

May 13, 2020

The Honorable Representative Graham Filler
Michigan House of Representatives

Dear Rep. Filler:

A Michigan resident asked me to look at House Bill 5679. I write in opposition, as a physician and father involved in various justice projects involving people with developmental disabilities in Oregon.

Being tagged with an excessive sex offender registry label is devastating for anyone, perhaps particularly so for those with disabilities. House Bill 5679 seems to fail in providing objective risk assessments, in reinforcing biases against people with developmental and other cognitive disabilities, in ignoring effective rehabilitation, and in assuming the original conviction was without error:

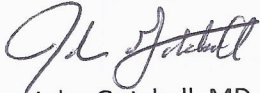
- People with developmental disabilities (DD), including the intellectual disabilities and autism, have developmental gaps in their thinking. These are benign disability characteristics and are not per se criminal characteristics.
- These benign disability characteristics leave people with DD vulnerable to exploitation and false-friending, including an increased risk of being accused of sexual harassment or assault. People with DD are vulnerable to false accusations, often for personal enrichment.
- People with DD are vulnerable to false confessions.
- Benign thinking gaps found in DD can be accommodated. People with DD, including autism, can develop safety plans that reduce their risk of being involved in sexual exploitation.
- Justice professionals, often untrained in DD awareness, generally presume the person with DD and their advocates are not credible. If they are the complainant, this often results in continued abuse. If they are a respondent, they are often over-criminalized and the party exploiting them goes undiscovered.
- This vulnerability as a disability characteristic includes cases of downloading child pornography by people with DD. The accused person with DD is often a victim of others' exploitation, exploitation which often goes unrecognized. People with DD may thus become societal scapegoats.
- People with DD do not have an increased risk of recidivism, the uninformed opinions of some prosecutors and judges notwithstanding. Objective risk assessments and DD-aware professional evaluations should inform the plea and be recognized at sentencing.
- Excessive use of supervision and sex offender registries serves only a retributive purpose for low risk offenders. Excessive penalties do not improve community safety.
- Mis-representing benign disability characteristics is not compliant with the Americans with Disabilities Act -- it is a civil rights violation.
- Publicizing sex offender registration for low risk offenders may place the registrant at increased personal safety risk. People with DD have always been subject to bullying due to implicit and explicit bias, which in HB 5679 may be encouraged by government itself.
- People with DD have long been mischaracterized for their disability characteristics, publicly shamed, and excluded from justice by government agents. They have undergone forced euthanasia, forced sterilization, burned at the stake, incarcerated with the mystical diagnosis of juvenile schizophrenia, bullied by authorities, and marginalized in other ways. *Does v. Snyder* argue that sex offender

registries are a form of public shaming. For low risk offenders with DD and other marginalized identities, processes must be established to avoid public shaming.

- All of the above factors are expensive, both in direct and indirect costs.

The justice system makes many mistakes, including misrepresenting disabilities and the delusion that longer supervision and registration improve community safety when the offender is low risk. House Bill 5679 appears to harden those thinking errors, in many cases worsening community safety at an increased cost to taxpayers.

Best regards,

A handwritten signature in black ink, appearing to read "John Gotchall". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Gotchall".

John Gotchall, MD

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