



Legislation Text

File #: 13-1578, **Version:** 2

County Counsel, District Attorney and Sheriff's Department recommending the Board consider the following:

- 1) Final passage (Second Reading) of Ordinance **5006** rescinding Ordinance 4972 in its entirety;
- 2) Direct County Counsel, District Attorney and Sheriff staff to keep Board apprised of legal developments, and if warranted by those developments, prepare and bring back a new ordinance consistent with the various state and federal court laws and decisions related to restrictions on locations registered sex offenders can legally use. (Cont. 1/7/14, Item 26)

Reason for Recommendation

On January 7, 2014 the Board approve the first reading of Ordinance 5006.

In February 2012, this Board adopted an Ordinance 4972, titled "Prohibition of Registered Sex Offenders from Entering County Parks, Schools and Other Areas Where Children Congregate." This Ordinance is substantially similar to many other ordinances adopted by cities and counties throughout the state. Many of these other similar ordinances have been challenged in state and federal court on various constitutional grounds and on the ground that preempted ordinances are preempted by state laws governing the topic. Most jurisdictions have settled the cases by rescinding their ordinances; however, at least two jurisdictions continue to fight and those cases near resolution.

El Dorado County's Ordinance has been challenged in federal court. The plaintiff claims it is illegal on both constitutional and preemption grounds. The plaintiff is willing to settle for no damages or attorney fees if the ordinance is repealed.

On December 10, 2013, the Board met in closed session and directed staff to put this ordinance on the agenda to settle the litigation. If the state appellate court determines that ordinances of this type are not preempted by the state laws, county law enforcement will craft a revised ordinance, addressing any constitutional infirmities identified by the courts currently reviewing this issue.

Action(s) to be taken following Board approval

- 1) Board Clerk staff to obtain Chair's signature on Ordinance **5006**, rescinding Ordinance 4972 in its entirety.
- 2) Staff to keep Board apprised of legal developments on these issues and potentially bring back a revised ordinance on the topic.

Contact

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