

ASSEMBLY, No. 738

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

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SYNOPSIS

Requires the State Police to establish a recently relocated offenders section within the Megan's Law sex offender Internet registry.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/6/2008)

1 AN ACT concerning community notification and amending
2 P.L.1994, c.128.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1994, c.128 (C.2C:7-7) is amended to read as
8 follows:

9 2. a. After receipt of notification and registration pursuant to
10 P.L.1994, c.133 (C.2C:7-1 et al.) that a person required to register
11 pursuant to that act intends to change his address, the chief law
12 enforcement officer of the municipality to which the person is
13 relocating shall provide notification of that relocation to the
14 community pursuant to section 3 of this act. If the municipality
15 does not have a police force, the Superintendent of State Police
16 shall provide notification.

17 b. If the individual registration record for the person required to
18 register who is relocating is publicly available on the Internet
19 registry established pursuant to section 2 of P.L.2001, c.167
20 (C.2C:7-13) at the time the person provides notification of that
21 relocation, that record shall be displayed in the Internet registry in a
22 separate section accessible to the public established for the purpose
23 of displaying individual registration records of relocated persons for
24 whom notification to the affected community is pending, except that
25 the record shall be modified to reflect the person's change of
26 address. Such record shall be displayed in the recently relocated
27 offenders section established pursuant to subsection h. of section 2
28 of P.L.2001, c.167 (C.2C:7-13) immediately upon the person's
29 relocation to the changed address, and shall be removed from that
30 section upon receipt of confirmation that notification has been
31 provided to the community pursuant to P.L.1994, c.128 (C.2C:7-6
32 et seq.) or that such notification is not required. The Attorney
33 General shall incorporate procedures into the guidelines established
34 pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8) to provide for
35 notice to the community to which the person is relocating of the
36 availability of relevant risk information on the Internet registry
37 during the pendency of notification to the community pursuant to
38 P.L.1994, c. 128 (C.2C:7-6 et seq.).

39 (cf. P.L.1994, c.128, s.2)

40
41 2. Section 3 of P.L.1994, c.128 (C.2C:7-8) is amended to read as
42 follows:

43 3. a. After consultation with members of the advisory council
44 established pursuant to section 6 of this act and within 60 days of
45 the effective date, the Attorney General shall promulgate guidelines

EXPLANATION - Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 and procedures for the notification required pursuant to the
2 provisions of this act. The guidelines shall identify factors relevant
3 to risk of re-offense and shall provide for three levels of notification
4 depending upon the degree of the risk of re-offense.

5 b. Factors relevant to risk of re-offense shall include, but not be
6 limited to, the following:

7 (1) Conditions of release that minimize risk of re-offense,
8 including but not limited to whether the offender is under
9 supervision of probation or parole; receiving counseling, therapy or
10 treatment; or residing in a home situation that provides guidance
11 and supervision;

12 (2) Physical conditions that minimize risk of re-offense,
13 including but not limited to advanced age or debilitating illness;

14 (3) Criminal history factors indicative of high risk of re-offense,
15 including:

16 (a) Whether the offender's conduct was found to be
17 characterized by repetitive and compulsive behavior;

18 (b) Whether the offender served the maximum term;

19 (c) Whether the offender committed the sex offense against a
20 child;

21 (4) Other criminal history factors to be considered in determining
22 risk, including:

23 (a) The relationship between the offender and the victim;

24 (b) Whether the offense involved the use of a weapon, violence,
25 or infliction of serious bodily injury;

26 (c) The number, date and nature of prior offenses;

27 (5) Whether psychological or psychiatric profiles indicate a risk
28 of recidivism;

29 (6) The offender's response to treatment;

30 (7) Recent behavior, including behavior while confined or while
31 under supervision in the community as well as behavior in the
32 community following service of sentence; and

33 (8) Recent threats against persons or expressions of intent to
34 commit additional crimes.

35 c. The **[regulations]** guidelines shall provide for three levels of
36 notification depending upon the risk of re-offense by the offender as
37 follows:

38 (1) If risk of re-offense is low, law enforcement agencies likely
39 to encounter the person registered shall be notified;

40 (2) If risk of re-offense is moderate, organizations in the
41 community including schools, religious and youth organizations
42 shall be notified in accordance with the Attorney General's
43 guidelines, in addition to the notice required by paragraph (1) of
44 this subsection;

45 (3) If risk of re-offense is high, the public shall be notified
46 through means in accordance with the Attorney General's guidelines
47 designed to reach members of the public likely to encounter the

1 person registered, in addition to the notice required by paragraphs
2 (1) and (2) of this subsection.

3 d. In order to promote uniform application of the notification
4 guidelines required by this section, the Attorney General shall
5 develop procedures for evaluation of the risk of re-offense and
6 implementation of community notification. These procedures shall
7 require, but not be limited to, the following:

8 (1) The county prosecutor of the county where the person was
9 convicted and the county prosecutor of the county where the
10 registered person will reside, together with any law enforcement
11 officials that either deems appropriate, shall assess the risk of re-
12 offense by the registered person;

13 (2) The county prosecutor of the county in which the registered
14 person will reside, after consultation with local law enforcement
15 officials, shall determine the means of providing notification.

16 e. The Attorney General's guidelines shall provide for the
17 manner in which records of notification provided pursuant to this
18 act shall be maintained and disclosed.

19 f. The Attorney General's guidelines shall set forth a procedure
20 for providing notice to an affected community of the availability of
21 relevant risk information on the Internet registry concerning persons
22 who relocate to that community and whose individual registration
23 records are publicly accessible on the Internet registry established
24 pursuant to section 2 of P.L.2001, c.167 (C.2C:7-13). Such
25 procedure shall be designed to make community organizations and
26 members of the public in the affected community aware of the
27 availability of information pertaining to a Megan's Law registrant
28 who relocates to the community, and that such information may be
29 viewed in the recently relocated offenders section of the Internet
30 registry established pursuant to subsection h. of section 2 of
31 P.L.2001, c.167 (C.2C:7-13). The notice provided under such
32 procedure shall not disclose any specific information concerning the
33 person or the individual registration record, but may refer to the
34 specific Internet location of the individual registration record
35 pertaining to that person. The procedure shall also provide a means
36 for persons in the affected community who do not have access to
37 the Internet to obtain or view the relocating person's individual
38 registration record information.

39 (cf: P.L.1994, c.128, s.3)

40
41 3. Section 2 of P.L.2001, c.167 (C.2C:7-13) is amended to read
42 as follows:

43 2. a. Pursuant to the provisions of this section, the
44 Superintendent of State Police shall develop and maintain a system
45 for making certain information in the central registry established
46 pursuant to subsection d. of section 4 of P.L.1994, c.133 (C.2C:7-4)
47 publicly available by means of electronic Internet technology.

1 b. The public may, without limitation, obtain access to the
2 Internet registry to view an individual registration record, any part
3 of, or the entire Internet registry concerning all offenders whose
4 risk of re-offense is high or for whom the court has ordered
5 notification in accordance with paragraph (3) of subsection c. of
6 section 3 of P.L.1994, c.128 (C.2C:7-8), regardless of the age of the
7 offender.

8 c. Except as provided in subsection d. of this section, the
9 public may, without limitation, obtain access to the Internet registry
10 to view an individual registration record, any part of, or the entire
11 Internet registry concerning offenders whose risk of re-offense is
12 moderate and for whom the court has ordered notification in
13 accordance with paragraph (2) of subsection c. of section 3 of
14 P.L.1994, c.128 (C.2C:7-8).

15 d. The individual registration record of an offender whose risk
16 of re-offense has been determined to be moderate and for whom the
17 court has ordered notification in accordance with paragraph (2) of
18 subsection c. of section 3 of P.L.1994, c.128 (C.2C:7-8) shall not be
19 made available to the public on the Internet registry if the sole sex
20 offense committed by the offender which renders him subject to the
21 requirements of P.L.1994, c.133 (C.2C:7-1 et seq.) is one of the
22 following:

23 (1) An adjudication of delinquency for any sex offense as
24 defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2);

25 (2) A conviction or acquittal by reason of insanity for a
26 violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 under circumstances in
27 which the offender was related to the victim by blood or affinity to
28 the third degree or was a resource family parent, a guardian, or
29 stood in loco parentis within the household; or

30 (3) A conviction or acquittal by reason of insanity for a
31 violation of N.J.S.2C:14-2 or N.J.S.2C:14-3 in any case in which
32 the victim assented to the commission of the offense but by reason
33 of age was not capable of giving lawful consent.

34 For purposes of this subsection, "sole sex offense" means a
35 single conviction, adjudication of guilty or acquittal by reason of
36 insanity, as the case may be, for a sex offense which involved no
37 more than one victim, no more than one occurrence or, in the case
38 of an offense which meets the criteria of paragraph (2) of this
39 subsection, members of no more than a single household.

40 e. Notwithstanding the provisions of paragraph d. of this
41 subsection, the individual registration record of an offender to
42 whom an exception enumerated in paragraph (1), (2) or (3) of
43 subsection d. of this section applies shall be made available to the
44 public on the Internet registry if the State establishes by clear and
45 convincing evidence that, given the particular facts and
46 circumstances of the offense and the characteristics and propensities
47 of the offender, the risk to the general public posed by the offender

1 is substantially similar to that posed by offenders whose risk of re-
2 offense is moderate and who do not qualify under the enumerated
3 exceptions.

4 f. The individual registration records of offenders whose risk
5 of re-offense is low or of offenders whose risk of re-offense is
6 moderate but for whom the court has not ordered notification in
7 accordance with paragraph (2) of subsection c. of section 3 of
8 P.L.1994, c.128 (C.2C:7-8) shall not be available to the public on
9 the Internet registry.

10 g. The information concerning a registered offender to be made
11 publicly available on the Internet shall include: the offender's name
12 and any aliases the offender has used or under which the offender
13 may be or may have been known; any sex offense as defined in
14 subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2) for which
15 the offender was convicted, adjudicated delinquent or acquitted by
16 reason of insanity, as the case may be; the date and location of
17 disposition; a brief description of any such offense, including the
18 victim's gender and indication of whether the victim was less than
19 18 years old or less than 13 years old; a general description of the
20 offender's modus operandi, if any; the determination of whether the
21 risk of re-offense by the offender is moderate or high; the offender's
22 age, race, sex, date of birth, height, weight, hair, eye color and any
23 distinguishing scars or tattoos; a photograph of the offender and the
24 date on which the photograph was entered into the registry; the
25 make, model, color, year and license plate number of any vehicle
26 operated by the offender; and the street address, zip code,
27 municipality and county in which the offender resides.

28 h. The Internet registry shall include a separate section,
29 designated as the recently relocated offenders section, which
30 temporarily sets forth the individual registration records of any
31 person required to register who changes his address and whose
32 individual registration record which lists the person's prior address
33 has been made publicly available on the Internet registry pursuant
34 to subsections b., c. or e. of this section. An individual registration
35 record displayed in the recently relocated offenders section for any
36 such person shall include the risk of re-offense as had been
37 determined prior to the person's relocation but shall be amended to
38 reflect the changed address. Such record shall be maintained in this
39 separate section until receipt of confirmation that notification has
40 been provided to the community pursuant to P.L.1994, c.128
41 (C.2C:7-6 et seq.) or that such notification is not required. This
42 section shall be accessible to the public and shall include for each
43 person listed the information set forth in subsection d. of this
44 section, and shall contain a statement advising the public that it is
45 established for the purpose of displaying individual registration
46 records of persons who have relocated to a new address for whom
47 notification to the new community is pending. The display of an

1 individual registration record in the recently relocated offenders
2 section shall be temporary only and shall be in addition to, and not
3 serve as a substitute for or require amendment to, display of the
4 information required to be made available to the public on the
5 Internet registry pursuant to this section as ordered by the court.

6 (cf: P.L.2004, c.151, s.1)

7
8 4. This act shall take effect on the first day of the sixth month
9 after enactment, provided that the Attorney General and
10 Superintendent of the State Police may take such anticipatory
11 actions as may be necessary to effectuate the purposes of this act.

12
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14 STATEMENT

15
16 This bill would amend Megan's law, N.J.S.A.2C:7-1 et seq., to
17 require the State Police, which maintains the sex offender registry,
18 to establish and maintain a new offenders section within the sex
19 offender Internet registry to be known as the recently relocated
20 offenders section.

21 Under the provisions of the bill, N.J.S.A.2C:7-13 would be
22 amended to provide that this new registry section would temporarily
23 set forth the registration records of any person required to register
24 who changes his address and whose individual registration record,
25 which lists the person's prior address, has been made publicly
26 available on the Internet registry. An individual registration record
27 displayed on the recently relocated offenders section would include
28 the risk of re-offense as had been determined prior to the person's
29 relocation but shall be amended to reflect the changed address. Such
30 record would be maintained in this separate section until receipt of
31 confirmation that notification has been provided to the community
32 pursuant to Megan's law or that such notification is not required.

33 This new offender registry section would be accessible to the
34 public and would contain a statement advising the public that it is
35 established for the purpose of displaying individual registration
36 records of persons who have relocated to a new address for whom
37 notification to the new community is pending. The display of an
38 individual registration record in this new section would be
39 temporary only and would be in addition to, and not serve as a
40 substitute for or require amendment to, display of the information
41 required to be made available to the public on the Internet registry.

42 The bill also amends N.J.S.A.2C:7-7 and N.J.S.A.2C:7-8 to
43 direct the Attorney General to amend the Megan's law guidelines to
44 establish procedures by which the new community could be made
45 aware of the availability of relevant risk information on the Internet
46 registry concerning information about registered sex offenders who
47 have relocated to that community. The procedure should be

1 designed to make community organizations and members of the
2 public in the affected community aware of the availability of
3 information pertaining to the registered offender who relocates.
4 The notice would not disclose any specific information concerning
5 the offender's registration record, but may refer to the specific
6 Internet location of the individual registration record pertaining to
7 that person.

8 The bill also requires that the new procedures provide a means
9 for persons in the affected community who do not have access to
10 the Internet to obtain or view the relocating person's individual
11 registration record information.