amendment challenges also fail. Plaintiff is precluded from collaterally attacking his conviction. Only if there has been denial of substance of a fair trial, may the validity of proceedings resulting in conviction be collaterally attacked or questioned. *See O'Neal v. State*, 486 S.W.2d 206, 208 (Mo. banc 1972). A guilty plea waives all nonjurisdictional defects, including statutory and constitutional guaranties. *State v. Sexton*, 75 S.W.3d 304, 309 (Mo. App. S.D. 2002); *Bruce v. State*, 998 S.W.2d 91, 93-94 (Mo. App. W.D. 1999). The failure to challenge the constitutionality of a statute at the earliest opportunity waives the issue. *State ex rel. York v. Daugherty*, 969 S.W.2d 223, 224-25 (Mo. banc 1998). Plaintiff's guilty plea also established the elements of the offense. *See also Doe*, 194 S.W. 3d at 848, n. 12 ("This Court cannot find a statute invalid based on a claim the defendant lied"). Thus, plaintiff can no longer challenge his conviction. Accordingly, plaintiff has waived his First Amendment challenge to his conviction and to the statute.⁵

⁵ In any event, displaying pornography to children does not enjoy strong constitutional protection. *See Rabe v. Washington*, 405 U.S. 313, 317 (1972) (Burger, C. J., concurring) (noting a state could prohibit public display of explicit

Plaintiff's alternative compelled speech claim fails also. A First Amendment protection against compelled speech has been found only where the government was compelling someone "to disseminate a particular political or ideological message." *U.S. v. Sindel*, 53 F.3d 874, 878 (8th Cir. 1995). There is no right to refrain from speaking when the government requires it for "preservation of an orderly society – as in the case of compulsion to give evidence in court." *Id.* (quotation omitted). The registration requirement is along the lines of matters necessary for preservation of an orderly society, so that sex offenders can be identified and avoided by those who choose to do so. *See Reyes v. State*, 119 S.W. 3d 844, 846 (Tx. App. 2003) ("sex offenders do not have a First Amendment right to live without disclosing their offenses or disclosing their geographic location to law enforcement authorities"). It does not implicate any political or ideological message.

The statute does not violate the First Amendment.

sexual activities to "young teenage children" if properly drawn).

VI. The Statute Does Not Deny Substantive Due Process [responds to Doe's Point I]

Doe briefly argues that the statute violates substantive due process because it shocks the conscience. But this Court has already determined that this law does not, and that sex offenders are not entitled to individualized determinations of their likelihood to reoffend. *See Doe v. Phillips*, 194 S.W. 3d at 842.

As this Court stated in *Doe v. Phillips*, substantive due process concerns itself with rights that are so fundamental that a state may not interfere with them absent a compelling State interest. 194 S.W. 3d at 842. The right “must be one that is objectively, deeply rooted in the nation’s history and tradition and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.” *Id.* (internal citation omitted). Moreover, “[t]he doctrine of judicial self-restraint requires [courts] to exercise the utmost care whenever [they] are asked to break new ground in this field.” *Id.* “As a general matter, the Court has always been reluctant to expand the concept of substantive due process because guideposts for responsible decisionmaking in this uncharted area are scarce and open-ended.” *Id.*, quoting *Collins v. City of Harker Heights, Tex.*, 503 U.S. 115, 125 (1992). If another amendment to the Constitution provides protection for the

asserted right, the Court will analyze the issue under that amendment rather than substantive due process. *Doe*, 194 S.W. 3d at 843.

In analyzing substantive due process claims, a court must first determine whether the government action interferes with fundamental rights or burdens a suspect class. See *In re Marriage of Woodson*, 92 S.W.3d 780, 783 (Mo. banc 2003); *Casualty Reciprocal Exchange v. Missouri Employers Mut. Ins. Co.*, 956 S.W.2d 249, 256 (Mo. banc 1997). If a law interferes with a fundamental right or burdens a suspect class, then it must be narrowly tailored to serve a compelling state interest. *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 657 (1990). Doe here does not assert a burden on any suspect class.

To the extent Doe relies on some fundamental right, he cannot obtain relief. In *Doe v. Phillips*, this Court rejected arguments that Missouri's Megan's Law ran afoul of any alleged right to exercise personal choice and freedom, 194 S.W. 3d at 843-844, and any right to privacy and freedom from stigma, 194 S.W. 3d at 844-45. With regard to the alleged right of personal choice and freedom, the Court held that "to accept the Does' arguments would extend substantive due process principles into the type of unchartered areas where the United States Supreme Court has cautioned courts not to tread." *Id.* at 844, citing *Collins*, 503 U.S. at 125. With regard to the right to privacy and freedom from stigma, this Court held that

the rational basis test applied. *Id.* at 844-45. This Court found that because the safety of children is a legitimate interest of the State, and Megan's Law was designed to protect children from violence at the hands of sex offenders, the law bore a rational relation to a legitimate state interest and did not violate substantive due process. *Id.* at 845. This forecloses Doe's substantive due process argument.

VII. The Law is Not a Retrospective Law

[responds to Doe's Point II]

Doe also asserts that application to him of Missouri's Sex Offender Registration Act, is unconstitutional under the Missouri Constitution's prohibition on retrospective laws, Mo. Const. art. I, § 13, in that he pled guilty to Public Display of Explicit Sexual Material in May of 2004, but this crime did not become a registrable offense under SORA until later that year. But that does not matter because the only relevant date to the analysis is January 1, 1995.

This Court in *Doe v. Phillips* drew a bright line requiring persons convicted of sex crimes after January 1, 1995, to register:

Missouri's constitutional bar on laws retrospective in their operation compels this Court to invalidate Megan's Law's registration requirements as to, *and only as to*, those persons who were convicted or pled guilty prior to the law's January 1, 1995,

effective date. This ruling applies only to the registration requirements. All other provisions of Megan's Law remain in effect as to these and all other persons subject to it. Further the law is fully in effect as to all persons whose pleas or judgments of conviction were entered on or after its effective date of January 1, 1995, more than 11 years ago, or who committed additional crimes subject to Megan's Law thereafter, and is fully effective as to SVP's.

194 S.W. 2d at 852-53 (emphasis in original).

And this Court drew that bright line with an awareness that crimes have been added to the list of registrable offenses periodically. 194 S.W.3d at 840 ("H.B. 1698, signed into law June 5, 2006, . . . adds additional sexual offenses involving children and other potentially vulnerable persons . . ."). Given this Court's awareness that crimes have been added to the list of offenses requiring registration, had the Court considered that a constitutional issue it would have said as much.

Second, regardless of the sexually related crime an offender may have pled guilty to or been convicted of, potential offenders have been on notice of the existence of the sex offender registry since at least January 1, 1995. The registry's existence, as well as the periodic revision of the crimes requiring registration,

provide notice to all persons charged with sex related crimes, even if the charged crime is not a registrable offense at the time, that if convicted of the charged crime (either by plea or after trial) they may be required at some point in time to register.

Doe claims that requiring him to register for an offense that did not require registration at the time of his plea of guilty is unconstitutional because it imposes a new obligation on him for his past conduct. The constitutional prohibition on retrospective laws only applies when the law at issue impairs some vested right or affects past transactions to the substantial prejudice of a person. *See La-Z-Boy Chair Co. v. Director of Economic Dev.*, 983 S.W.2d 523, 525 (Mo. banc 1999). A vested right is one guaranteed by "a title, legal or equitable, to the present or future enjoyment of property or to the present or future enjoyment of the demand, or a legal exemption from a demand made by another." *Fisher v. Reorganized School Dist. No. R-V*, 567 S.W.2d 647, 649 (Mo. banc 1978) (quoting *People ex rel. Eitel v. Lindheimer*, 21 N.E.2d 318, 321 (Ill. 1939)). But a vested right is something more than a mere expectation based on a supposed continuation of past law. *See Fisher*, 567 S.W.2d at 649.

Considering the notice offenders have had of the existence of the sex offender registry since 1995 and the periodic changes with regard to offenses covered since that time, they cannot even say that there is any reasonable

expectation that the list of registrable offenses would remain static and that the sex offenses they have committed would not one day be added to that list. Thus, they lack a vested right in not having their past offenses being placed on the list. Further, with the notice of the possibility of the addition of their offenses to the list, it cannot be said that such additions to the list cause substantial prejudice. Such notice would make offenders aware of the possibility that registration might be required at another time, and they could take action prior to their guilty plea or conviction to account for that potential eventuality.

CONCLUSION

The trial court's judgment should be affirmed.

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CERTIFICATE OF SERVICE AND OF COMPLIANCE

I hereby certify that one true and correct copy of the foregoing brief, and one disk containing the foregoing brief, were mailed, postage prepaid, this 19th day of March, 2007, to:

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I also certify that the foregoing brief complies with the limitations contained in Missouri Rule of Civil Procedure 84.06(b) and Local Rule 360, and that the brief contains 5,463 words, excluding the Table of Contents, Table of Authorities and the Appendix.

I further certify that the labeled diskette, simultaneously filed with the hard copies of the brief, has been scanned for viruses, and is virus-free.

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