

CHAPTER 167

AN ACT concerning sex offender registration and community notification, supplementing P.L.1994, c.128, and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.2C:7-12 Findings, declarations relative to sex offender central registry on the Internet.

1. The Legislature finds and declares that the public safety will be enhanced by making information about certain sex offenders contained in the sex offender central registry established pursuant to section 4 of P.L.1994, c.133 (C.2C:7-4) available to the public through the Internet. Knowledge of whether a person is a convicted sex offender at risk of re-offense could be a significant factor in protecting oneself and one's family members, or those in care of a group or community organization, from recidivist acts by the offender. The technology afforded by the Internet would make this information readily accessible to parents and private entities, enabling them to undertake appropriate remedial precautions to prevent or avoid placing potential victims at risk. Public access to registry information is intended solely for the protection of the public, and is not intended to impose additional criminal punishment upon any convicted sex offender.

The Legislature further finds and declares that, in some instances, countervailing interests support a legislative determination to exclude from the Internet registry the registration information of certain sex offenders. For example, the interest in facilitating rehabilitation of juveniles who have been adjudicated delinquent for the commission of one sex offense, but who do not present a relatively high risk of re-offense, justifies the decision to limit public access to information about such juveniles through the Internet. Other instances where the Legislature has determined that making sex offender registry information available to the general public through the Internet would not necessarily serve the public safety purposes of the law include moderate risk offenders whose sole sex offense involved incest or consensual sex. However, in such cases, the legislature deems it appropriate and consistent with the public safety purposes of the law to provide a process that permits inclusion of information about these individuals in the Internet registry where public access would be warranted, based on the relative risk posed by the particular offender.

C.2C:7-13 Development, maintenance of system on the Internet registry.

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

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

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

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

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

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

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

e. Notwithstanding the provisions of paragraph d. of this subsection, the individual registration record of an offender to whom an exception enumerated in paragraph (1), (2) or (3) of subsection d. of this section applies shall be made available to the public on the Internet registry if the State establishes by clear and convincing evidence that, given the particular facts and circumstances of the offense and the characteristics and propensities of the offender, the risk to the general public posed by the offender is substantially similar to that posed by offenders whose risk of re-offense is moderate and who do not qualify under the enumerated exceptions.

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

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

C.2C:7-14 Responsibilities of Attorney General.

3. The Attorney General shall:

a. Ensure that the Internet registry contains warnings that any person who uses the information contained therein to threaten, intimidate or harass another, or who otherwise misuses that information may be criminally prosecuted;

b. Ensure that the Internet registry contains an explanation of its limitations, including statements advising that a positive identification of an offender whose registration record has been made available may be confirmed only by fingerprints; that some information contained in the registry may be outdated or inaccurate; and that the Internet registry is not a comprehensive listing of every person who has ever committed a sex offense in New Jersey;

c. Strive to ensure the information contained in the Internet registry is accurate, and that the data therein is revised and updated as appropriate in a timely and efficient manner; and

d. Provide in the Internet registry information designed to inform and educate the public about sex offenders and the operation of Megan's Law, as well as pertinent and appropriate information concerning crime prevention and personal safety, with appropriate links to relevant web sites operated by the State of New Jersey.

C.2C:7-15 Immunity for failure to investigate, disclose information.

4. No action shall be brought against any person for failure to investigate or disclose any information from the registry that is compiled or made available to the citizens of this State pursuant to P.L.2001, c.167 (C.2C:7-12 et seq.).

C.2C:7-16 Authorized use of disclosed information; prohibited uses.

5. a. Any information disclosed pursuant to this act may be used in any manner by any person or by any public, governmental or private entity, organization or official, or any agent thereof, for any lawful purpose consistent with the enhancement of public safety.

b. Any person who uses information disclosed pursuant to this act to commit a crime shall be guilty of a crime of the third degree. Any person who uses information disclosed pursuant to this act to commit a disorderly persons or petty disorderly persons offense shall be guilty of a disorderly persons offense and shall be fined not less than \$500 or more than \$1,000, in addition to any other penalty or fine imposed.

c. Except as authorized under any other provision of law, use of any of the information disclosed pursuant to this act for the purpose of applying for, obtaining, or denying any of the following, is prohibited:

- (1) Health insurance;
- (2) Insurance;
- (3) Loans;
- (4) Credit;
- (5) Education, scholarships, or fellowships;
- (6) Benefits, privileges, or services provided by any business establishment, unless for a purpose consistent with the enhancement of public safety; or
- (7) Housing or accommodations.

d. Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information disclosed pursuant to this act, the Attorney General, or any county or municipal prosecutor having jurisdiction, or any person aggrieved by the misuse of that information is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of and in addition to any other remedies or procedures that may be available under other provisions of law.

e. Evidence that a person obtained information about an offender from the Internet registry within one year prior to committing a criminal offense against that offender shall give rise to an inference that the person used information in violation of subsection b. of this section.

C.2C:7-17 Severability.

6. The provisions of this act shall be deemed to be severable, and if any phrase, clause, sentence, word or provision of this act is declared to be unconstitutional, invalid or inoperative in whole or in part, or the applicability thereof to any person is held invalid, by a court of competent jurisdiction, the remainder of this act shall not thereby be deemed to be unconstitutional, invalid or inoperative and, to the extent it is not declared unconstitutional, invalid or inoperative, shall be effectuated and enforced.

C.2C:7-18 Internet Registry Advisory Council.

7. An Internet Registry Advisory Council is established to consult with and provide recommendations to the Attorney General concerning the making of sex offender registration records available to the public on the Internet. The council shall consist of nine persons who, by experience or training, have a personal interest or professional expertise in law enforcement, crime prevention, victim advocacy, criminology, psychology, parole, public education or community relations. The members of the council shall be appointed in the following manner: three shall be appointed by the Governor, of whom no more than two shall be of the same political party; three shall be appointed by the President of the Senate, of whom no more than two shall be of the same political party; and three shall be appointed by the Speaker of the General Assembly, of whom no more than two shall be of the same political party. Any vacancies occurring in the membership shall be filled in the same manner as the original appointments. The council shall hold at least two meetings per year to review the implementation and operations of the Internet registry.

C.2C:7-19 Citation of acts, system as "Megan's Law."

8. This act and the system of registration and community notification provided pursuant to P.L.1994, c.133 and P.L.1994, c.128 (C.2C:7-1 through 11) shall be known and may be cited

as "Megan's Law."

9. There is hereby appropriated from the General Fund to the Department of Law and Public Safety \$500,000 for the implementation of this act; of this amount, \$200,000 shall be provided to the Division of State Police, and \$300,000 shall be provided to the counties in the form of grants.

10. This act shall take effect immediately, but shall remain inoperative until the first day of the sixth month after enactment

Approved July 23, 2001.