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Testimony to the South Dakota House Judiciary Committee

As Prepared for Delivery

My name is Eli Lehrer and I'm here to testify on H.B. 1244. I am president of the R Street Institute, a conservative think tank headquartered in Washington. I also serve as adviser to the Criminal Justice Task Force of the American Legislative Exchange Council (ALEC). My comments on this bill represent only my personal views and are not necessarily those of ALEC or of R Street. I have worked in association with the justice system for almost two decades and have written widely on corrections and policing issues for publications like *National Review* and *The Weekly Standard*. My resume includes full-time policy positions with the Heritage Foundation, where I worked closely with Reagan administration Attorney General Ed Meese; a job at the American Enterprise Institute; and a position as speechwriter to Senate Majority Leader Bill Frist, R-Tenn.

I'm a very proud member of the vast right-wing conspiracy and a strong believer in being tough on crime and in cracking down on sexual predators.

Failed liberal policies gave us crime rates that were much too high. Conservative common sense about crime and punishment has been effective in reducing crime. As a father myself, I'm supportive of the underlying policy this bill deals with: the institution of registries for sex offenders who victimize our children. The preponderance of the research shows they are effective. We owe it to the police and to our children to make them even more effective.

However, making registries effective requires that they actually serve as a tool to track the worst sex offenders. Some sex offenders who have demonstrated exemplary compliance with the law are simply not the type of people that we have to worry about. They made a serious mistake, have paid a price and ought to be able to move on.

Allowing them a quicker path to getting on with their lives, as this bill does in its current form, is a worthy idea that this committee ought to be commended for considering. The tradition of mercy so central to our Judeo-Christian tradition is one reason to support this measure. But we also should remember that cleaning registries also advances the interests of justice.

If we are to crack down on truly awful sex offenders, a cluttered sex-offender registry is an ineffective tool. We know from experience. The famous California case of Jaycee Dugard, who was held in Phillip Craig Garrido's backyard and horribly abused for 18 years, is a good example of what happens when officials are too busy following up on low-risk offenders that they do not have the time to monitor the real monsters in our midst. Police and social workers visited his house several times but never had the time to investigate. We only have so many police and so many social workers. We can waste resources and distract ourselves if we register and try to monitor too many people.

That's why, while I believe the principles in this bill are good ones, I think it ought to go further.

The most obvious group to exclude from the registries are people who committed crimes while they were children themselves and were adjudicated in juvenile court. While recidivism rates for some classes of adult sex offenders are high, the recidivism rates for children on sex-offender registries are very low; pretty much the same as the offense rates for people *not* on the registry with similar characteristics. In short, something that's effective in dealing with adult offenders isn't appropriate for youthful ones.

All around the country—and here in South Dakota—we put children on sex-offender registries for “crimes” that include “playing doctor” with peers or having consensual sex with other teenagers. These things are undesirable but should not be criminal. And some teenagers, of course, do worse things that *do* need intervention from the criminal-justice system. A 16-year old who commits a murder and does time in a juvenile detention center will almost certainly have no record on the public Internet or face lifelong disabilities. A 16-year-old who has consensual sex with another teenager could end up on sex-offender registries for decades, or even for life.

This is nonsensical.

If a person under the age of 18 commits a genuine “adult crime,” South Dakota has ways to try that person as an adult. That's fine with me. But if we try someone in juvenile court, we believe he or she is still a child.

It's simply a waste of resources, in any case. Research conducted by eminent benefit-cost analyst Richard Belzer for the R Street Institute shows that the practice of registering juveniles produces almost no benefits, does almost nothing to reduce crime and imposes as much as \$1 billion in costs on the country. You can read his report on our website at www.rstreet.org.

South Dakota has the opportunity to make its registries more effective, protect children, save money and advance the cause of justice. But these are not the only reasons to remove children from the registries.

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With that, I'm delighted to turn things over to my good friend Nicole Pittman, who can tell you far more about the terrible costs of registries for families and communities, as well as the way that others are moving toward real reform.